

“Tax and The Entrepreneur”

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Tax and The Entrepreneur

- ▶ New relief – entrepreneur relief
- ▶ Current structures
- ▶ Future structures



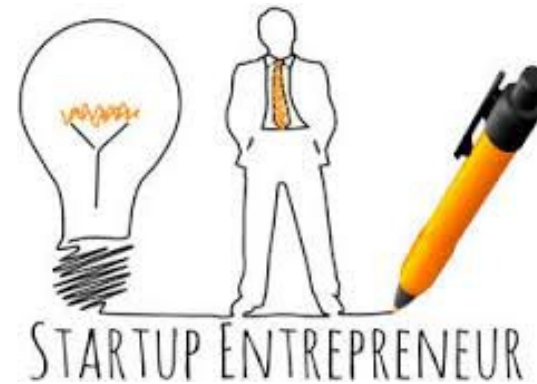
Current structures

Set up to avail of current tax reliefs

- ▶ Holding company exemption
- ▶ Retirement relief –EUR750,000 exemption
- ▶ Will entrepreneur relief apply to existing structures?

Tax and The Entrepreneur

- ▶ Entrepreneur relief
- ▶ 2016 onwards
- ▶ Tax at 10% up to EUR1m gain
- ▶ Intention to increase to EUR10m?



Entrepreneur relief - condition

What qualifies?

- ▶ 5% of trading company
- ▶ 5 % of holding company of a “trading group”
- ▶ Asset used in a trade/business carried on by the individual

“Trading group” – every 51% subsidiary must be trading

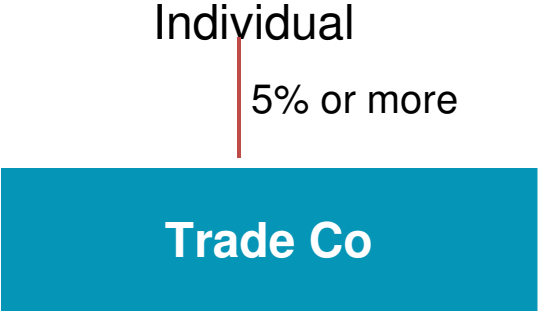
Entrepreneur relief - condition

Who Qualifies?

- ▶ Must own the qualifying asset for at least 3 years in the 5 years up to sale
- ▶ Must be a director/employee of the company and spend 50% of working time (3 of 5 years up to sale)

When relief should apply

Example 1



Example 2



When relief should apply (cont)

Example 3

Sole trader/partnership

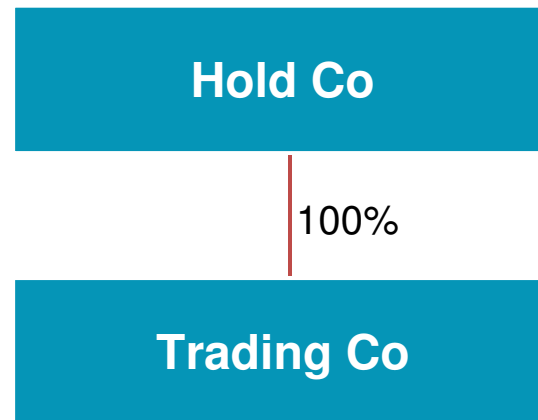


Current structures

Ideal situation – to avail of all reliefs or target certain reliefs

- ▶ Review existing structures
- ▶ Planning/re-organisation may be required
- ▶ New ventures – plan at the outset to target reliefs

