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Answer-to-Question-\_\_1\_\_

## REPORT

To: Michael and Suvil Blatt, Jo Peskal and Fran Bowler

From: Paul Rice

Date: 30 October 2025

Subject: Appropriate way to acquire and operate RS Ltd and structure of the individual investments.

### Introduction

This report is to Michael and Suvil Blatt, Jo Peskal and Fran Bowler in relation with the acquisition of Rs Ltd and structuring the investment in the most tax efficient manner.

For the purpose of this report we have referred to Michael and Suvil as M&S, Jo Peskal as JP, Fran Bowler as FB or as the new partners collectively and RS Ltd as RSL.

### Disclaimer

The report is intended for the above named only. We do not accept liability to other party who may rely on the report.

We have used the information provided to us assuming the professional valuation is correct and we have worked with the provided figures.

The tax law is correct at time of writing.

### Scope

The report will cover the following:

SECTION 1: Share acquisition

SECTION 2: Trade and Asset acquisition

SECTION 3: Future sale of the business

We hope you find this report helpful and please do not hesitate to contact me if you have further queries.

### Executive summary

We recommend the trade and assets of RS Ltd are acquired in preference to the shares.

This is because the RS Ltd history will not be acquired especially with the ongoing HMRC enquiry and the failure to correctly operate PAYE for the casual and part time staff which could lead to heavy penalties, fines and interest and potentially court fees.

The shares acquisition is not recommended also because the brought forward losses acquired could be locked, not being able to be relieved if HMRC determines that there has been a major change in nature and conduct of trade, which taken into account there will be a lot more investment and the company will be revived after being made negligible by the previous owners in the 3 years prior to sale.

We recommend that the new business is structured as a limited company because this will give all the shareholders limited liability given the amount of the investment involved especially for FB.

Shareholders agreement is strongly recommended to protect the shareholders and to determine the rights and obligations of each shareholder.

The investment should be left on directors loan account. This will allow the shareholder to draw back their investment with no tax implications.

We recommend the M&S and FB do not draw salary as they already have other income and M&S will lose their personal allowance and will pay tax at 40%, where as FB will pay tax at 45% if she draws salary. JP will be receiving commercial rate of salary in any case.

We recommend the company registers for VAT immediately to take advantage of being able to claim VAT on the renovations and for the business to be treated as a TOGC so that no VAT is charged on the purchase of the T&A.

On the sale of the company, we recommend the sale is structured as a share sale. This will avoid taxation on the company if assets are sold so that the company pays CT and then the shareholders will have to pay income tax on the money left in the company.

We recommend that a liquidator is appointed for a share sale so that the money is distributed as capital on which M&S and JP can claim BADR to reduce their capital gain to 10%, where as FB will not be eligible for this as she has already used hers.

## **SECTION 1: Share acquisition**

## General

Acquisition of the shares in RSL will require robust due diligence, idemnities and warraties becuase all the risks and the liabilities within the company are also acquired.

We recommend that you closely look into these warranties and indemnities as they may not cover the ongoing HMRC enquiry. Also there is an increased risk because of RSL failing to operate PAYE correctly for the casual an part time workers.

RSL will continue operating as normal, there will be no cessation of trade, the VAT and PAYE schemes will continue as they are.

The register of companies must be updated to transfer the shares from the old owners to the new shareholders. This is done by submitting a share transfer form.

## Major change in nature of conduct and trade - MCINOCOT

By acquiring the shares the losses in the company will also be acquired as the company will continue trading.

RSL has had a major decline in trade 3 years before the sale which has resulted in negligible trade. What this means is that the company has had a major change in the conduct of trade and the acquired losses brought forward of around £184,000 will not be available to be relieved by the new owners. The new owners can negotiate the price for this.

The year end of RSL is June and if the new shareholders take over on say in March 2026, then the losses of the current year can be relieved by the current owners.

### Stamp duty - SD

SD will be payable by the new shareholders as staed above at 0.5% on the purchase price £900,000 @ 0.5% of £4,500, due 30 days after the share transfer.

### VAT

There will be no VAT on the acquisition of the shares because this is outside the scope of VAT.

### Recommendation

Due to the HMRC ongoing enquiry, the failure to oprate a PAYE scheme for the part time and casual workers and the brought forward losses being denied, we do not recommend that the shares are acquired in RSL. This could lead to havy penalties, interes, fines and worst case scenario cour proceedings.

On the above basis we have not considered this any further.

## **SECTION 2: Trade and Asset acquisition**

## General

M&S, JP and FB can acquire the trade and assets (T&A) of the business.

The advantage of acquiring the T&A is that the risks and liabilities are left with RSL and the assets to be acrued can be cherry picked. The only requirement here is confirmation of the ownership of the assets, i.e. the premises and if there are any charges against this.

