

Issue: Entrepreneurs' relief and Substantial shareholding exemption ("SSE")

Background:

A founder of a specialist manufacturing business wanted to sell the business as he was approaching retirement age. His tax advisors were advising him on substantial shareholding exemption for the company and also on his own entrepreneurs' relief exemption in relation to his shareholding.

Issue:

Due to the tests for "trading" assets in both the substantial shareholding rules and entrepreneurs' relief regime combined with a pre-sale reorganisation, the founders' tax advisors flagged a risk to him which would have made a substantial impact on his tax position.

Solution:

An insurance policy was issued to give protection against denial of SSE and in the event his sales proceeds were reclassified as income rather than capital. The founder told us he would not have sold his shares without certainty on his tax position and the tax policy provided that certainty. He did not want his estate to potentially face a tax liability in the future and so the insurance gave him "sleep easy" cover.

