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Employee Benefit Trusts (EBT's) – the end in sight?

Broadly speaking, an EBT is a structure designed to minimise income tax and national insurance. This is where individuals who operate as contractors (normally those defined as higher rate taxpayers) receive a small basic salary, with the majority of their remuneration taken in the form of a loan.

So how does this work?

Companies involved in this area promoted schemes involving offshore trusts, where they offered contractors, such as those involved in the oil and gas industry, **the opportunity to pay minimal tax and NI** on their salary, with the balance of their take home pay in the form of a loan, attracting an insignificant rate of interest and with no income tax, PAYE, Class 1 or 1A National Insurance.

The loan is a **benefit in kind** which should be declared in the annual tax return, and it follows that at some future point, the loan should be repaid in full. However, the reality in many cases was that the loan was simply written off, before the date on which it became repayable.

HMRC have for some years now identified EBT's as tax avoidance and an area for closer scrutiny. Their ambition is to target such Disguised Remuneration schemes, in their various forms and to this end the Chancellor announced measures in the 2016 Budget designed to close such arrangements. April 2019 sees the introduction of the new tax charge for all such loans, where either the loan hasn't been repaid in full before 5th April 2019, or where the loan funds haven't been taxed in full under changes to Part 7A of the Income Tax (Earnings and Pensions) Act 2003, as amended by the Finance Bill 2016 and 2017.

The Government is committed to ensuring these schemes do not provide a veil, designed to mask the payment of tax at the prevailing rate. While other schemes exist, which are not captured under the provisions of Part 7A, the Revenue will take action to **robustly challenge their legitimacy**, with a view to closing them down.

It will therefore come as no surprise to learn that as insolvency practitioners, we have had numerous approaches in recent months from concerned individuals, who are **facing a large tax bill plus interest and penalties**. Once the tax liability has been identified and crystallized, the Revenue will be looking for payment and without payment, or meaningful proposals, the Revenue will undoubtedly eventually take steps towards formal bankruptcy proceedings.

We are highly experienced professionals, operating in personal insolvency. We can advise and deliver a range of options, depending on individual circumstances. If this affects you and you would like to speak to us, please contact either **Richard Gardiner or George Dale at Thomson Cooper on 01383 628800.**