

FORTRESS

MANAGEMENT SERVICES LIMITED

Offshore Planning Still Alive and Kicking?

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Offshore Planning Issues

- ◆ Exit Strategies
- ◆ Succession Planning
- ◆ Risk Management/Asset Protection

Influenced by:-

- ◆ Political Risk
- ◆ Economic Uncertainty

Changing Shape of UK Tax Environment

- ◆ Over 3 million Britons now living overseas
- ◆ 2 million Britons moved abroad in the last decade.
- ◆ 600,000 arrived in UK in 2006
- ◆ Civil Partnerships – a tax planning opportunity
- ◆ 50% income tax from 2010.

Recent Budgets – Tax Planning Issues

- ◆ Inheritance Tax at 40%
 - ◆ Pre Owned Asset Tax since 2005
 - ◆ Trust Tax Changes in 2006
 - ◆ Combined Nil rate bands since 2007
- ◆ Capital Gains Tax
 - ◆ Flat rate of 18% from 2008/2009
- ◆ Disclosure Measures/More Stealth Taxes/HMRC action

Recent Budgets – Changing Landscape

- ◆ Trust 'Footprints'
- ◆ Hold over relief
- ◆ Freezer schemes
- ◆ Converting income to gain
- ◆ Debt based planning – Double dipping
- ◆ Utilise Business/Agricultural Property Relief
- ◆ Non Residence / Non Domicile planning

Discretionary Trusts and Hold Over Relief

- ◆ CGT deferral at 18% - IHT saved at 40%
- ◆ £325,000 per spouse... every 7 years
- ◆ Transfer greater value – with a mortgage liability
- ◆ 40% tax credit for non taxpayers

Freezer Scheme

- ◆ Fixed share reflecting the current value of a company
- ◆ Deferred share acquires the future value
- ◆ Gift deferred shares to trust – CGT/IHT efficient vehicle for growth
- ◆ Repurchase fixed share... spending capital!
- ◆ Precaution against loss of future reliefs!

INCORPORATION RELIEF

Background

Colin and Diane jointly own several properties (value £1 million), which they let to third parties at commercial rents.

Colin and Diane busy themselves in the commercial aspects of the properties and they negotiate their own reviews, new leases, repairs and up keep, and rental collection.

Colin and Diane plan to move to Spain in the future for a 'sabbatical'.

