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MEMBERS' VOLUNTARY LIQUIDATION

PRODUCT SHEET

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MEMBERS' VOLUNTARY LIQUIDATION

Close your company legally and properly using a Members' Voluntary Liquidation procedure with RCM Advisory. We are professional and qualified, with over 30 years' experience, and can assist you in the closure of your company for a fixed price fee starting from

£750.00

plus VAT & statutory disbursements*.



WE PROPOSE TO EXPLAIN THE MEMBERS' VOLUNTARY LIQUIDATION PROCEDURE, IN A CLEAR EASY TO UNDERSTAND FORMAT, AS THE FOLLOWING SERIES OF FREQUENTLY ASKED QUESTIONS AND ANSWERS.



1) WHAT IS MEMBERS' VOLUNTARY LIQUIDATION ("MVL")?

A Members' Voluntary Liquidation is a procedure under the Insolvency Act 1986 for closing a solvent company.



2) WHEN IS THE MVL PROCEDURE APPROPRIATE?

There are a range of typical scenarios where an MVL is appropriate, including:

- a) Retirement of the shareholders/directors
- b) Closure of the business or exit from markets in which the business operates
- c) Group reorganisation or simplification programmes
- d) Mergers / demergers, including resolution of owner disputes

The main criteria is that the company is solvent, which means it is able to pay all of its debts in full. This will be explained further below. Also there is usually a situation where the company has fulfilled its original purpose and the shareholders wish to have their capital returned to them and also to share in the retained earnings of the company.



3) WHAT ARE THE BENEFITS OF AN MVL?

- a) In the case of a company that has ceased trading, has cash, other assets, a few liabilities but no future purpose (so is otherwise solvent), then the MVL procedure is the preferred means for the shareholders to receive their share of the company's residual value quickly and effectively in most cases.
- b) It is possible for a liquidator to distribute all liquid assets in cash and any illiquid assets in specie (i.e. in kind).
- c) Since March 2012, the Extra Statutory Concession C16 is no longer available to shareholders and the only means of extracting capital in excess of £25,000 as a capital gain (Capital Gains Tax - "CGT") is via the MVL procedure. See further details below.
- d) In most cases, the distributions made to shareholders by a liquidator will be treated as capital rather than as income and these are likely to be taxed at a lower rate and shareholders may be entitled to capital gains tax free allowances.
- e) An MVL may allow the shareholders to take advantage of the Entrepreneur's Relief, offering a reduction of the personal rate of CGT to 10% of the capital gain. (See further details below)



4) WHAT DOES 'SOLVENT' MEAN EXACTLY?

It means the company can pay all its liabilities in full, plus Statutory Interest (currently at the rate of 8% per annum!) and the liquidation costs involved in winding up the company, within 12 months of signing the Declaration of Solvency.



5) WHAT IS THE DECLARATION OF SOLVENCY ("DOS")?

The DoS is a Statutory Declaration that is required as part of the MVL process and the directors have to swear an affidavit that the company is solvent.



6) WHAT IS EXTRA STATUTORY CONCESSION C16 ("ESC C16")?

Historically shareholders looking to close their company would make a request to HMRC under ESC C16 to treat any final distribution as capital rather than income. However, since 1st March 2012, ESC C16 was written into tax law with a distribution limit of £25,000. This means that if the distributions are less than £25,000 then 'capital treatment' automatically applies, however if they are in excess of £25,000 they are treated as income in the shareholders' hands.

However, even following the changes to ESC C16 in March 2012, any distributions to shareholders made by a duly appointed liquidator under an MVL are still taxed as capital rather than income in the hands of the shareholders.

In other words, the only way to close one's company and tax effectively withdraw capital (i.e. in excess of £25,000 of shareholders' funds) is to place the company into MVL.

This is why the MVL procedure is the most popular method for shareholders to close their company.



7) WHAT IS ENTREPRENEURS' RELIEF ("ER")?

In this section, we will use the term "shareholders" interchangeably with the term "entrepreneurs" because we are dealing specifically with the closure of companies via the MVL Procedure.

It is common for shareholders (i.e. entrepreneurs) to gain benefits allowed by the government when they eventually sell or give away their business by paying tax at a much reduced rate. This benefit is called Entrepreneurs' Relief. See the current HMRC help sheet on ER at <https://www.gov.uk/government/publications/entrepreneurs-relief-hs275-self-assessment-helpsheet/hs275-entrepreneurs-relief-2018>.

Entrepreneurs may sell or give away their business and claim ER, up to the current limit of £10,000,000 of lifetime gains, and be allowed tax relief in the form of a reduced CGT rate of 10%.

ER is available to company directors and employees having 5% or more shareholding in the company being wound up.

The government's position regarding ER has been changing over the past few years and it introduced new rules in relation to ER in April 2016.

The effect of these changes is potentially detrimental to shareholders with the intention of closing their company in the expectation of extracting their capital gain at the concessional tax rate of 10%.

Such shareholders need to be aware that their eligibility for ER may be adversely affected if they establish or continue the same or similar business as previously operated by the liquidated company, directly or indirectly, within the period of 2 years of the date of liquidation. If they fail to observe these conditions, then their eligibility for ER may be denied by the Revenue and the value of the distributions received taxed as income rather than capital.

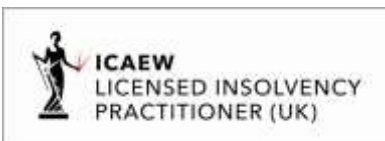
Please note that RCM Advisory do not give specialist taxation advice and that individual shareholders are encouraged to seek independent specialist advice from their accountant or solicitor in relation to their own position and possible eligibility for ER.



8) WHAT ARE THE BENEFITS OF USING RCM ADVISORY TO ASSIST WITH YOUR MVL?

- a) We are a firm of Chartered Accountants (ICAEW) and Licensed Insolvency Practitioners with extensive experience in completing MVL assignments. Since March 2012 our firm's principal has completed approximately 500 MVLs, with a particular specialty in the closure of Contractor Companies.
- b) We work closely with your accountants and advisers to help meet expectations, achieve desired outcomes, and assist with tax planning and ER.
- c) We aim to distribute the majority of cash to the shareholders within 10 days of appointment in most cases.
- d) We offer a competitive fixed fee structure, with no hidden fees or extras.
- e) In many cases the entire MVL process can be completed within 6 months.

AWARD WINNING LICENSED INSOLVENCY PRACTITIONERS



Richard Cacho

BBus ACA MABRP Licensed Insolvency Practitioner (ICAEW)

has over 30 years of professional and commercial experience in assisting clients and delivering required outcomes. Please contact this office for a no obligation, confidential and free discussion on your requirements.

*Conditions to apply for this fixed price fee, however the typical MVL can cost £995 to £1,500 plus VAT and statutory disbursements. The disbursements comprise of three government Gazette advertisements charged at the rate of £72 each plus VAT and compulsory bonding which is determined on a case by case basis according to the value and type of the company's assets. Once your fixed fee has been calculated and agreed, that is it. There are no hidden fees or extras.