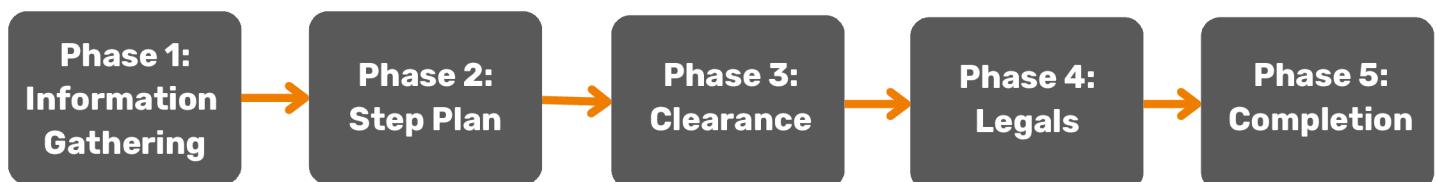


# Identifying Demerger Opportunities

## What is a Demerger?

A demerger is a transaction whereby businesses carried on by a company or a group are separated into different companies and run independently. The post-demergers companies can have the same shareholders as before, in cases where the demerger is to isolate commercial risk, or the shareholders can each take different companies, in cases where the demerger is to allow them each to run their businesses separately.

## A Typical Process



## Types of Demergers

A demerger can be carried out by different mechanisms. Generally, however, the business elements are segregated into separate companies within a group, then one or both elements are split out into separate ownership using one of three mechanisms:

Types of Demergers	Definition
Exempt Distribution Demerger	A distribution in specie, known as an exempt distribution demerger, this is only available when separating trading activities from each other
Liquidation Demerger	Liquidation, a liquidation demerger involves the company being put into member's voluntary liquidation and its assets (including subsidiaries) transferred to other (often newly incorporated companies) that issue new shares to the shareholders as consideration.
Capital Reduction Demerger	Capital reduction, a capital reduction demerger involves reducing the share capital of the company and transferring a business or subsidiary to a new company, which issues new shares to the shareholders as consideration.



## Why Consider a Demerger?

Demergers can be used in a number of situations. The most common are:

- ✓ Where the shareholders no longer want to work together, or where they have different views as to how they want the businesses to be run. In these cases, we would carry out a 'partition demerger', whereby each shareholder (or group of shareholders) takes on part of the business and runs them independently.
- ✓ Where the businesses are completely different and have to be separated to allow one to be sold separately. For example, a retail trade might have invested surplus funds in investment properties. When considering the sale of the trade, the investment properties have to be demerged, first, so that the trade can be sold as a separate entity.
- ✓ Where the businesses have different management and reward structures, so that management can be rewarded by reference to the results of their part of the business, not the results of the mixed businesses. This is particularly relevant where shares are to be awarded to employees, as business owners generally prefer that the employees only hold shares in the company carrying on the business they work in, not all the business of the company or group.
- ✓ Mixed trading and investment companies may not qualify for inheritance tax relief, so separating the trading and non-trading activities gives greater certainty over the inheritance tax position.

There are, of course, many other reasons for a demerger, but these are what we see most frequently.

## Tax Advantages of Demergers

A demerger can be structured to minimise or eliminate tax liabilities, provided certain conditions are met.

- + The capital gains tax and corporation tax reliefs apply as long as the demerger is for commercial reasons and not to avoid capital gains tax, corporation tax or income tax. These reliefs ensure that the demerger does not trigger immediate tax charges.
- + The reliefs for exempt distribution demergers also require there to be a benefit to one or more of the trades being separated, which is a more specifically targeted test than the requirement for a more general commercial rationale.
- + Stamp duty reliefs are also available for demergers where the same shareholders continue to own the businesses after the demerger, but not in cases where the shareholders are partitioned between the demerged entities.

Undertaking a demerger with proper tax planning ensures compliance with tax laws and reduces the risk of future clawbacks of reliefs.

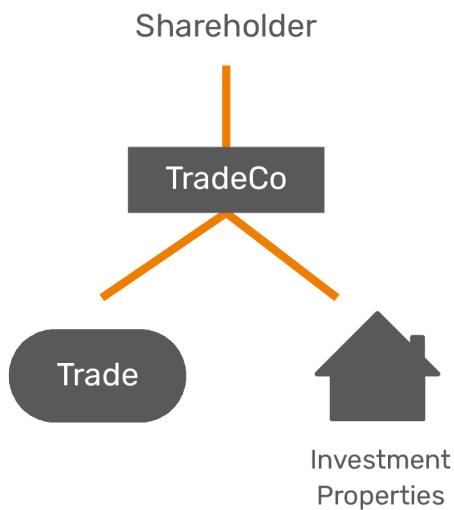
There are statutory facilities for pre-transaction clearances from HMRC that the tests for exemption from capital gains tax, corporation tax and income tax will be satisfied. The stamp duty reliefs can only be claimed after completion, however.

