SECURING ENTREPRENEURS RELIEF
HAVE YOU CONSIDERED AN MVL?

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If you've read our review of Entrepreneurs' Relief (ER) you will be aware that rumours of reform to ER have mounted in recent weeks.

As a reminder, ER enables a taxpayer to access a reduced 10% rate of Capital Gains Tax (CGT) (compared to the usual 20% rate) on up to £10m of qualifying gains during their lifetime when they dispose of – or wind-up – all or part of their business. This means a maximum tax saving of £1m is available – making this one of the most valuable tax reliefs in the statute book.

However, as there is unfortunately no proven economic link between ER and business investment, it is likely that reform to ER may be announced in the Spring Budget on 11 March. Therefore, for business owners who have been considering winding up their company now is the time to act.

WHY CONSIDER A MEMBERS VOLUNTARY LIQUIDATION (MVL)?

If you are considering liquidating your company (ie a solvent winding-up), then it is worth noting that any distributions made by the liquidator will be treated as capital disposals, meaning that any distributions may qualify for ER if the recipient meets the necessary conditions.

Clearly, any significant changes to the ER rules as of the budget on 11 March 2020 have the potential to impact your ability to claim this relief.

Using a Members' Voluntary Liquidation (MVL) could therefore minimise tax liabilities for shareholders looking to withdraw their investment from a company in a tax-efficient manner as they enable shareholders to walk away from a solvent business at a tax rate of 10% on the accumulated profits.

HOW MIGHT THIS CHANGE YOUR PLANS?

This means that if you are considering retirement, have sold the trade and assets of your company, have completed a property development in an SPV, or wish to close down a solvent company for another reason, then you may wish to consider bringing forward your plans, provided that you will qualify for ER under the current rules.

To help with this, and depending on the complexity of the company's affairs, it may be possible to bring the liquidation forward in order to pay at least an interim dividend out under the current tax rules.

If the above applies to you, you will need to act quickly before the budget on 11 March 2020. As with any tax planning however, the tax tail should not wag the dog – any actions should be for, and never come at the expense of, sound commercial strategies/reasons.