LANDBANK

Employee Benefit Administration Services

Frequently Asked Questions

1. Why should a company set up a retirement fund?

Setting up a retirement fund shall ensure a company's compliance with the following laws:

- **R.A. 7641 – The New Retirement Law**

  The New Retirement Law (R.A. 7641) prescribes minimum retirement benefits to qualified private-sector employees.

  The law entitles minimum retirement pay to employees who retire between the ages of 60 and 65 with at least 5 years of service. The law also states that in the absence of a retirement plan, minimum retirement pay should be given to qualified retiring employees.

  Under this law, eligible retiring employees are paid "one-half month salary for every year of service". The "one-half month" salary includes the following:

  i. 15 days salary
  ii. Cash equivalent of 5 days of service incentive leave
  iii. 1/12 of the 13^{th}-month pay

  Thus, the retirement benefit amounts to approximately 22.5 days per year of service.

  While RA 7641 applies to all qualified private-sector employees, it does not cover retail, service, agricultural establishments employing not more than ten (10) employees, and employees of the National Government, its political subdivisions including government-owned and/or controlled corporations.

- **R.A 4917 - An Act Providing that Retirement Benefits of Employees of Private Firms shall not be subject to Attachment, Levy, Execution, or any Tax whatsoever**

  Under this law, employees may not be subject to Attachment, Levy, Execution, or any Tax whatsoever if the employer has a Reasonable Private Benefit Plan (RPBP).

  The law provides a nontaxable retirement benefit if the retiring employee has been in the service of the same employer for at least 10 years, is not less than 50 years old, and that such benefit is availed only once.

  The law also entitles exemption to any amount received by the employee or by his heirs from the employer as a consequence of separation from service due to death, sickness, or other physical disability or for any cause beyond the control of the said employee.

2. **What is a Retirement Plan?**

A retirement plan is part of the compensation package of the employer to its employees. Having a retirement plan allows the company to invest in the financial security of its employees upon retirement.

The retirement plan contains the income goals of the fund, the investment actions to be made to achieve those goals, the benefits a company's employees will receive upon separation, and the requirements to be entitled to such benefits.

3. **What are the types of Retirement Plans available in the Philippines?**

There are two (2) types of Retirement Plans in the Philippines:

a. Defined/Fixed Benefit Plan
Contributions to the fund are shouldered solely by the institution for the benefit of its employees. The retirement benefit is fixed, specific, and definite. It is usually expressed as the number of months per year of service and the benefit is usually based on the employee's salary history (last or average salary). A company may have its own plan rules and benefits, but this must comply with the minimum benefits set out by the law.

b. Defined Contribution (usually called "Provident Plan")
The employee is the primary contributor to the retirement fund while the employer has the option to match the employees' contributions.

The retirement benefit of the employee is dependent on the contributions and income of the fund, if any, which is based on the amount contributed to the participant's account plus/minus any expense, investment income/loss, and forfeitures associated with the account.

4. **What are the benefits of setting up a retirement fund?**

a. Benefits for the Employees:
   - provides financial support after employment or event of death, sickness, and disability;
   - promotes accumulation of wealth due to tax savings; and
   - provides a financial cushion in event of the company's retrenchment or redundancy

b. Benefits for the Employer:
   - helps improve the morale of employees and increases productivity and loyalty;
   - promotes the company's image with labor and social commitments; and
   - helps reduce tax since the employer's contribution is tax-deductible

5. How much does a company need to set up a retirement fund?

a. Defined/Fixed Benefit Plan

An actuarial valuation is necessary to provide an estimate on how much funds the company should contribute or set aside to fulfill its obligation/liability to its qualified employees in case of separation/retirement.

b. Defined Contribution/Provident Fund

Under this arrangement, the retirement fund is primarily funded by the employees, but employers usually make matching contributions. Because of this, an actuarial valuation is not needed. The amount of contribution is typically agreed upon by the employer and the employees and is set in the funds' plan rules.

However, it must be noted that if the provident fund is the only source of the retirement benefits of the company's employees, the contribution of the employer that forms part of the said benefits enjoyed by qualified employees may not be less than those required under the law. In such cases wherein the contribution of the employer is insufficient, the employer is required to top-up on the benefits of the employee.

6. Are Employee Benefit Plans automatically tax-exempt?

No, a company will have to request a tax exemption certificate from the BIR.

Based on Revenue Memorandum Circular 8-2014, failure on the part of the taxpayer to present a copy of a valid, current, and subsisting tax exemption certificate or ruling shall subject him to payment of withholding taxes.

