

EMPLOYEE BENEFIT PLANS

A MOORE STEPHENS GUIDE TO THEIR ESTABLISHMENT AND ADMINISTRATION

One of the most important resources of a business is its employees. Businesses need to ensure that key members of staff enjoy benefits packages that reflect their value to the business whilst at the same time keep them committed to the development of the business. In recent years the provision of equity compensation packages to key employees has become one way that companies have sought to address these twin goals.

There has been a dramatic increase in the number of companies introducing these types of scheme over the past ten years. In part this reflects tax incentives that have been introduced by various governments to encourage the spread of employee share ownership, but there are other benefits for the employer – for example, equity compensation commits the employee to the business whilst not diverting cash from the business – and for the employee – who benefits from gain in the market value of the company's shares.

Many companies have chosen to provide these benefits through offshore trusts and Jersey is generally recognised as Europe's leading offshore centre in this field. Jersey trustees are not subject to tax on income or gains of the trust fund, provided that there are no Jersey resident beneficiaries of the trust and no Jersey source income (other than bank interest).

Most of the larger UK companies have established their schemes. Smaller entrepreneurial companies as well as an increasing number of companies from Europe and North America are now beginning to establish Jersey-based trusts, many of them global plans that are intended to benefit employees based in different countries.

The establishment and administration of the offshore trust is a rapidly growing sector of business. The benefits of the retention of key members of staff linked to their incentivisation through equity participation should not be underestimated.

The structure of these schemes range from small discretionary trusts for the benefit of key personnel through to schemes that benefit all employees by way of share option plans.

Moore Stephens in conjunction with the company and its lawyers can assist with establishment of the plan. This would involve the drawing up of an appropriate trust document together with the scheme rules.

Once the scheme is established the trustees would liaise with the sponsor in relation to the granting of options. The trustee would handle all transactions at the time of the exercise of options as well as keeping both the sponsor and the plan beneficiaries informed of matters relating to the plan.

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This information sheet provides a brief outline only and is not comprehensive as such and should you require further specific advice, please contact either Dermot Boylan or Kathy Gillen:

Telephone: 00 44 1534 880088

Facsimile: 00 44 1534 880099

E-mail: mail@moorestephens-jersey.com

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