Current structures

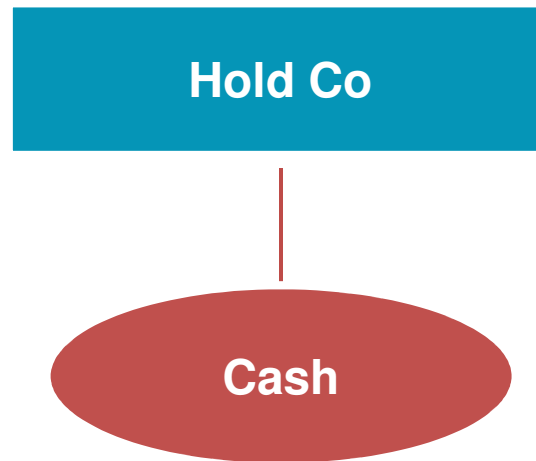


- ▶ Holding company exemption

Holding company exemption

- ▶ Hold Co can sell trading co tax free
- ▶ Must hold at least 5% of Trading Co for at least 12 months
- ▶ Good structure for entrepreneur relief? Yes if Hold Co is sold

Holding company structure – EG 1



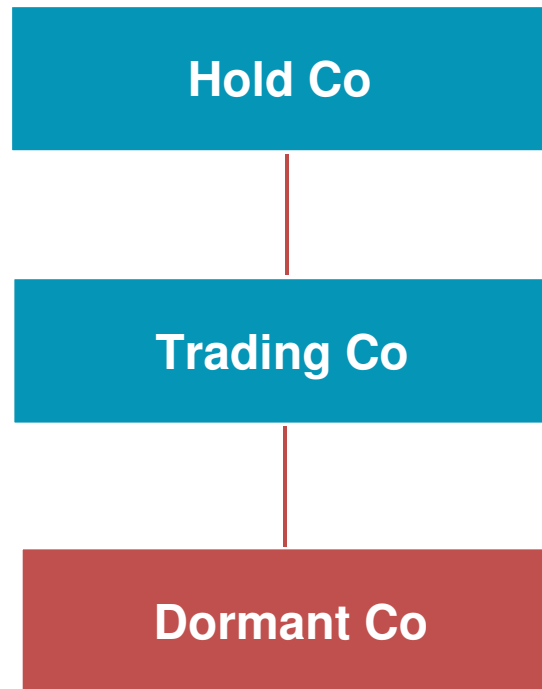
- ▶ Trading Co has been sold for cash
- ▶ Entrepreneur relief on liquidation of Hold Co?

Entrepreneur relief - liquidation

- ▶ Revenue confirmed relief can apply on a liquidation
- ▶ Hold Co needs to be trading up to date liquidator is appointed
- ▶ No relief for cash/investment company

Solution – Hold Co starts to trade for a period of time before liquidation

Holding company structure – EG 2



- ▶ No entrepreneur relief available as not all sub companies are trading

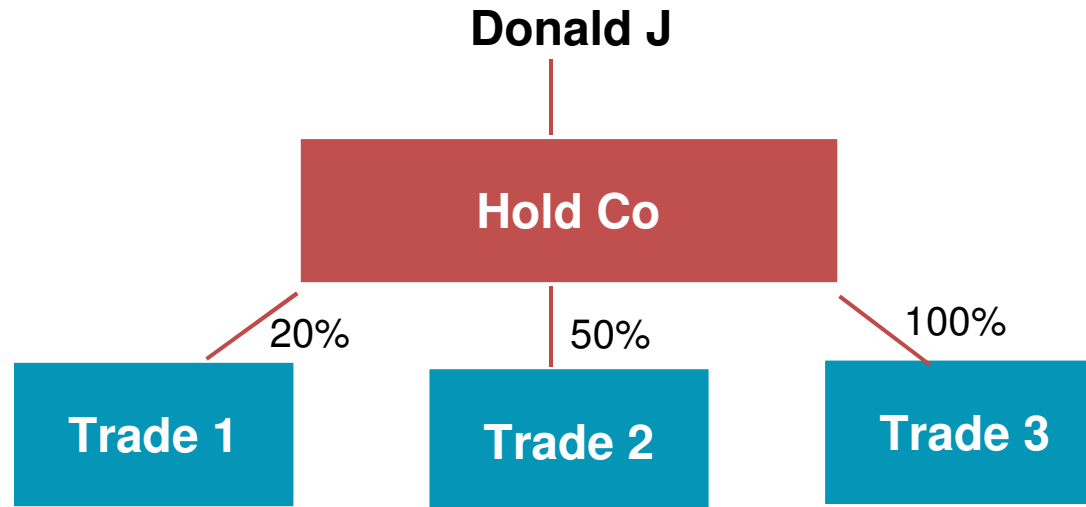
Holding company structure – EG 2

dormant...