7. Why should a company set up a retirement fund with a Trust Entity?

a. Avail of possible tax privileges under the law with the proper structure and tax qualification.

The following are the tax benefits:

i. Annual contributions to fund a retirement plan are deductible from taxable income of the company because funds placed in a Trust for the retirement benefits of qualified employees are considered as an expense and are off the company's books;
ii. Investment earnings of a trust fund are not subject to tax; and
iii. Benefits received by eligible retirees are not subject to tax

b. To help it formulate investment guidelines for its fund

The Trust entity may be given sole discretion on where the funds would be invested taking into consideration the company's setup, risk & investment profile, plan rules, and the result of its actuarial valuation.

However, the company still has the right to give specific instructions on where the funds would be invested if they opt to have control over the investment function of the account.

A company may take advantage of the expertise of well-equipped and dedicated Fund Managers and Analysts for sound investment decisions.

c. To have someone assist in the proper administration of the company's retirement plan

The Trust Entity will ensure that funds set aside for the company's retirement fund will solely be used for that purpose. A trust entity also ensures that a company's funds have enough liquidity to ensure that funds are readily available when needed.

d. To ensure that retirement benefits are properly computed and disbursed to qualified employees

Based on the established retirement plan, the Trust Entity will assist the company to compute for the retirement benefits of qualified employees and manage its disbursement.

e. To ensure that employees benefits are protected from creditors in case the company declares bankruptcy

Funds placed in a Trust are separate from the Employer's assets as these are already considered as an expense of the company, thus, in cases wherein a company goes under, the company's creditors cannot go after the employee retirement fund. This ensures that employee benefits are paid.

8. What is an Employee Benefit Trust (EBT) Service?

It is a type of discretionary trust that is established by a company with a Trustee to manage its funds and provide benefits to its qualified employees upon their retirement or separation from service in accordance with the law and the approved plan rules.

9. What investment outlets can an EBT invest in?

The EBT shall be invested in investment outlets stated in the Investment Policy Statement (IPS) of the institution. The IPS shall be prepared based on the result of the Client Suitability Assessment (CSA) and shall be in accordance with the client's by-laws, applicable laws, etc.

Some of the allowable investment outlets for an EBT are special bank deposits, government securities, and investment-grade private securities.

10. What are the available LANDBANK EBT Services?

a. Employee Retirement Fund Administration

Under this service, LBP-TBG will manage the funds set aside by the company for the retirement benefits of its employees.

LBP-TBG services include:

- Assistance in the conceptualization of retirement plan rules
- Formulation of investment guidelines
- Perform fund management activities
- Plan Administration
- Disburse benefits to qualified employees
- Prepare and submit relevant reports in compliance with the regulatory requirements

Classification	:	Trust
Minimum Initial Investment	:	Depending on Actuarial Valuation
Minimum Additional Placement	:	Any amount
Trust Fee	:	Shall depend on the complexity and size of the account
Proof of Investment / Investment Document	:	Trust Agreement
Beneficiary/ies	:	Employees of the Institution
Withdrawal/ Distribution	:	Based on the institution's/trustor's ▪ Instruction; and ▪ approved retirement plan rules
Investment Outlets	:	As stated in the Investment Policy Statement (IPS) and as allowed under the client's by-laws, applicable laws, etc.

b. Provident Fund Administration

Under this service, LBP-TBG will manage the provident fund plan of a company.

LBP-TBG services include:

- Formulation of investment guidelines
- Perform fund management activities
- Plan Administration
- Disburse benefits to qualified employees
- Prepare and submit relevant reports in compliance with the regulatory requirements

Classification	:	Trust
Minimum Initial Investment	:	PhP1,000,000.00 USD50,000.00
Minimum Additional Placement	:	Any amount
Maintaining Balance	:	PhP1,000,000.00 USD50,000.00
Minimum Holding Period	:	n/a
Early Redemption Penalty	:	n/a
Trust Fee	:	Shall depend on the complexity and size of the account
Proof of Investment / Investment Document	:	Trust Agreement
Beneficiary/ies	:	Employees of the Institution
Withdrawal/ Distribution	:	Based on the institution's/trustor's ▪ Instruction; and ▪ approved provident fund plan

11. What are the responsibilities of LBP-TBG under this arrangement?

Under the Employee Benefit Retirement services, TBG is appointed as the client's Trustee.

Therefore, LBP-TBG, as Trustee, shall hold title to the funds to be held in trust under the service.

