

Welcome to the third edition of Observation - the Marlborough Trust Newsletter. If you have any feedback or comments we would welcome your response.

## Shot PUT?

Throughout 2004 and the early part of 2005 a staggering amount of property unit trusts (PUTs) were established in Jersey. The major reason was that unauthorised unit trusts still benefit from SDLT relief whereas the SDLT benefits of holding property in a UK limited partnership relief were abolished.

We are frankly stunned that this exemption is still available as here in Guernsey we have been happily establishing PUTs for third party property transactions for the same time as Jersey (we just don't shout about it!) and were fully expecting it to be closed in the 2005 budget. The fact that a UK property can be transferred into a PUT, the units transferred to a third party, and the property transferred to that third party all without paying SDLT has been a great advantage to a number of vendors and purchasers.

That said the Revenue have now requested that all property transactions worth over £5M where SDLT is being avoided now need to be disclosed to them so it is clear to us that they are assessing the impact of PUT transactions with a view to closing it down only if the tax take has been dramatically reduced. We await further news on this but we would not recommend entering into these transactions at any time near a budget statement.

Marlborough Trust act as trustees for a number of PUTs and can assist clients in putting this structuring together for larger property transactions. A word of warning however - we have learnt that a large number of PUTs have not proceeded to completion as the vendor's bank often has difficulties transferring their charge when the property has been moved into the unit trust. You have been warned!

For further information on PUTs and their use for SDLT planning contact:

[nick.hannah@marlboroughtrust.com](mailto:nick.hannah@marlboroughtrust.com)

## Everyone can be a PCC

Guernsey has recently enacted legislation allowing any company to incorporate as a protected cell company. Previous to this change only regulated business activity could be undertaken through a PCC such as captive insurance or investment funds.

This means that a private individual can now own a property portfolio with each property sitting in a separate cell and potentially the shares in each cell being owned by other members of their family or third parties. As the assets and liabilities of each cell are segregated there can be no cross contamination. However under UK company law the PCC is treated as a whole and can therefore benefit from a substantial balance sheet (amongst other preferential treatment in certain situations).

This certainly opens up the use of PCC's to a wider audience and any further suggestions for use would be welcome.

For further information on protected cell companies please contact:

[adrian.howe@marlboroughtrust.com](mailto:adrian.howe@marlboroughtrust.com)

## Contents

Property Unit Trusts	1
Protected Cell Companies	1
Charitable Trusts	2
Guernsey 0% Corporation Tax	2
Wine Tips	2



## ***Charitable Trusts***

An oft forgotten service that offshore trust companies can provide is the establishment and administration of charitable trusts and foundations. Guernsey is one of the only offshore jurisdictions to have the charitable status of such structures confirmed by the courts in a landmark case brought to the appeal court in 1998 with the assistance of Ben Tustin.

We have administered charitable trusts to finance scientific research (ensuring tax friendly investment into countries that can penalise inward investment) and also specific family led charitable trusts whereby legacies can be maintained for many years to the benefit of either registered charities or specific projects that are dear to the heart of the donor. The use of charitable advisory boards is common in these circumstances.

Guernsey charitable trusts can also be registered with the UK Charities Commission. With our strengths in administration and acting as professional trustees, then often trusts are established in Guernsey as opposed to the UK for this reason alone.

For further information on charitable trusts please contact [ben.tustin@marlboroughtrust.com](mailto:ben.tustin@marlboroughtrust.com)

## ***0% Guernsey Corporation Tax***

It is the current intention of the States of Guernsey to reduce corporation tax for non-regulated activity to 0% by 2008. The reason for this being the OECD report on harmful taxation in 1998 and the subsequent EU code of conduct published in 2002 that stated Guernsey did not have a 'level playing field' of taxation as non-residents could benefit from exempt tax companies whilst residents had to pay 20% corporation tax.

Regardless of the local issues surrounding such a move (of which there are many) it appears we have little choice but to adopt this method of taxation as both Jersey and the Isle of Man have decided to adopt this route.

However the major question this may pose to UK and worldwide tax planners is "What will happen to double tax treaties?" The UK-Guernsey double tax treaty is currently used for a variety of planning techniques to reduce exposure to UK corporation tax. Inevitably post 2008 the UK will want to renegotiate the double tax treaty to prevent blatant avoidance techniques proliferating. As such if anyone is looking to plan using a Guernsey, Jersey or Isle of Man double tax treaty, beware the deadline!

## ***This month the directors have mainly been drinking:***

We are currently recommending Graham Beck 2003 pink South African sparkling wine retailing at £7.50 a bottle. It is not the pinkest pink but is jolly quaffable. Drink now to extend that summer feeling...

Regaleali Rossi is a fantastic Sicilian red at £7.99 a bottle and frankly the vintage is irrelevant, it is all good and consistent. Chianti Classico flavours but lighter and fruitier.

Alamos Chardonnay is produced by the legendary Nicholas Catena from his cellars in Argentina. It does not taste like a Chardonnay! It does not have the strong oaky flavour but is smoother and more developed in its taste. We are currently drinking 2004 and at £3.99 it's fantastic value.

All available at the Wine Alley in St Peter Port, special discounts available for friends of Marlborough.