Solution

- ▶ Remove Dormant Co prior to sale
- ▶ Watch clawbacks of previous reliefs if Dormant Co leaves the Group

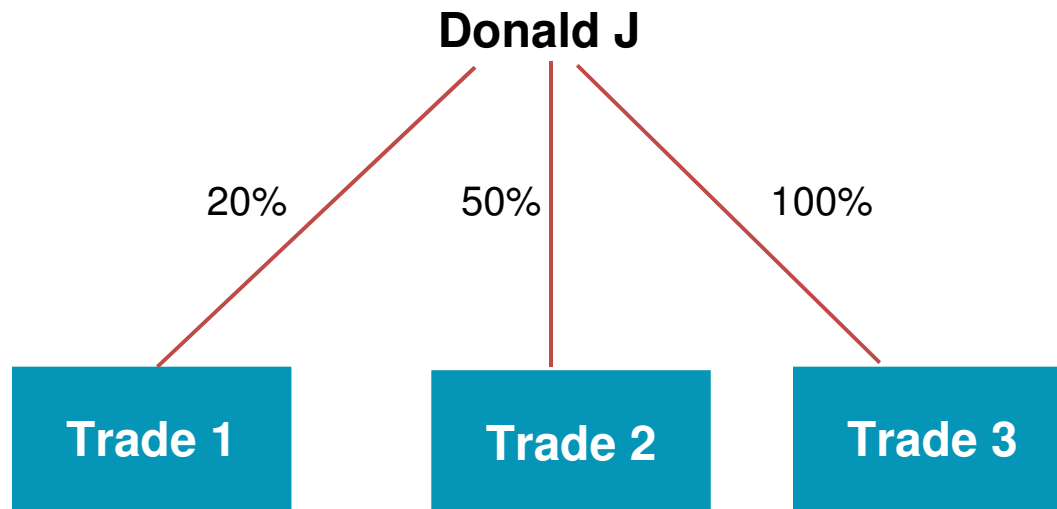
Serial entrepreneur



Issues

- ▶ Qualifying group?
- ▶ Is sale of Hold Co possible?

