CREDITOR PROTECTION TRUST: SUMMARY

1. History

- The business was set up by senior City lawyers who are ex partners of international law firms
- GCW: several hundred clients since 2009
- Structure spans over a hundred years in its use
- No client has ever been subject to any formal investigation or litigation
- NOT a Tax Avoidance Scheme; and we are not utilising "tax loopholes" that can be closed by HMRC
- HMRC accept the validity of the structure

2. How does it work?

- We set up a specific trust called a creditor protection trust
- Each £1 profit made by the client's business is contributed to its trust, and this is treated as a deductible expense against the profit of the business
- The client will also be a beneficiary to the trust ie a creditor
- Accordingly for each £1 that resides in the trust, the client takes each £1 as a loan from the trust in his personal capacity
- The loan is taken by the client in his capacity as a creditor to the trust (ie not in any way connected in the client's capacity as employee/director of the business)
- Each loan taken by the client is subject to a 10 year term, and will be renewed at expiry for successive 10 year periods
- The cumulative value of the loans will be utilised to eliminate IHT on the client's estate; and any balance of loan remaining is extinguished upon death of the client. The loans do not impact the value of the estate, and the entire estate will pass to the client's children (being the death beneficiaries of the trust) IHT free.

3. Who uses this structure?

- Anyone who owns a company, partnership, LLP, or is a sole trader; and wishes to reduce or eliminate their tax liability
- Anyone concerned about impending IHT liability in passing their assets to their children
- Our clients include business owners in every major industry sector; some of the UK's wealthiest families; some of the UK's leading sportspeople; and many doctors and dentists across the country

4. Are there any risks in utilising the structure?

- Firstly, from a practical point of view, your funds remain in your control, and do not need to be transferred to the offshore trust. So you have no third party risk in relation to any of your funds. We can explain the flow of funds in more detail in a face-to-face meeting.
- We are not utilising 'loopholes', or equivalent, where there is any uncertainty in the application of the law or likelihood of any retrospective amendment of the law
- The very nature of the structure means that it is not subject to the general anti-avoidance rule (GAAR) introduced in the UK in 2013.

5. Working examples

- Husband and wife partnership. Profits £300k per annum. Tax liability = approx. £140k

    - Partnership will need to enter into the trust structure before end of its financial year to eliminate tax for that year.
    - Cost year 1: one time implementation fee (only payable in year 1) = 5% of profits plus VAT = £18k
    - 10% fee (no VAT) for value of all trust contributions in that year = £30k
    - Annual trustee fee = £1,500 plus VAT = £1,800
    - Total year 1 cost = £49,800
    - <u>Total saving year 1 = approx. £90,000</u>
    - Total costs in each subsequent year (assuming same profits) = £31,800
    - <u>Savings in subsequent years (assuming same profits) = £108,000</u>

- Company, profits £500k per annum. End of accounting period, eg 30 June.

    - Company will need to enter into trust structure before end of its accounting period; or accounting period is extended as necessary up to maximum of 6 months.
    - One time implementation fee = £25k
    - For company to eliminate annual tax liability of £500k, cost = £50k + annual trustee fee of £1500 plus VAT =£51,800
    - Company will eliminate all CT liability. To maximise tax savings, directors will take salary up to their individual personal allowance; and then £450k balance accessed by the directors as loans from the trust.

- Directors may wish to inject some of the loaned funds back into the company, thereby bolstering the company's balance sheet.

Final comments

- The examples above do not include the IHT savings.
- Equivalent trust structures will eliminate CGT on disposals of assets, shares.