



24 March 2009

New Profit Extraction Strategy

Introduction

We have been approached by a specialist tax boutique to act as an introducer to promote a new profit extraction strategy that they have devised.

This may be of interest to you and your company.

You should be clear that this is a sophisticated product suitable for sophisticated investors accustomed to balancing risk and reward.

Background to the strategy

The strategy involves a special purpose vehicle (set up as an offshore trust) whereby companies can make payments to employees through an Employer Financed Retirement Benefit Scheme ("EFRBS"). Provided the company only contributes so much as can be justified as 'wholly and exclusively for the purpose of its trade', Counsel opinion is that a corporation tax deduction will be obtained on the sum contributed.

There are a number of options available once the funds are placed in the EFRBS, with the following benefits:

- funds can immediately be loaned back to the company to aid cash flow;
- loans can be made to employees, directors and shareholders thereby avoiding income tax that would otherwise be payable on salary or dividends;
- funds held in the trust do not form part of the shareholders estate for inheritance tax ("IHT") purposes;
- any outstanding loan due to the trust from an individual is a debt against the individual's Estate for IHT purposes thereby reducing the IHT exposure; and
- the trust can invest globally, free from capital gains tax.

Is this an Employment Benefit Trust ("EBT")?

An EFRBS is distinct from an EBT in that a corporation tax deduction for an EBT is only available if there is a corresponding qualifying benefit which can trigger an income tax liability.

Under the EFRBS arrangement, a corporation tax deduction is secured without any corresponding income tax liability as the contribution to the EFRBS is deemed to be a "qualifying benefit".

How can this be possible?

The EFRBS arrangement takes advantage of an error in the legislation which was drafted to address tax avoidance issues.

It is likely that HM Revenue & Customs ("HMRC") will amend the legislation at some point in the future to correct this error. Therefore, the opportunity available to implement this arrangement is expected to be limited. Whilst it cannot be discounted that any legislative change will be applied retrospectively, this seems unlikely.

Would this apply to you and your company?

This opportunity is available for any client who wants to extract in excess of £300,000 of profits from their company in a tax efficient manner.

About the specialist tax boutique and the role of ASM Horwath

The specialist tax boutique develops bespoke tax strategies underpinned by opinions from leading UK tax Counsel.

Their reputation is built on a non-aggressive approach to tax planning that focuses on the provisions laid down within UK Statute.

ASM Horwath act only as introducers, not advisers, on what is a complex arrangement.

What to do next

We are arranging a client day with the specialist tax boutique at our offices on Monday 30th March. We would like to invite you to attend as such a strategy may be appropriate for you and your business.

This event will last approximately one hour. It will give you the opportunity to discuss with a representative from the specialist tax boutique, on a one-to-one basis, whether or not the solution is suitable for you.

If you are interested, please contact Alan Curry or Greig Jardine at:

ASM Horwath
Horwath House
20 Rosemary Street
Belfast
BT1 1QD

Tel: 028 9024 9222

Fax: 028 9024 9333

alan.curry@asmhorwath.com



greig.jardine@asmhorwath.com

