ICEN

Issue: **Withholding Tax and Treaty Relief**

Background:

A private equity owned retail business was being sold to a listed buyer who required that a restructuring took place before they acquired the business: such restructuring required certain amendments to be made to the articles of the company. The management team benefited from equity in the company subject to conventional restrictions and hurdles.

Issue:

The accountants to the private equity house raised the risk that the tax position of the management equity could be adversely impacted due to the application of the artificial enhancement rules or post-acquisition benefit rules which could have converted what was expected to be capital gains into income tax. The parties wanted the management team to be protected against adverse tax consequences and to be incentivised going forward and became a significant commercial issue on the transaction.

Solution:

The seller paid the premium to enable us to issue a policy with a cap of £2 million to both the individual management team members and the company (to cover employers' NICs) in the event the sales proceeds for management were subject to income tax rather than capital gains tax.