The acquisition of T&A can be structured in the following ways:

1. Trading as a partnership or Limited Liability Partnership (LLP)
2. Trading as a limited company

We'll look at each in turn.

### 1. Trading as a partnership

## Admin and IT

The partnership is the simplest structure to use as a vehicle for operating the new restaurant.

The partnership must be registered and all the partners must register with HMRC as self employed by 5 October 2026 if the trade commences in 26/27 say 1 April 2026 (HMRC accepts the 4 day gap to 5 April).

Accounts do not need to be filed, and the partnership does not pay tax, instead the partnership is transparent for income tax (IT) and the partners pay IT on their profit

share. The income tax is 20%/40% and 45% depending on the rate band they are in and Class 4 NIC at 6% between 12,570 and £50,270 and 2% above £50,270.

The disadvantage of trading as a partnership would be the partners will have no risk protection and the liability is unlimited to their personal wealth. Considering M&S and FB are quite well off this may be very risky for them.

To overcome this problem, the partnership can be registered as LLP.

LLP must be registered and account must be filed with Companies House.

The LLP will give all the partners protection up to their capital contribution.

### Acquisition of assets

The assets acquired will either be classed as capital expenses or revenue expenses.

### Stock

The stock will be revenue expense and it will be tax deductible expense reducing the profits and in this case increasing the loss of the partnership.

### Goodwill - GW

The goodwill will be capital expenditure, there will be no immediate relief and no amortisation.

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On future sale of the business, the GW will have base cost of £150,000, that is how the relief will be given, by resulting in lower capital gain.

### Premises

The premises will also be capital expenditure with no immediate tax relief and future base cost of £710,000.

There may be some fixtures on the premises which could qualify for capital allowances. These are fixtures that form part of the building.

s.198 allows for the fixtures to receive relief under the capital allowance if 2 conditions are met: 1. Pooling requirement, where the previous vendors have claimed capital allowances on the fixtures and 2. fixed value requirement, where the vendor and the partners have agreed value of the fixtures. This value must not be higher than the original cost.

SBA - The premises were renovated in around 2020 and the vendor would have claimed structures and building allowance. This will give the new partnership CA deduction of 3% per year on the value of the renovation, however, this is only a cash flow advantage. On subsequent sale of the business, the SBA is added to the sales proceeds and increases the capital gain.

SDLT - Stamp duty land tax will be charged on the property at The commercial rates.  
£150,000 @ 0% + 100,000 @ 2% + £460,000 @ 5%. Total SDLT of £25,000 will be due 30 days after the acquisition.

### VAT

The acquisition of T&A will be transfer of a going concern (TOGC) provided the new partnership registers for VAT within 30 days from acquisition, carries on with the same business and there are no significant breaks.

The new partners want to convert and renovate, therefore early registration would be strongly recommended to claim the VAT on the conversion, instead of waiting for the VAT registration threshold to be reached (£90,000 at the moment)

The premises are more than 3 years old and have not been opted to tax, therefore no VAT will be charged on the premises.

### Funding

All partnerships will be putting in the same investment of £50,000 to give them equal share in the new partnership.

They will be using their own funds, therefore there is no further tax implication on this matter.

The bank loan of £600,000 will be trading loan, secured on the premises, therefore any interest paid on the loan will be tax deductible expense for the business increasing the losses or reducing the profits.

FB will be investing additional £400,000 as a personal loan. She can charge the partnership interest on this loan at a commercial rate. The interest will be tax deductible for the partnership and taxable on FB as non-saving income.

Given the other income she has, she will have no personal savings allowance and her

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marginal tax rate is 45%, therefore the interest will be taxed at 45% on her self assessment tax return.

### Losses

The partnership will be making losses in the first two years of trading, per the forecast.

The losses will be split equally amongst the partners and they can be offset in the following ways:

- a) Carry forward against future trading profits. There will be no profits until year 3 and this will deny the relief, therefore not recommended.
- b) Against current and or prior year other income capped at higher of £50,000 and 25% of the total adjusted income.

M&S are higher rate tax payers and in the first year they will get a relief £17,200, JP will get a relief of £3,486 and FB relief of £20,000 (appendix 1).

- c) The losses can be relieved in the previous 3 years on first in first out basis, but all losses in this case can be relieved in current and in prior year.

### Recommendation

Considering the different investments in the partnership, we strongly recommend that partnership agreement is drafted by a solicitor to set out the profit and capital share ratios and the responsibilities and obligations for all the partners.

We recommend that s.198 is looked into detail and negotiate fixed value so that the new partnership can claim CA to increase the loss in the first year of trading.

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We recommend the friends request SBA statement from the vendors to be able to claim SBA to increase the loss to help their cash flow. Also they can claim SBA on the new conversion of the business.