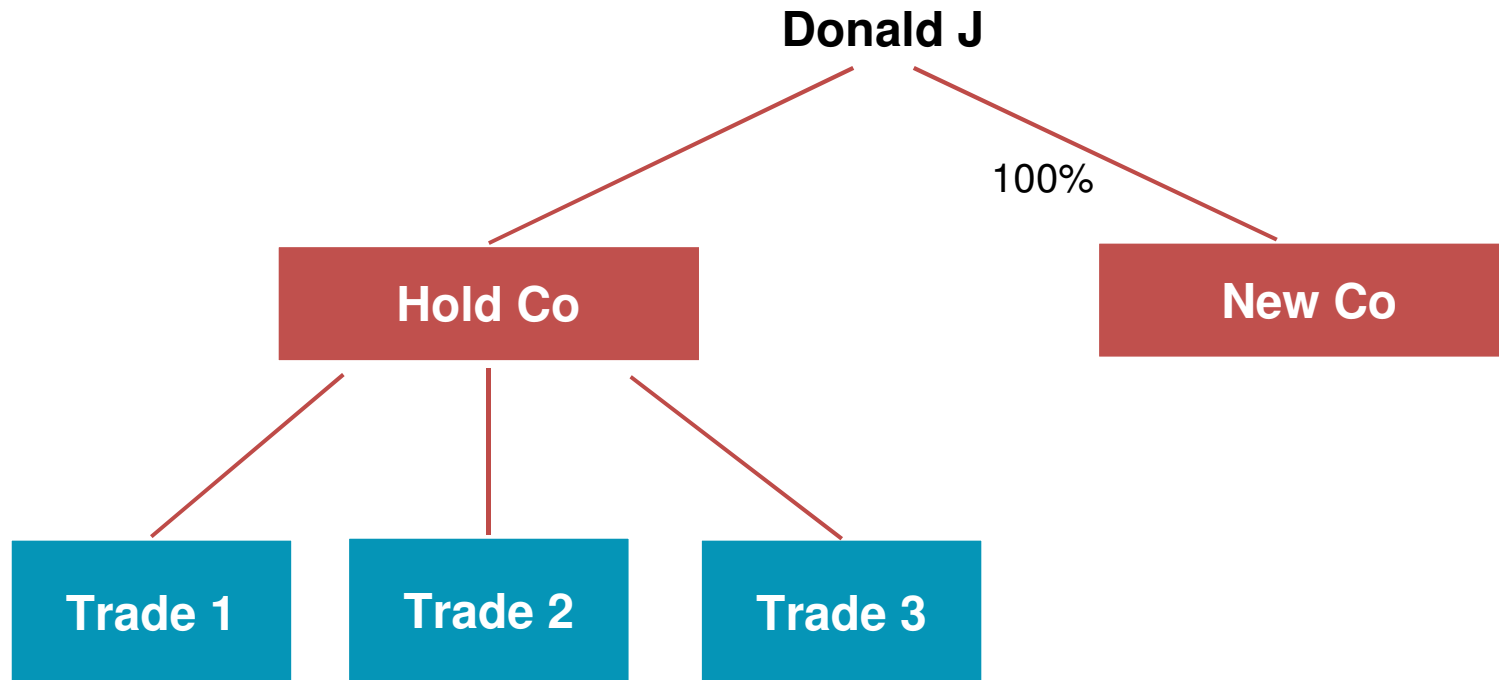
Serial entrepreneur



Issue

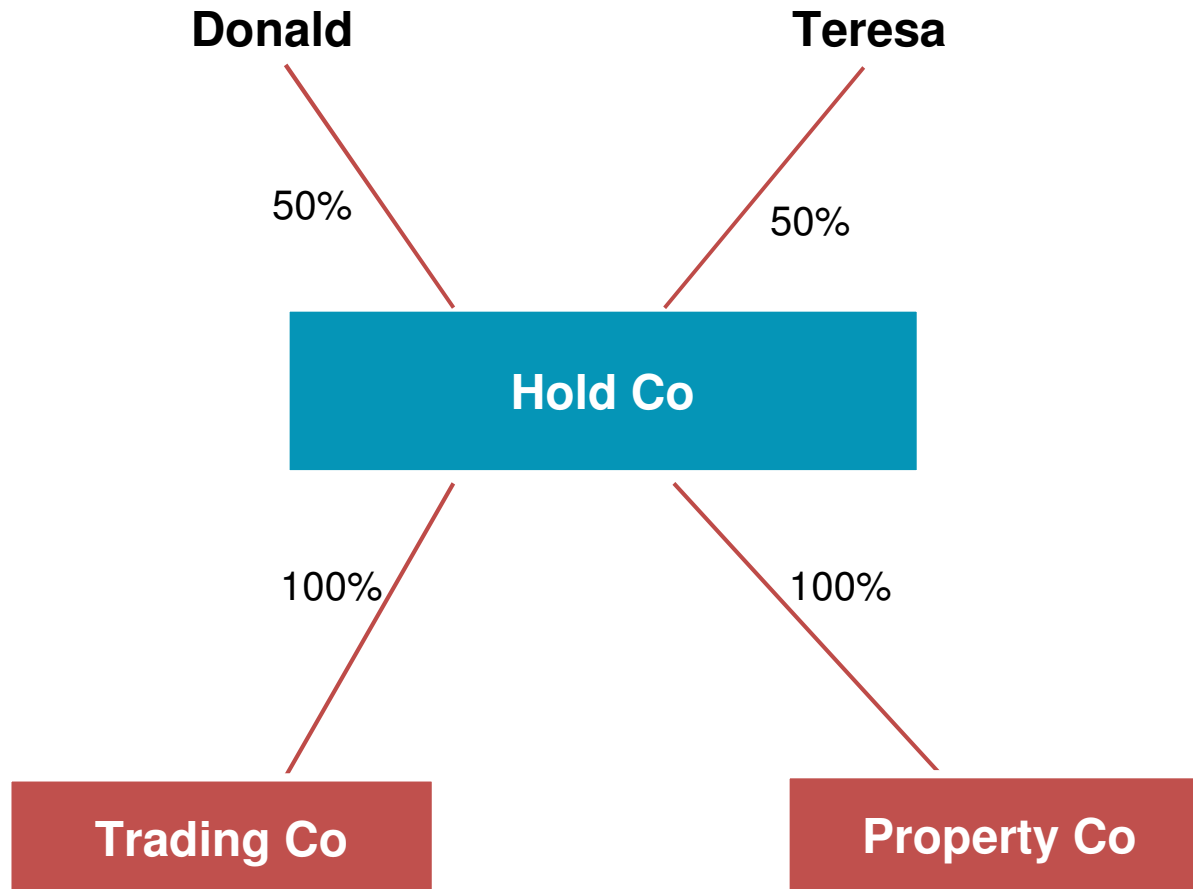
- ▶ Working time condition

Solution



- ▶ New Co provides Donald's services to trading companies
- ▶ Liquidation/sale of New Co – entrepreneur relief

Family Hold Co structure



Donald and Teresa

- ▶ Husband and wife entrepreneurs
- ▶ Donald age 52 – works full-time in business
- ▶ Teresa age 50 – works part-time in business
- ▶ Retail business



Entrepreneur relief - issues



- ▶ Prop Co needs to be removed from Group
- ▶ Donald and Teresa must be qualifying individuals
- ▶ Director/employee – 50% of working time for 3 years in 5 years to sale
- ▶ Ownership – 3 years in 5 years up to sale

Possible solutions

- ▶ Separate Trading Co from Property Co
- ▶ Adjust shareholding in Hold co
- ▶ Teresa – “working time” requirement

Interaction with other reliefs

Retirement relief

- ▶ Sale could qualify for both reliefs
- ▶ If so benefit of entrepreneur relief could be lost



Entrepreneur relief & retirement relief compared

	Retirement relief	Entrepreneur relief
Ownership period	10 years	3 years
Qualifying assets throughout ownership period	Yes	No
Working director	10 years	3 years
Minimum shareholding	25%/10%	5%
Proceeds capped	Yes	No