Problem

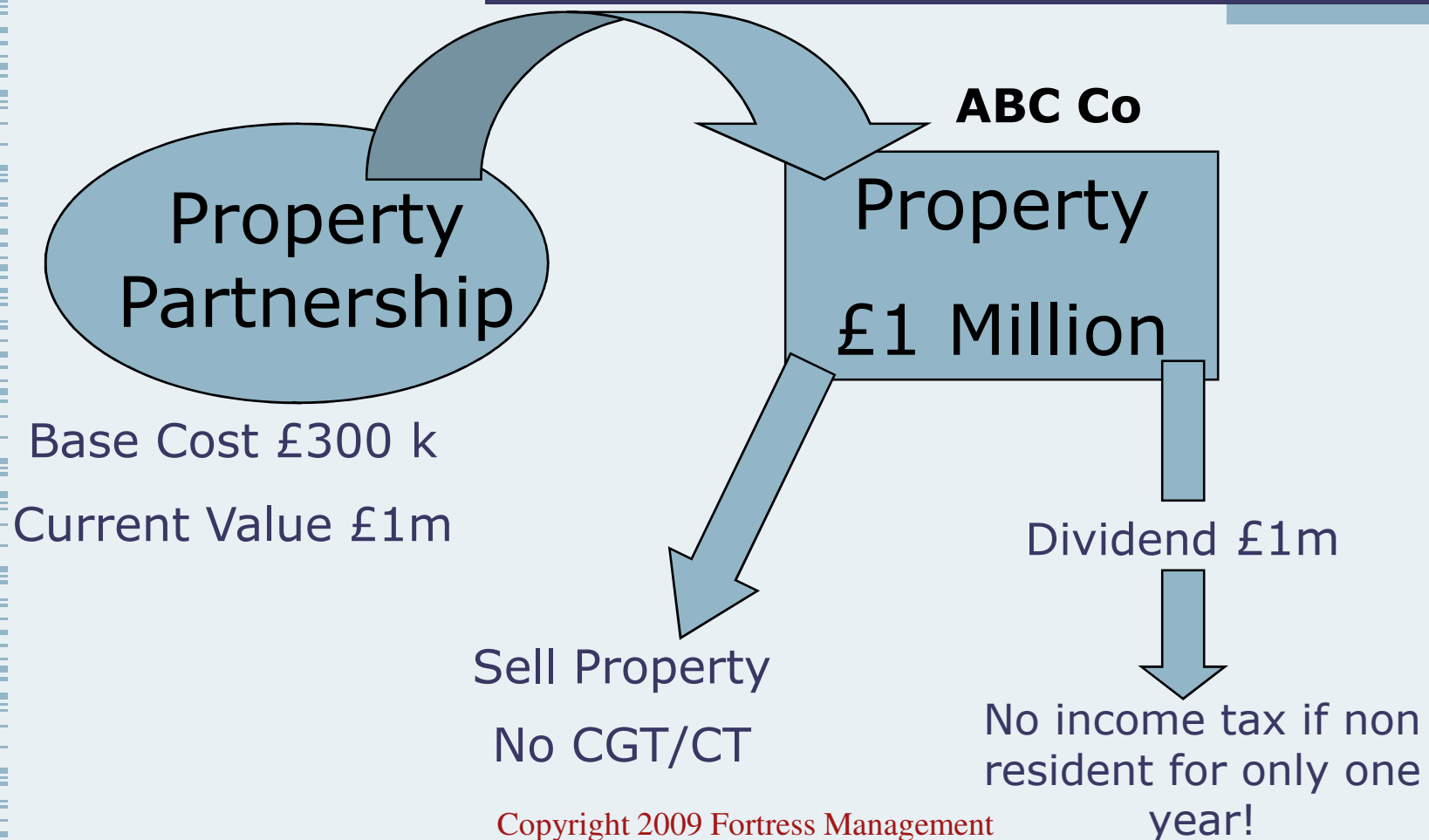
There are significant capital gains in the property values.

INCORPORATION RELIEF

Solution:

