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## A recent court case underscores the importance of dealing with reputable service providers. (Salty Brine I, Ltd. et al v. United States of America).

The taxpayers in this case purchased Business Protection Policies ("BPP") where the risks were covered by a life insurance policy's separate asset accounts. The stated primary strategic goals of the transaction were:

1. Reduce business and personal income taxes
2. Reduce capital gains tax
3. Provide asset protection; and
4. Create tax-free retirement income.

The District Court found that the premiums paid were not deductible as business expenses; rather they were part of an elaborate mechanism used for the sole purpose of evading taxation. In reaching this conclusion, the court pointed to the fact that there was no meaningful difference in the taxpayers' economic positions before and after the transaction.

As equally important, the court also concluded that the arrangement lacked all of the prerequisites of an "insurance arrangement;" namely insuring risks involving a fortuitous event, shifting of the risks to a third party or the distribution of risk amongst a number of insured.

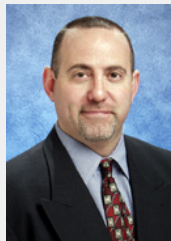
The court also focused on the relationships between the taxpayers, the sponsors of the program and various attorneys. One attorney issued an opinion letter on the viability of the program in 2001, but the attorney refused to update or reissue any subsequent opinions. One attorney that followed later withdrew his opinion due to factual misrepresentations by the sponsors. Opinions were issued by a different firm for the 2003-2005 years but the court found that those attorneys relied upon inaccurate factual representations.

In ruling against the taxpayers, the court determined that the taxpayers were liable for a 20% substantial understatement/negligence penalty, and that the reasonable cause defense to the tax shelter characterization was inapplicable.

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