Specific Rights and Powers of LBP-TBG shall be stated in the Trust Agreement and Investment Policy Statement (IPS). These are, but not limited to:

a. invest and reinvest the fund;
b. cause any asset acquired from the investment/reinvestment of the FUND to be held, registered, and issued in the name of LBP-TBG;
c. open and maintain accounts as may be determined necessary in the performance of the service;
d. pay all costs, fees, charges, and such other expenses connected with the investments, administration, preservations, and maintenance of the fund and to charge the same to the fund;
e. exercise any right or privileges pertaining to the assets held in trust; and
f. execute and deliver all documents and to perform any act which may be deemed necessary or proper to carry out the power granted to LBP-TBG.

12. What are the steps in setting up an Employee Benefit Trust fund with LBP-TBG?

a. Determine the benefits to be provided and what type of plan to set-up
b. Draft Plan rules and regulations with an actuary
c. Seek Board approval for:
    - Retirement/Provident Plan Rules
    - Retirement/Provident Fund Committee
    - Appointment of Trustee
    - Authorized signatories
d. Apply for tax exemption of the fund to the BIR
e. Execute a Trust Agreement and submit documentary requirements to LBP-TBG

13. What are the documentary requirements?

Forms to be provided by LBP-TBG:

- Client Information Sheet and Specimen Signature Card (CISSC) for Institutional Customer
- CISSC of the authorized signatories
- Specimen Signature Card (SSC) of the authorized signatories
- Client Suitability Assessment (CSA)
- Reclassification of Risk Profile (If applicable)
- Risk Disclosure Statement (RDS)
- Investment Policy Statement (IPS)
- Trust Agreement

a. Other documentary requirements for Employee Retirement Fund Administration

Government Institution

- Charter and/or law creating the government corporation/ office/ agency or Executive Order/ Department Order creating the government entity
- Duly Notarized Board Resolution/Secretary's Certificate containing the following:
  - Appointment of LANDBANK – Trust Banking Group as Trustee for the retirement benefit
  - Designated officers authorized to transact with regards to the account
- Photocopy of a government-issued identification document of each designated officer
- Copy of approved retirement plan rules
- Actuarial valuation study
- BIR Tax Exemption Certificate (If available)

Private Institution

- Articles of Incorporation (or any equivalent document)
- Certificate of Registration with the appropriate government agency (if applicable)
- By-Laws (or any equivalent document) (if applicable)
- SEC General Information Sheet (if applicable)
- List of Stockholders (If applicable)
- Duly Notarized Board Resolution/Secretary's Certificate containing the following:
  - Appointment of LANDBANK – Trust Banking Group as Trustee for the retirement benefit
  - Designated officers authorized to transact with regards to the account
- Photocopy of a government-issued identification document of each designated officer
- Copy of approved retirement plan rules
- Actuarial valuation study
- BIR Tax Exemption Certificate (If available)

b. Other documentary requirements for Provident Fund Administration Account

- Charter and/or law creating the government corporation/ office/ agency or Executive Order/ Department Order creating the government entity
- Duly Notarized Board Resolution/Letter of Authority from Head of Corporation/Office/Agency incorporating the following:
  - Authority to open a Provident Fund Administration Account (Trust Account) with LANDBANK Trust Banking Group
- Designated officers authorized to sign the Trust Agreement, letter instructions, request for withdrawal/termination, and other pertinent documents with regards to the account
- Photocopy of a government-issued identification document of each designated officer
- Copy of approved Provident Plan IRR/Guidelines
- Hard and Soft Copy of the initial list of members and corresponding principal contribution of the employee and employer
- BIR Tax Exemption Certificate

14. What document will the company be given as proof that they have an EBT account with LBP-TBG?

The company will be provided a copy of the following:

a. A duly executed Trust Agreement
b. Risk Disclosure Statement
c. Investment Policy Statement
d. Acknowledgment Receipt from TBG as proof of placement

15. How will a company monitor its funds?

The company will be informed of the investment and related activities of the funds by rendering quarterly financial statements as prescribed under the MORB Sec. 435 and as necessary. Annual Fund Performance Report and Fund Performance Presentation may also be provided upon the client's request.

Trust Disclosure
Trust, Other Fiduciary and Investment Management Accounts are not covered by the PDIC and that losses, if any, shall be for the account of the client. Due to the nature of investment, yields, and potential yields cannot be guaranteed. Any income or loss arising from market fluctuations and price volatility of the securities held by the fund, even if invested in government securities, is for the account of the principal.