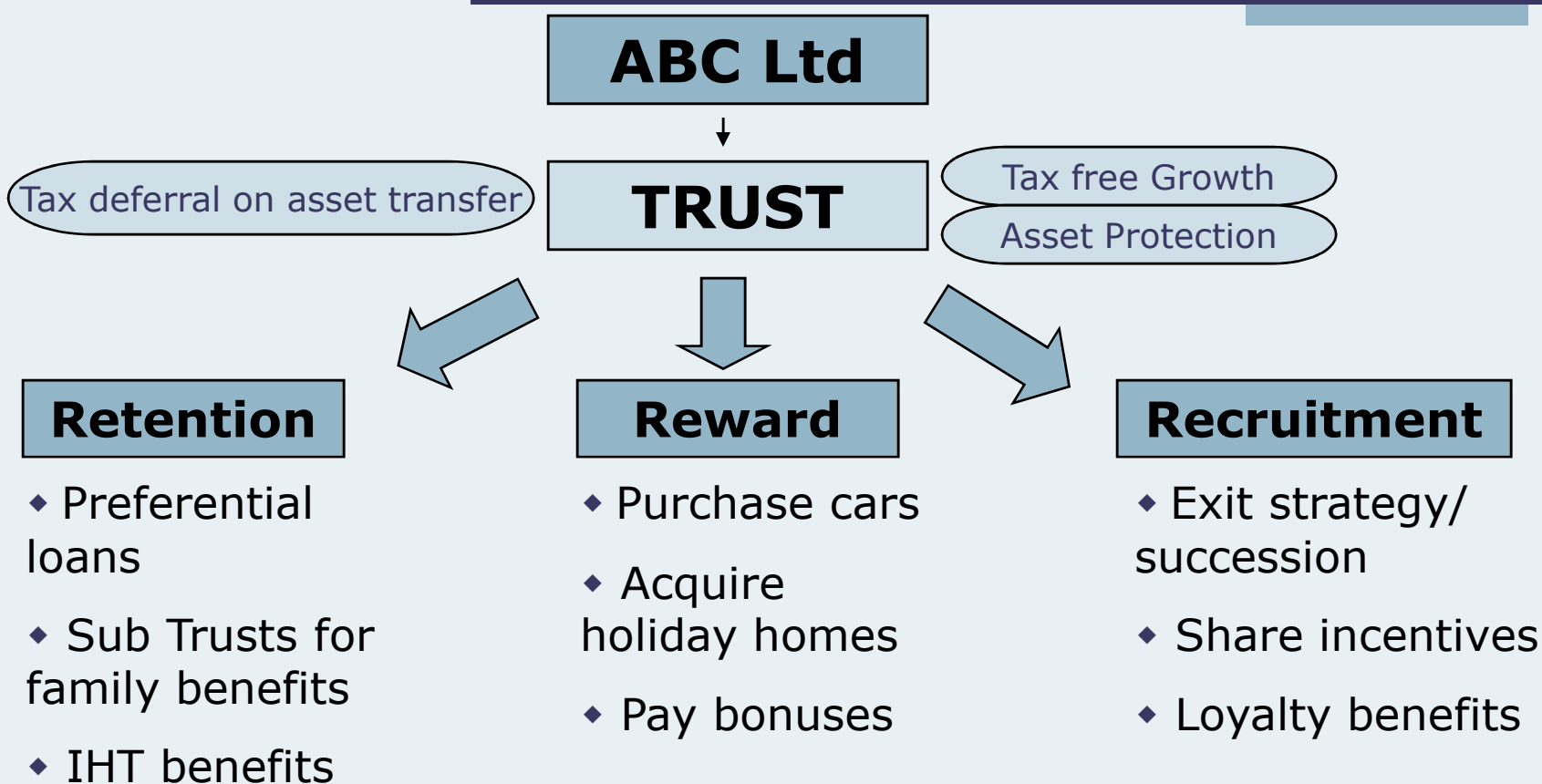
- ◆ Colin and Diane incorporate an offshore company ABC Co.
- ◆ Colin and Diane to transfer the business of property letting to ABC Co in return for shares.
- ◆ ABC Co is deemed to acquire the business and assets of the partnership at their current market value.
- ◆ ABC Co may then continue the letting business and decide to sell each property, avoiding capital gains tax and corporation tax.

THE SALE OF INVESTMENT PROPERTY TAX FREE *Non Resident Dividend Strip*



Corporate Trust Planning

Investment Flexibility & Protection of Valuable Tax Reliefs



Corporate Trust Applications

Exit Strategy/Succession Planning

- ◆ **Employee Retention Trust** – extracting profits tax efficiently... post Dextra/Sempra.
- ◆ **Corporate Asset Plan** – using Offshore Trustees to shelter gains tax efficiently.
- ◆ **Corporate Share Plan** – Shelter gains on the disposal of shares.
- ◆ **Corporate Income Plan** – Asset protection and IHT planning

Corporate Trust Applications

Tax Efficient Cash Extraction and IHT Planning

- ◆ DV Ltd makes a contribution to an Trust of £500,000 from it's cash resources.
- ◆ The Trust acquires investment property owned personally by one of DV's directors for £500,000.
- ◆ CGT is payable at 18% on the disposal, but values are 'depressed' at present!

Corporate Trust Applications

Tax Efficient Cash Extraction and IHT Planning

- ◆ The property is no longer in the director's estate for IHT purposes.
- ◆ Efficient extraction of funds from DV Ltd as dividend/salary alternative for future planning purposes.
- ◆ Property rental now paid to the trust, or through underlying structure.

Employee Trusts and HMRC

Recent Notices issued by HMRC:

- ◆ HMRC & EBTs – Tax Journal/2009/Issue 964, 19 January.
- ◆ Revenue & Customs Brief 49/09 – <http://www.hmrc.gov.uk/briefs/inheritance-tax/brief4909.htm>
- ◆ HMRC Spotlights 5 and 6 – <http://www.hmrc.gov.uk/avoidance/spotlights.htm>

HMRC's Technical Points

PAYE and NICs:

- ◆ It is at the time the funds are allocated to the employee or beneficiaries, those funds become earnings on which PAYE and NICs are due and should be accounted for by the employer (see Dextra and Sempra).

