Zurich International Portfolio Bond

Excluded Property Trust customer guide
You should read this guide in conjunction with the Discretionary Gift Trust Deed (Settlor included) and consult with your professional adviser in order to determine its potential suitability for you.
A. General principles

Objectives
Provided that you are currently not domiciled in the UK for inheritance tax purposes, the Excluded Property Trust (EPT), when used with the Zurich International Portfolio Bond (the Plan), enables you to:

- remove the Plan from your estate for probate purposes;
- avoid inheritance tax on the Plan even if you become domiciled in the UK in the future;
- retain access to Plan benefits for yourself via the Trustees; and
- retain flexibility over who will ultimately benefit from your gift.

How does the EPT work?
If you want to set up an EPT, you can:

- use the Trust at the time you apply for the Plan provided you are making the payment from an offshore bank account; or
- transfer an existing Plan into the Trust.

The asset that is being transferred to the Trust must be non-UK sited and that is why the payment for a new Plan must be paid from an offshore bank account. The Trust Deed that is used in this arrangement is called the ‘Discretionary Gift Trust Deed (Settlor included)’. Under this Trust, the person or persons chosen by the Trustees from the list of Beneficiaries specified in the Trust will be entitled to the Trust Fund, which will be looked after on their behalf by the Trustees. You are one of the Beneficiaries. No Beneficiary is entitled to anything until the Trustees make an appointment in their favour.

The EPT can only be established by an individual, it is not available for joint Settlors.

You will be one of the Trustees (unless you resign) and so nothing can be done with the Plan during your lifetime without your consent. You must, however, appoint at least one other person (preferably two) to act with you as Trustees to ensure that there are no delays in dealing with the Trust Fund in the event of your death and also to ensure that the Trust is legally valid and that the Trustees can exercise their functions.
Importance of domicile

Persons who are not domiciled in the UK are only potentially subject to inheritance tax on assets situated in the UK. It therefore makes good tax sense to keep investments outside the UK. However, for persons who are UK domiciled, all worldwide assets are potentially subject to inheritance tax.

You need to establish with your advisers whether you are UK domiciled or not.

Generally, when a person is born, he/she takes the domicile of his or her father. This is known as a domicile of origin. This domicile can be displaced by a domicile of choice which involves the individual having a physical presence in another country with the intention to reside there permanently. Obtaining a new domicile of choice is not easy.

However, for inheritance tax purposes only, a person can (subject to any contrary provision in a double taxation agreement) be deemed to be domiciled in the UK after they have been resident in the UK in 17 of the previous 20 tax years. If this possibility applies to you, it would generally be advisable to take action to preserve the inheritance tax free status of your assets whilst you are still non-UK domiciled. This can be achieved by establishing an EPT. There is, of course, a price to pay for this benefit in that the Plan will now be owned by the Trustees and your access to the Plan will be via the Trustees.

Using discretionary trusts under which the Settlor can benefit

When using a discretionary trust (such as the EPT) to make future provision for others and avoid IHT, there are some important points to be considered:

- Gifts to discretionary trusts are normally chargeable lifetime transfers (CLTs) which means that an immediate liability to inheritance tax (IHT) could arise if the gift (together with other similar gifts made by you in the previous seven years) exceeds the nil rate band (£325,000 in 2012/13). However, if you are currently non-UK domiciled no such liability will arise provided the property transferred to the Trust is not UK sited property.

- In addition, there may be charges to IHT every ten years and when benefits are paid to trust beneficiaries but, again, these will not be relevant if you are non-UK domiciled when you establish the Trust and the Trust has remained invested in the Plan.

- A gift to a trust under which the Settlor can benefit will normally amount to a ‘gift with reservation of benefit’ which will mean that the value of the trust fund will remain in the estate of the Settlor for the purposes of IHT. However, again, this will not be relevant as long as you are non-UK domiciled when you establish the Trust.

