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Business Succession and the Employee Ownership Trust

A government led incentive saves tax for both business owners moving to employee ownership and also employees of employee owned businesses through income tax free bonuses.

In legislation in 2014, the Government introduced new tax incentives to help promote employee ownership as an option for business owners and, at the same time, help those businesses thrive by including tax breaks for the employees of employee owned businesses themselves.

Finance Act 2014

Tax advantages for Business Owners

A 100% exemption from capital gains tax on a disposal of shares in a business to an Employee Ownership Trust (or "EOT") means that employee ownership is now viewed as an even more attractive option available to company owners when considering their succession or exit planning.

Tax advantages for Employees

The second tax exemption in the Finance Act is for employees themselves.
This provides an exemption from income tax on bonuses of up to £3,600 per tax year paid by the company to all qualifying employees on a same terms basis.

Qualifying Requirements

To qualify for these exemptions, the business must have in place an Employee Ownership Trust (or "EOT").

To qualify as an EOT, the trust must satisfy certain conditions laid out in the legislation, including:

- **Controlling Interest** – The owners of the company must sell a "controlling interest" (at least 51%) within a single tax year to the EOT.
- **Trading Requirement** – the employer must be a trading company or member of a trading group.
- **All employee benefit** – broadly, the trustees must include all employees and may not exercise their powers so as to apply the trust to property otherwise than for the benefit of all eligible employees on the same terms (some differentiation between employees are permitted according to remuneration, length of service or hours worked).
- **Limited participation** – This limits the involvement of the 'selling shareholders' (for example the founder of the business and his or her family) by requiring that the number of continuing shareholders who are directors or employees (and people connected to them such as spouses) must not exceed 40% of the total number of employees of the company or group.

It is important to note that a claw-back charge to capital gains tax will arise on the part of the trustees of the EOT if the company ceases to meet these requirements.

Contact Us

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