Corporation Tax and Inheritance Tax

- ◆ An IHT charge may arise on the participators of a close company.
- ◆ Relief is only available to the extent that a deduction is allowable to the company for the year in which the contribution is made.
- ◆ Later payments of earnings out of the trust that may trigger a deduction to the company would not qualify for relief.

Corporation Tax and Inheritance Tax

- ◆ HMRC's change of view implicitly confirms that s12 is to be interpreted as providing relief if the contribution is *potentially* allowable for corporation tax purposes (a "wait and see" basis).
- ◆ Counsel has confirmed that, in his opinion, on this basis there would never be a transfer of value as a result of a (potentially) deductible contribution.

Non Residency – Leaving the UK

- ◆ Growing expatriate community – 1/5 people 50+ moving abroad! 400,000 left in 2006.
- ◆ Offshore centres... ‘resting place’ for assets.
- ◆ Tax deferred becomes tax saved.
- ◆ ‘Gap Planning’
- ◆ Pension migration/QROPS
- ◆ Corporate migration...
Yahoo/Shell/Experian/WPP..... HSBC?

Qualifying Recognised Overseas Pension Scheme (QROPS)

Key Points:

- ◆ Wealth preservation and succession.
- ◆ No annuity purchase requirement – ‘drawdown for life’
- ◆ Self insured annuity?
- ◆ IHT protection
- ◆ Transfers no longer require residence in the country of receipt.

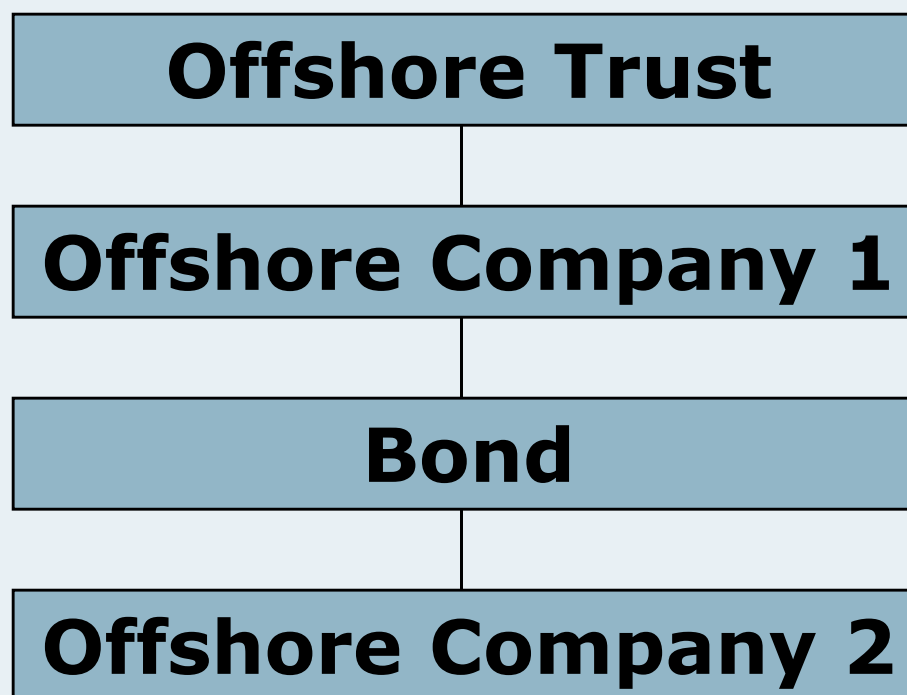
Non Domicile Planning

- ◆ Is UK still a tax haven? – no CGT or IHT?
- ◆ Plan offshore – “Excluded Property” before becoming deemed domicile
- ◆ Introduction of £30,000 tax levy in April 2008... join the ‘Remittance Club’
- ◆ Bond ‘wrapper’ for income tax deferral.