Additional amounts can be invested into the Plan (subject to the minimums acceptable on the Zurich International Portfolio Bond) provided they come from a non-UK source and provided you are still non-UK domiciled at that time.
Investing in the Zurich International Portfolio Bond (the Plan)
If you choose the life insurance version for your Plan, it is recommended that you set up the Plan on the lives of some or all of your intended Beneficiaries. This will help to minimise the risk of an unplanned and inconvenient or detrimental encashment. Up to ten lives can be included. However, if your Plan is already in force and is on your own life, it can still be transferred to the EPT. You can also use the EPT with a Plan based on the capital redemption version under which no lives insured are required.

As explained above, the asset being transferred to the EPT must be non-UK sited so, if you are making a new investment, the funds must come from an offshore bank account. Alternatively, you should effect the Plan first and, once it is in force, then transfer it to the EPT.

Your financial adviser will assist you with the completion of the relevant forms.

The Trustees must only hold property which qualifies as excluded property, such as the Plan. If other investments are selected, the inheritance tax benefits of the Trust can be compromised.

The Trust
To create the Trust (assuming you and your legal advisers are happy that the draft is appropriate in your circumstances) you and your additional Trustees should complete and sign the Trust Deed. To help you, a completion guide is included at the front of the draft Trust Deed.

You must name the Default Beneficiaries of the EPT and, if there are more than one, you need to specify the percentage share of each. These are the persons who will benefit at the end of the Trust Period if no other appointment is made.

Potential Beneficiaries (the persons to whom trust benefits can be appointed) are listed in the Trust Deed. You are amongst them. You can add other Beneficiaries later.

You will be one of the initial Trustees and you must appoint at least one additional Trustee (preferably two) to act with you. The Trustees have the legal control over the trust assets (the Plan), so they are the persons who are authorised to deal with Zurich Life Assurance plc (Zurich) in respect of the Plan. It is important that you choose your Trustees carefully. Anyone over 18 and of sound mind can be a Trustee. You may wish to appoint a professional person, such as your solicitor, but be aware that such persons are likely to charge a fee. Remember that the Trustees must act unanimously and so all the Trustees will need to agree if any payments are to be made to any of the Beneficiaries, including to yourself.

B. Details
Inheritance tax (IHT)

(i) Setting up the Trust
For IHT purposes a transfer of value (a gift) will normally take place at the time a trust is created, or when further amounts are added to the trust. However, with the EPT no IHT will arise if you are non-UK domiciled when you create the Trust and you transfer ‘excluded property’ such as the Plan to the Trust.

(ii) The inclusion of the Settlor as a Beneficiary
Provided the Trust holds non-UK sited investments, such as the Plan, and you are non-UK domiciled when you create the Trust, under current legislation and HM Revenue & Customs’ practice the value of the Plan held subject to the EPT will not be included in your taxable estate even though you may later become UK domiciled for IHT purposes.

This is so even though you can still benefit from the Trust by reason of being a Beneficiary.

There is also a specific exemption for this type of trust from an income tax charge under the pre-owned assets tax (POAT) rules.

(iii) Death of the Settlor
In the event of your death, the value of the Plan will be outside your estate for IHT purposes as there will be no gift with reservation. If the Plan continues after your death, it will continue to be excluded property for IHT purposes even though you have died. This applies even if the remaining Beneficiaries are UK domiciled and the value of the Trust Fund will not be in their estates.

(iv) Other IHT charges
If the EPT were a normal discretionary trust, special IHT charging rules would apply during the Trust’s existence. There could be ‘periodic charges’ every ten years from the setting up of the Trust as well as ‘exit charges’ (also called ‘proportionate charges’) whenever property leaves the Trust.

However, none of these charges will apply whilst the EPT remains in existence and holding the Plan or other excluded property. In particular, any withdrawals made by the Trustees from the Plan and paid to a Beneficiary will not, under current legislation and HM Revenue & Customs’ practice, be subject to IHT exit charges and the Trust Fund will not be subject to any periodic IHT charges. However, there could be potential IHT implications if payments are made to other Beneficiaries whilst you are still alive.