The new partners want to convert and renovate, therefore early registration would be strongly recommended to claim the VAT on the conversion, instead of waiting for the VAT registration threshold to be reached (£90,000 at the moment)

We recommend that the losses are relieved in early years to obtain instant relief to help with the cash flow of the investment.

## 2. Trade and asset acquisition via company

### CT and Admin

The company is a separate legal entity and as such it pays corporation tax on its own profits at 19/26.5 and 25% depending on the levels of profits. The CT liability is due 9 months and a day after the accounting period by 31 January for March year end and the CT return is due 12 months after the accounting period, by 31.03.28 first one.

The company gives the shareholders limited liability and they are only liable to the amount of unpaid share capital.

We strongly recommend shareholders agreement to set out the rights and obligations of the shareholders.

### Extarction of money

The shareholders in the company will be taxed only on the money extracted from the company. This can be by paying:

Salaries - taxed at 20/40&45% plus class 1NIC 6% and 2% by the employees and 13.8% by the company. The company will have CT deduction for the gross salaries and class 1 NIC secondary at 13.8%.

Dividends - The dividends are paid out of distributable profits, which would not be the case here at year 1 and 2. The dividend tax is 8.75%, 33.75% and 39.35% depending on the rate bands, no NIC, but there will be no CT deduction for the company.

Interest can be charged on the loans into the company, this is discussed below.

### Acquisition of T&A

The tax deductions are the same as for the partnership above.

The goodwill in a limited company can only be amortised if it was purchased along with intellectual property, however, this is not the case here.

### VAT

The same rules as above on the VAT issues, early VAT registration is recommended to be able to claim VAT claim on the renovation costs.

### SDLT

No SD on the new issue of shares, the property will have the same SDLT liability as above, but it will be payable by the company.

### Inheritance Tax - IHT

For IHT, both structures are relevant property and the business property relief will give 100% BPR as long as the shares in the company are held for 2 years and the company is a trading company and in the partnership, the partnership has been trading for 2 years. No IHT will be due in both cases since the business will be trading for more than 2 years.

### Funding

The funding in the company will be different than in the partnership.

The company will be incorporated with say 100 shares at a nominal value of £1 each.

The money invested in the company by the shareholders will be left on a directors loan account. This can be drawn out of the company when the company start making money.

The shareholders can charge the company interest on the loans. The interest must be at a commercial rate, otherwise any excess will be taxed as dividends.

The interest will be taxed on the shareholders as discussed above on the partners.

FB is going to invest additional £400,000 into the company. We recommend she leaves this on directors loan and extracts the money out as and when the company has some money. This will be tax free extraction with no further tax implications.

### Losses

The losses in the company can only be carried forward to be offset against future trading

profits. There will be no relief on the individual shareholders.

The company will have no profits until year 3, however the the losses are more than the profits in year 3 which menas if the company closes, the excess will be lost. Since the plan is to sell the company in 4-5 years, hopefully the losses can be utilised in year 4 and 5.

The company will pay no corporation tax and the shareholders will have no dividend tax because there will be no distributable profits for the dividends.

### **SECTION 3: Future sale of the business**

#### Limited company

The future sale of the business as a company can be done either via sale of the shares or via sale of the trade and assets.

The base cost of the asset will be the marker value when the assets were purchased.

If the trade and assets are sold, then the company will have corporation tax to pay on the gain of the sale. After the CT is paid, the company will have the funds avalabe to distribute.

The distrubution will be done either by strucking off the company at comapnies house,

this will only be recommended if the distributable reserves are £25,000 or less or by appointing a liquidator, which will cost but will enable capital distribution.

The capital distribution will be charged at 20%, however, as the company is a trading company and the shareholders have more than 5% shares in the company and they work for the company, they will be able to claim business asset disposal relief up to a lifetime of £1 million which will reduce their tax liability to 10%.

FB will not be eligible for this relief because she has already used the lifetime limit and she does not work for the company.

We recommend share sale is pursued because the shares sale will incur only capital gains tax on the individual share holders and it will eliminate the double tax of CT and IT. M&S and JP will be eligible for BADR, whilst FB has already utilised the lifetime allowance of £1,000,000 and her gain will be taxed at 20%.

### Partnership

For partnership structure, on disposal of the partnership, the partnership will have the final profit to distribute amongst the partners. They will pay income tax according to their other income at their marginal rate.

The partnership will cease trading and the partners will need to inform HMRC that they do not have self assessment criteria.

Each partner will have a gain on the property and the goodwill.

The gain will be calculated and it will be taxed as capital gains on each partner. Each partner can then utilise any capital losses they may have, further information is required if they have any losses to utilise.

All the capital accounts will be extracted with no further tax implications.

**Appendix 1 - Loss relief**

	M&S	JP	FB	
Income	100,000	30,000	200,000	
PA	(12,570)	(12,570)	-	
Taxable				
Loss	(43,000)	(17,430)	(50,000)	
tax saving	17,200	3,486	20,000	