Indefinite Deferral – Personal Bond Route

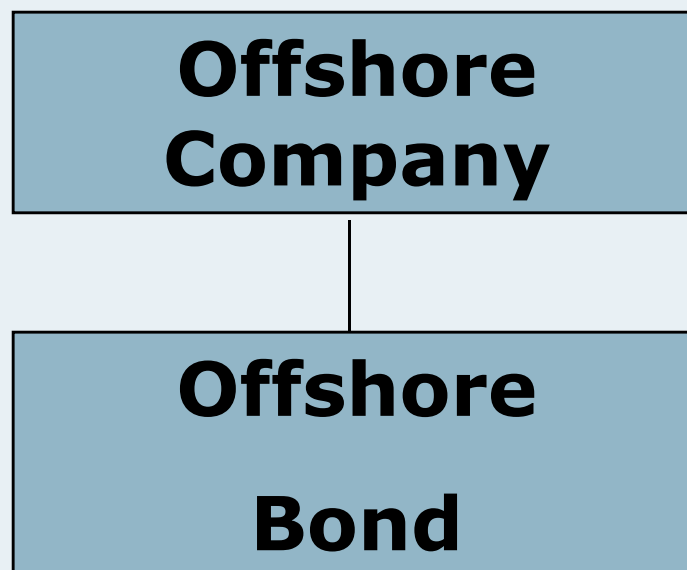
- ◆ Pay nominal initial premium.
- ◆ 15% deemed gain charge only on initial premium.
- ◆ Tax charge only arises on surrender.
- ◆ Assets of bond held in private company.

Indefinite Deferral – Personal Bond Route



Company Owned Offshore Bonds

- ◆ Convert income taxed at 40% into CGT at 18% by selling the company.



Tracker Shares

Changing UK income taxed at 40% to CGT taxed at 18%

- ◆ Bob is UK resident and domiciled and owns an Offshore company (ABC Co).
- ◆ Bob is liable to UK tax on profits of ABC Co.
- ◆ ABC Co has recently received £1 million on a property development disposal.
- ◆ The directors of ABC Co can declare a dividend in the amount of £1 million, Bob will pay tax at 40% (£400,000).

Tracker Shares

Changing UK income taxed at 40% to CGT taxed at 18%

- ◆ Alternatively, the directors of ABC Co amend the Mem & Arts and create 'tracker shares' for Bob, which are directly linked to the £1 million profit.
- ◆ The company, through its directors, buy back the tracker shares from Bob for £1 million, representing the original profit.
- ◆ In effect, Bob has "sold" his investment in the tracker shares which is now in the form of capital gain and not income.
- ◆ Tax of £180,000 – a saving of £220,000!

INHERITANCE TAX – AN IMMEDIATE SAVING

Trust Purchase – Excluded Property

◆ **Background**

- ◆ Mrs G is UK resident and is of advanced years.
- ◆ Mrs G has an estate of £1,525,000 and wishes to eliminate her estate's exposure to IHT immediately.

INHERITANCE TAX – EXCLUDED PROPERTY – AN IMMEDIATE SAVING

◆ The Solution

- ◆ Mr R, non domiciled and non resident, has settled an offshore trust with offshore trustees. The trust fund is £750,000.
- ◆ Mrs G's assets (other than her home and cash) will trigger a charge to Capital Gains Tax, if realised.
- ◆ Mrs G borrows £750,000 from a bank secured upon the assets in her estate.
- ◆ Mrs G may then purchase Mr R's trust, for say £825,000 which includes a 'purchase premium'.

INHERITANCE TAX – EXCLUDED PROPERTY – AN IMMEDIATE SAVING

◆ The Solution

- After purchase, the trustees may establish an offshore Company (Offshore Co) with £750,000.
- Offshore Co lends Mrs G £750,000 interest free, repayable upon demand. Mrs G repays the bank. Offshore Co's loan to Mrs G is secured on her UK assets.
- Mrs G's ownership of the Trust will be excluded property for IHT purposes; the value of the trust fund will be outside her estate. Mrs G will be entitled to access the trust fund at the discretion of the trustees.
- Mrs G's family will be entitled to access the trust following her death.

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