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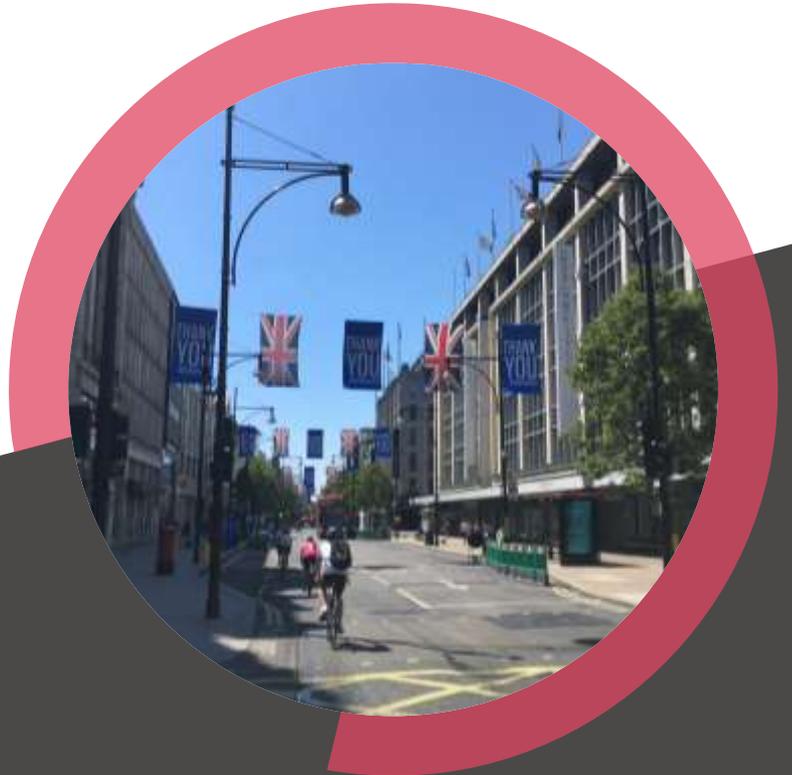
EOT REALITIES

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A talk at the White Paper Company



My Question for today

What are the realistic and achievable options when selling a company to, and out of, an Employee Ownership Trust (EOT), with examples of successful implementation?

Plan your dive and dive your plan

- Think about your exit before you implement your entry.
- What if Buyer on DD looks for drafting issues: Make Trust Deed always interpreted to satisfy the all employee benefit requirement.
- What if company agrees to make contributions to the trust: Remove ability for trustees to sue under any such promise.
- Share Options (cap them at 49%).
- EMI – Do you get a CT deduction?
- Ex-Employees (monitor on a two-year rolling basis).

Consideration

- Market Value (get independent advice).
- Adjustment clause should HMRC disagree on MV.
- Anti-embarrassment:
 - in which case 90% of MV plus the anti-embarrassment right;
 - Can't last forever. Maybe 4 years at the outset.
- Controlling interest test at 236M(1)(c): Winding up \neq sale.
- Loan Notes cannot be QCBs etc..

Paranoia

- Trustees should have warranties as to the nature of the business.
- Need a formal Bonus scheme (one page).
- Don't forget stamp duty.
- Diarise to remind clients:
 - you must claim the EOT relief; and
 - *protective* election if Loan Notes.
- Trustee indemnify the Sellers for tax if quick on-sale.

Why offshore Trusts?

- Assume you have passed 5 April twice then the EOT pays the CGT.
- If a total gain of £10million then taxed at 20%.
- £8million is subject to PAYE (income tax and employee's NIC).
- £4,240,000 to Employees
- AND the Company has to pay the Employer's NIC (£1,104,000).
- Double taxation at its worse.

UK Double taxation solution (current)

- Grant EMI options to staff.
- But can't go over 49%.
- Need to do EMI options before heads for sale.
- Look back at your consideration structures.
- il meglio è nemico del bene – excellent is the enemy of the good.

Consultation

- Remove Double Taxation on exit (but ban offshore Trusts)
- Allow CT deduction on share option exercise
- Confirm CT deduction for interest paid (HMRC Meeting 6/10/15)
- Legislate for capital contributions and 'subsidiary' trusts (EMI)
- Deadlock of Trustees rather than majority non-founder
- Instruct SVD to agree Market Valuations
- Extend two-year period

The 4Most journey

- 2011 4Most is founded by Mark Sisson and Mark Somers. Provider of risk analytics and modelling solutions to banks and insurers.
- 2016 Beechbrook takes minority investment.
- 2018 4Most becomes EOT owned.
- 2023 4Most is sold to Phoenix Equity Partners
- Mark Somers: “John was the one who first opened our eyes to the benefits of an EOT; with his team, he successfully guided us through the whole journey. Employee ownership really worked for us.”

Questions?

- June 2021 576 EOTs.
- June 2023 1,418 EOTs.
- All trading sectors can do these including:
 - You;
 - Your dentist; or
 - Your local GP!



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