BENEFITS OF OFFSHORE PLANS AS UK TRUSTEE INVESTMENTS

This document should be read in conjunction with the Guide to Offshore Plans and UK Taxation guides for Single and Regular Payment Plans

The tax information referred to in this guide is based upon UK taxation legislation.

Why should trustees consider offshore plans as trust investments?

Trustees may find the following features of interest:

- the benefits of an investment fund which does not suffer domestic Isle of Man tax
- the absence of an owner tax charge until a chargeable event occurs
- the ability to take withdrawals from the plan within the cumulative 5% tax deferred allowance each plan year without triggering an immediate tax charge
- the ability to select the time at which a tax charge arises
- the possibility of assigning (transferring) a plan to beneficiary without triggering a tax charge
- the ability to change the trust's investment strategy without a capital gains tax charge
- reduced trust administration in respect of self-assessment tax returns as a plan is a non-income producing asset

Trust administration costs

The administrative costs associated with trusts such as the preparation of annual tax returns and annual accounts can be substantial. Using an underlying investment vehicle which can reduce these costs is therefore clearly beneficial.

An offshore plan used as the trust investment can significantly reduce these costs as the trustees only have to account for the value of the plan and not the individual values of the assets in which it is invested.

Direct ownership

If the trustees held the assets directly, outside of the offshore plan, they would have a limited Capital Gains Tax (CGT) exemption of GBP6,150 and are subject to pay 20% CGT on any gains realised above this amount. The CGT exemption available to trustees will remain at £6,150 until the end of 2025/26 – although this "per trust" limit is diluted where the settlor has created more than one trust subject to a minimum of £1,230 per trust.

Assets held within an offshore plan

Assets held within an offshore plan are not liable to any CGT and may therefore be more tax efficient in the long run.

The Trustee Act 2000 widened trustee powers and allowed trustees to invest as if they were the absolute beneficial owners of the trust fund. However, in order to protect the beneficiary, trustees are required to consider diversification and the overall suitability of the investment. The fund switching facility and investment management of an offshore plan will enable trustees to undertake a more active investment policy, without the adverse tax and CGT consequences inherent in other forms of trustee investments.

Planning opportunities

There are other tax planning opportunities available to trustees using offshore plans. On final encashment for example, provided the plan is written on multiple lives or on a capital redemption basis, a significant degree of control can be exercised as to when the chargeable event happens. Making use of plan segmentation can pass the tax burden from the settlor and trustees to a beneficiary, at his/her marginal rate.

As this process requires an assignment of plan segments, it is only available to beneficiaries aged 18 and over. Another method of making tax effective distributions from the trust fund is to make use of the 5% withdrawal facility. Under current legislation, (ITTOIA 2005, s507(5)), 5% of the original investment can be taken each plan year for 20 years without an immediate liability to income tax. If this 5% notional allowance is not fully used in any year, the unused allowance will be carried forward to the next plan year and so on, on a cumulative basis.

Important notes

For financial advisers only. Not to be distributed to, nor relied on by, retail clients.

Please note that every care has been taken to ensure that the information provided is correct and in accordance with our current understanding of the law and HM Revenue and Customs (HMRC) practice. You should note however, that we cannot take on the role of an individual taxation adviser and independent confirmation should be obtained before acting or refraining from acting upon the information given. The law and HMRC practice are subject to change.