

INTRODUCTION

Employee Benefit Trusts (EBT) have developed primarily as a way of motivating employees by providing performance related benefits from a pool of funds made available by the employer company to a trust for that purpose.

They will usually take the form of discretionary trusts in which cash, shares or other assets are held under the discretion of the trustees for the benefit of the class of beneficiaries, usually the current, future and former officers and employees of the company and their families.

Typically, the EBT will be funded by the employer company profits through voluntary contributions to the trust from time to time. The Trustees will hold such assets on trust until such time as the Trustees, often in consultation with the employer company, feel it appropriate to recognise contributions made to the success of the company by all or certain employees and resolve to grant benefits to these individuals.

GENERAL ADVANTAGES

An EBT offers both the employer and employee a number of benefits:

- The EBT can act as a market maker for the sale and purchase of the shares in the employer company.
- The provision of share warehousing where the trustees hold a number of shares in the company for employee incentive purposes.
- The operation of employee share plans and incentive schemes.
- The provision of interest free or low interest loans.
- Employees can derive confidence that assets held for their benefit within the EBT are better protected from insolvency or ownership change of the employer company than might be in the case of a scheme where assets remain in the ownership of the company.

ADVANTAGES OF GUERNSEY

An EBT established with trustees resident in Guernsey may also offer additional opportunities:

- There may be planning opportunities for companies with a multi-national workforce.
- Corporation Tax deductions should still be allowable provided benefits have been granted thereby triggering a tax chargeable event.
- The roll up of income within the EBT within a taxfree environment.
- Planning strategies post 6th April 2010 may be possible for 50% Income Tax payers in the UK.
- The EBT can act as an effective Inheritance Tax shelter for UK domiciled individuals provided that specialist advice is followed.

CONTRIBUTIONS

Historically contributions made to the trust would have been deductible for tax purposes on the basis that such expenditure was "wholly and exclusively for the purposes of the company's trade". However, changes to UK legislation over recent years now mean that a Corporation Tax deduction will not be allowable until an Income Tax and National Insurance liability are triggered by the granting of a benefit.

BENEFITS

Subject to the discretion of the trustees, benefits may take many forms including cash distributions, interest free or low interest bearing loans or share options. An employee may be taxed on receipt of benefits provided to them by the trustees and they may incur an employee's National Insurance liability. Interest free and low interest loans may attract a benefit in kind charge.

The employer company will be specifically excluded from being able to benefit from the EBT under the terms of the trust deed, although loans may be allowed if made on commercial terms.

The employer company may wish to communicate its wishes as to whom and in what proportions they feel certain beneficiaries should benefit from the EBT. The trustees will, however, usually ask the board of directors of the employer company to nominate one or more individuals, as a "remuneration committee" with whom the trustees might wish to liaise, when exercising their discretion where they feel it appropriate to canvass the opinion of the employer company.

SUB TRUSTS

The Trustees may decide to grant benefits to certain beneficiaries, but rather than distribute these to an individual they may decide to appoint these to a sub trust of the EBT, to be held on trust for the benefit of the individual and his family.

GUERNSEY TRUST COMPANY

Guernsey Trust Company ("GTC") is a fully licensed fiduciary services company owned by Collas Crill, one of the leading law firms in the Channel Islands.

GTC provides a comprehensive range of legal services both to the international business community and private individuals.

GTC was established in 1988 and provides a wide range of Trust and Company formation and administration services.

GTC's staff and management include professionally qualified solicitors, advocates, chartered accountants, chartered secretaries and STEP qualified personnel.

GTC and Collas Crill work closely together, in conjunction with our clients and their advisers to ensure that the arrangements that are put in place are geared to meet clients' needs and wishes.

GTC is independent of any other service providers and is therefore able to work with the broadest range of banking, investment and other professionals.

For further information or professional advice, please contact:

Martin Porter

Director

t: +44 (0)1481 700550

e: martin.porter@gtc.gg

Coryn Le Clerc

Director

t: +44 (0)1481 700550

e: coryn.leclerc@gtc.gg



▶ **guernsey trust company limited** Gategny Court, PO Box 140, Gategny Esplanade, St Peter Port, Guernsey GY1 4EW
▶ **t:** +44 (0)1481 700550 **f:** +44 (0)1481 727102 **e:** inbox@gtc.gg **w:** gtc.gg ▶ Registration number: 18666 ▶ Owned by Collas Crill