The rules on this are complex and you should discuss them in more detail with your professional adviser if you think they could apply in your situation. The IHT rules are explained fully in the Adviser Guide to this Trust which is available to your adviser.
Income tax
Under the Plan an income tax charge can only arise when what is known as a ‘chargeable event’ occurs. Chargeable events include a surrender of the Plan, death of the last life insured to die (under the life insurance version), maturity (under the capital redemption version) and withdrawals in excess of 5% each year of the amount originally invested up to a cumulative total of 100%. In other words, each year, for 20 years, up to 5% of the amount originally invested will be treated as a return of capital.

If a chargeable event occurs while you are alive and UK resident for tax purposes, the amount that exceeds the available cumulative total of 5% yearly allowances (or the whole of each amount received after 100% of the capital has been returned) is deemed to form part of your income for the tax year in which the chargeable event occurs. If the whole Plan is encashed (or a part of it represented by a whole policy(ies)) then any gain will also be treated as forming part of your income for the tax year in which the encashment takes place. Liability to tax will be at your marginal rate(s).

As the Plan is an offshore investment plan that will not have been subject to any UK tax on its growth, there is no UK tax deemed to have been paid on any gain, with the result that the full amount of the gain is subject to UK income tax when a chargeable event occurs. However, for the purposes of the liability to higher rate or additional rate (income over £150,000) tax only, top-slicing relief will apply which means that the gain will be divided by the number of whole years the Plan has been in force in order to determine how much tax is payable at the higher or additional rate. You are entitled to recover the tax on any chargeable event gain from the Trustees.

If you are not alive in the tax year in which the chargeable event occurs, or not resident in the UK for tax purposes, the Trustees, if they are UK resident, will be liable for any tax on the gain. The gain will be taxed at the rate applicable to trusts – currently 50% (reducing to 45% from 6 April 2013) – except for the gains falling within the £1,000 standard rate tax band available to the Trustees, when the tax charge will be at the rate of 20% only.

If the Trustees are not UK resident, the gains will be assessed on any UK ordinarily resident Beneficiaries when, and to the extent that, they receive any benefits from the Trust.

The taxation of chargeable events under the Plan is relatively complex and is covered in a separate Adviser Guide to this Trust which is available to your professional adviser. It is recommended that you discuss this aspect of taxation with your adviser.
Key points to remember when setting up an EPT

- You are the Settlor of the Trust and you gift your Plan to the Trust. If you are effecting a new Plan, the cheque must be drawn on an offshore bank account and should be made payable to Zurich.

- You and your additional Trustee(s) must complete the Trust Deed.

- You must name the Default Beneficiaries of the Trust and, if more than one, their shares. These are the persons who will benefit only if no other appointment is made by the end of the Trust Period.

- You must confirm with your advisers that you are currently non-UK domiciled for inheritance tax. If you are UK-domiciled, the EPT is not suitable.
Creating a trust is an important matter and has lasting legal and tax consequences. This guide is for your general information only and cannot cover every situation. If you are in any doubt about the purpose or effect of this Trust, or any actions after it has been created, you should consult your own professional advisers such as a solicitor or an accountant.

The Trust, once created, is irrevocable and the Plan and its benefits must be held according to the terms of the Trust. The Trustees will be in control of the operation of the Trust, which means that they may need to set up a Trustee bank account. Any benefits arising because of the exercise of options available under the Plan will also be held subject to the Trust.

Taxation law is subject to change. Such changes cannot be foreseen. The information in this guide is based on our understanding of current law and HM Revenue and Customs’ practice (November 2012). Although every care has been taken in the preparation of this guide and the draft Trust Deed, neither Zurich Life Assurance plc nor any of its officers, employees or agents accept responsibility for the operation of the Trust. Before proceeding with this Trust, you are recommended to refer the Trust to your own legal advisers to ensure it meets your needs.

Your attention is drawn to the ‘Important information for the Settlor’ section of the Trust Deed.

Zurich Life Assurance plc does not provide individual advice – please contact your relevant financial professional.
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