Interaction with retirement relief

- ▶ Joe (age 59) sells shares for consideration of EUR1m
- ▶ Assume conditions for retirement relief and entrepreneur relief are satisfied
- ▶ Assume shares have no base cost so capital gain of EUR1m arises



Interaction with retirement relief

Entrepreneur relief

- ▶ Capital gains on sale = EUR1m
- ▶ Tax at 10% = EUR100,000

Retirement relief

- ▶ Sale proceeds EUR1m – EUR750,000 at 50% = EUR125,000

Interaction with retirement relief.

- ▶ Tax after entrepreneur relief = EUR100,000
- ▶ Retirement relief restricts tax to maximum of EUR125,000
- ▶ Therefore, no benefit to retirement relief

Happy client and spouse



Solution

- ▶ Trigger a sale/disposal to obtain entrepreneur relief only
- ▶ Subsequent sale obtains retirement relief
- ▶ Potential result -
EUR1m at 10%
EUR750,000 at 0%

Capital losses



- ▶ Capital losses set against first available capital gains
- ▶ Make sure maximum tax value is obtained from capital losses
- ▶ Trigger gains liable to 33% tax against which losses are used first

Don't forget



- ▶ Can apply to unincorporated business
- ▶ 3 year ownership period
- ▶ Must be qualifying asset at date of sale but not throughout ownership period
- ▶ Donald and Teresa.

THANK YOU

