

ASSESSMENT NARRATIVE - OWNER MANAGED BUSINESSES

November 2022

Structure

A simple pass or fail will be awarded.

Identification and Application

The following are the relevant topics for assessment with their weighting:

1	15%	Tax treatment of LLP
		Same as partnership, fully taxable regardless of drawings, conversion is not a CGT disposal provided no change in PSR's statutory reliefs available to avoid SDLT, TOGC for VAT
2	25%	Operating as a limited company
		Corporation tax rates, tax efficient to the extent profits retained in Newco, options and implication of drawing funds from Newco, extra admin burdens
3	25%	Capital gains on incorporation
		Deemed disposal at MV, CGT charge, SDLT relief, BADR for property but not goodwill, offset losses and reliefs against highest rates
4	10%	Capital allowances on incorporation
		Capital allowances and balancing charge, connected parties possible TWDV election, no tax relief for depreciation or amortisation of property or goodwill
5	25%	Use of Director's loan accounts
		No initial funds in Newco, charging interest, deductible in company if commercial, no NIC (CT61 and withheld tax, starting rate and savings allowance), stage draw down, control of tax rates

Relevant Advice and Substantiated Recommendations

The following are the relevant topics for assessment with their weighting:

1	15%	Advice on the personal risk mitigation comparing LLP or limited company
		Unlimited liability at present, LLP and Newco similar risk mitigation, separate legal entities, risk limited to capital committed and personal guarantees, no protection for fraud or wrongful trading
2	25%	Advice on tax efficient operating structures
		No tax advantage from LLP, double tax layer in Newco and personal drawings, No income tax benefit where profits are extracted in full from a limited company. Company structure beneficial where profits are retained or directors loan account used
3	30%	Advice on possible methods of incorporation
		Sale at MV or undervalue, Gift relief (flexible), incorporation relief (inflexible, not possible if property retained), CGT base costs,
4	30%	Advice and recommendation on personal or company ownership for the business premises
		Avoids CGT and SDLT, potential rental, personal capital gain and avoids double layer of taxation if in Newco, restricted BADR, restricted BPR