

What is an Employee Benefit Trust?

An Employee Benefit Trust (EBT) (also known as an employee share trust) is a discretionary trust established by an employer for the benefit of the company's employees, former employees and some of their relatives and dependants – the beneficiaries.

Importantly, the settlor company is not included within the class of beneficiaries, providing comfort to employees regarding the independence of decision-making, as well as the safeguarding of assets should the settlor company enter liquidation.

Provided that the trust meets certain UK legislative requirements, including those relating to the extent of the beneficial class and the exclusion of the company, the trust can benefit from key inheritance tax exemptions where relevant, which would otherwise apply to offshore trusts. The trust can also be exempt to certain statutory rules, including financial assistance provisions.

EBTs are used by both public and private companies in conjunction with a [variety of incentive plans](#) to attract, motivate and retain employees. These discretionary trusts are extremely flexible and are used for remuneration and tax planning structures, for anything from bespoke arrangements for a handful of key executives, to all-employee arrangements with thousands of participants.

How does an EBT work?

Whilst the settlor company does not have legal control over the EBT, its trustees or the funds held in the trust, the company can make recommendations regarding the application of the trust assets. EBTs are generally funded by a contribution or a limited recourse loan from the company, which the trustees invest in accordance with the terms of the trust deed, generally in shares, loan notes or other securities in the settlor group. This is always in the best interest of the beneficiaries.

The flexible nature of an EBT and the wide powers under a typical EBT trust deed allow an EBT to adapt over time as a company's needs evolve.

The role of a trustee

The trustee will be chosen and engaged by the company and will generally be a professional trust company. The trustees must act independently from the company and always in the best interests of the beneficiaries of the trust. As a result, the reputation, experience, and independence of the trustee are vital ingredients to allow the proper and efficient functioning of the trust.

In the case of a Jersey trustee, they must be licensed by the Jersey Financial Services Commission and operate within the safeguards of a highly regulated environment.

Who uses an Employee Benefit Trust and why?

Whilst EBTs are often used for the creation of an internal market in the shares of a private company and for succession planning, these trusts are also used by listed companies to hedge future obligations to satisfy awards granted under incentive plans – these might relate to shares, fund units or other securities.

The use of an EBT can be particularly attractive to both companies and employees. For example, companies will often receive favourable tax treatment such as a corporation tax deduction when contributions are paid out of the EBT. For employees, the use of an independent trustee - and in the

case of an offshore trust - a regulated, licensed, and audited trustee provides comfort that decisions are being made impartially and in the best interests of the beneficiaries.

EBTs can be used for a variety of other purposes, including:

- Holding shares to hedge awards under incentive plans, such as share option plans (including approved and unapproved plans, and all-employee plans) and phantom plans
- Management incentive plans, including recycling equity between leavers and joiners
- Bonus deferral arrangements, including deferral into funds
- Joint share ownership plans
- Growth share arrangements
- Corporate nominee and lock in arrangements, including providing for minimum shareholding requirements to satisfy regulatory and corporate governance requirements
- Internal market arrangements, including capital gains tax exempt holding of unallocated shares
- Other purposes empowered by trust deed, such as the payment of discretionary bonuses

Ocorian's expert team: leading the way in providing Employee Incentive Services

With around 25 of the UK's FTSE 100 companies using our services and over 400 incentive structures under administration, Ocorian's Employee Incentives Services team is widely regarded as a leading independent provider of trustee, administration, and system solutions for employee incentives arrangements.

[This is a core business for Ocorian's Jersey office](#): our dedicated team has been operating in the employee benefits industry for over two decades, gaining significant experience in providing tailor-made solutions for our clients. Our broad client base ranges from high profile FTSE 100, 250 and 350 companies to private companies (including many backed by private equity investors) and partnerships.

Incentive plan participation ranges from bespoke arrangements for a small number of senior executives, through to tens of thousands of employees participating in all-employee arrangements.

Furthermore, our share plan administration and employee portal solutions assist clients in delivering efficient and effective incentive arrangements.

We are always happy to discuss a company's incentives needs and to demonstrate our proposed solutions to them.

[Find out more about how Ocorian can help with your Employee Incentive Services.](#)

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