

## Employee Benefit Trusts (EBT's)

EBT'S ARE INCREASINGLY POPULAR AS A WAY FOR COMPANIES TO SET ASIDE ASSETS TO REWARD EMPLOYEES. THE EMPLOYEES ALSO ENJOY THE LEGAL SEPARATION AND INDEPENDENCE PROVIDED BY A PROFESSIONAL CORPORATE TRUSTEE SUCH AS LOUVRE, WHILST THE COMPANY BENEFITS FROM THE MOTIVATION AND INCENTIVE SUCH A SCHEME PROVIDES TO THE EMPLOYEE AND FROM THE POTENTIAL CORPORATE TAX ADVANTAGES THAT MAY BE AVAILABLE.

### WHAT IS AN EMPLOYEE BENEFIT TRUST?

An EBT is exactly what it says – a trust for the benefit of employees of a company, whether they are current employees or former employees. In some circumstances, the benefits may extend to the spouses and dependants of employees. 'Employees' includes the directors of the company.

EBT's are also referred to as Employee Share Ownership Plans (ESOP's) and Employee Share Trusts, but all have the same basic trust structure under which there is a legal arrangement whereby one person owns and holds assets on behalf of others. It is this legal separation of ownership that is key in the context of the EBT.

### WHAT IS THE STRUCTURE?

An EBT is typically a discretionary trust that is established by the employer for the benefit of the employees. There may be many reasons for doing this and some of these are discussed later.

The EBT is normally funded by an initial contribution from the employer (sometimes just a nominal amount), which is then followed by further regular contributions made at the employers discretion (perhaps based on company performance). The trustees of the EBT will usually have the power to borrow from banks or the employer to increase funds if the need arises.

The trustees of the EBT are usually chosen by the company - although this decision may be devolved to the employees, perhaps to give them a greater degree of confidence in the complete impartiality of the trustees. It is normal for the trustees to be an independent professional corporate trustee such as Louvre.

Depending on the terms of the trust deed and the purposes(s) for establishing the trust, the trustees will then decide which employees should benefit from the trust and when. Many of these decisions will depend on the purpose and reason for establishing the EBT

### WHY ESTABLISH AN EBT?

The EBT is a very flexible tool for corporate planning and the range and variety of uses and benefits is very broad. Some of the more common uses include -

- Staff incentive schemes
- Creating an internal market for share schemes
- Employee share plans
- 'Warehousing' for shares

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- Exit route for family shareholders
- 'Golden handcuffs'
- Making loans to shareholders
- Providing staff benefits

## STAFF INCENTIVE SCHEMES

Shares set aside within the EBT can be used to incentivise and motivate staff by way of reward.

Creating an internal market for share schemes;

This is one of the commonest uses for an EBT because an EBT is able to purchase and hold shares in the company for the benefit of employees. Employees wishing to sell their shares can offer them to the trust that can then buy them, from either funding by the company, or from other employees who wish to buy shares.

## EMPLOYEE SHARE PLANS

Through an EBT a private company may buy shares from shareholders/employees wishing to leave the company. These shares can then be held and used in a share plan for other employees. For a quoted the EBT can be used to purchase shares direct from the market for the same purpose.

## 'WAREHOUSING' FOR SHARES IN THE COMPANY

A company may wish to reward employees on the happening of certain targets or events. To do this, and provide comfort to the employees, they can set aside or warehouse the shares

## EXIT ROUTE FOR FAMILY SHAREHOLDERS

Sometimes a trade sale or a flotation will not be possible or not the route that the founder shareholders wish to pursue. A buy-out by the EBT, suitably funded (perhaps by management or venture capital) provides an alternative strategy. There may also be tax benefits for the sellers if taper relief is available in the EBT. This also avoids large individual shareholdings accumulating.

## 'GOLDEN HANDCUFFS'

This applies in a situation where a bonus of either cash or shares will only be paid to an employee at the end of a fixed period provided they are still in employment

## MAKING LOANS TO SHAREHOLDERS

Loans made to shareholders via the EBT avoids the 25% corporation tax charge that applies to company loans made to shareholders and their families.

## PROVIDING STAFF BENEFITS

This can take many forms, but might include loans, either interest free or carrying interest; permanent health insurance carrying regular payments to employees unable to work through long-term illness; discretionary bonuses; provision of holiday homes for use by a selected group or all employees

It is clear that there are substantial benefits available, both to the company and to the employees, from the establishment of an EBT. These range from tax benefits and incentivising the employees, through to providing an exit strategy for the founders.

## FOR MORE INFORMATION PLEASE CONTACT:

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