# Client Success Stories

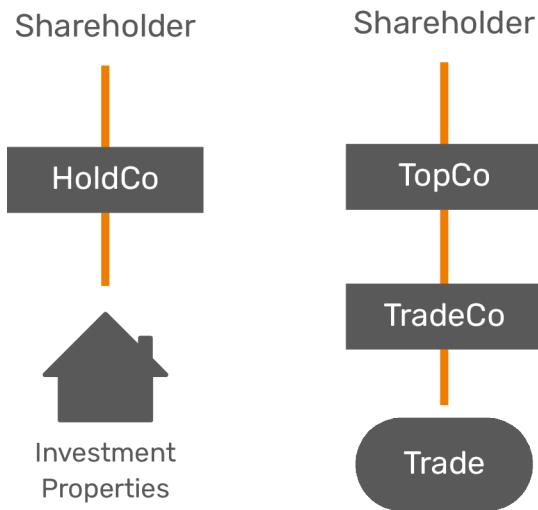
## Client 1 - IHT Planning & CGT Mitigation

The client wanted to ensure their trading company qualified for Business Relief (BR) for Inheritance Tax (IHT) purposes. We implemented a demerger to separate out investment properties, thereby preserving the trading status of the business. Initially, the client believed they would need to extract the assets and pay approximately £800,000 in Capital Gains Tax (CGT), which was entirely mitigated through the demerger.

### Original Structure



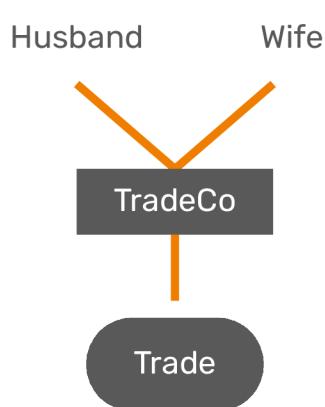
### New Structure



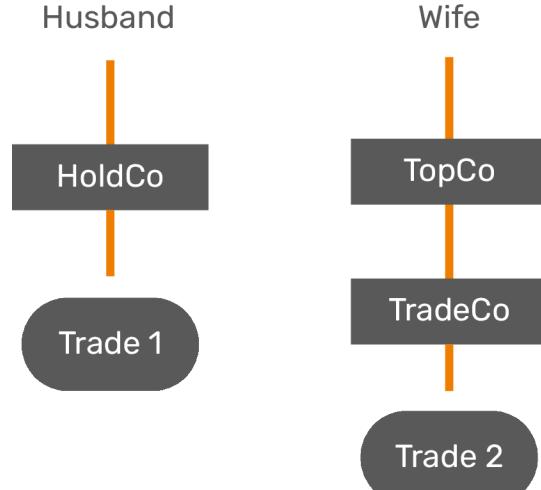
## Client 2 - Business Separation on Divorce

A husband-and-wife team were undergoing a separation and jointly owned a company on a 50:50 basis. They assumed they would need to extract the wife's share, triggering Corporation Tax and Income Tax liabilities. Instead, we structured a demerger to partition the business cleanly between them, resulting in only a 0.5% Stamp Duty charge.

### Original Structure



### New Structure

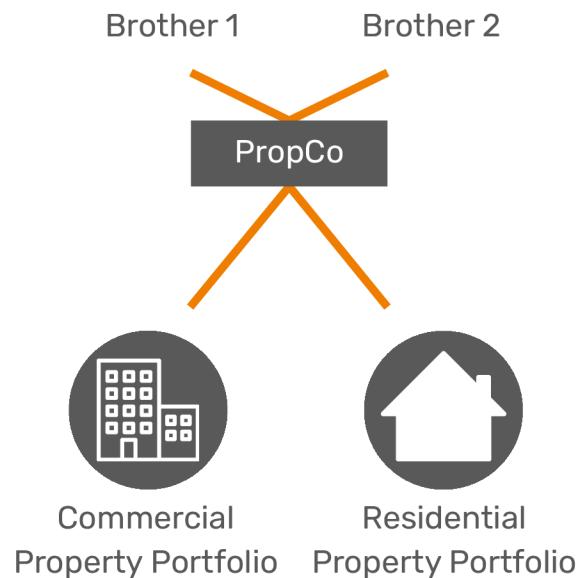


# Client Success Stories

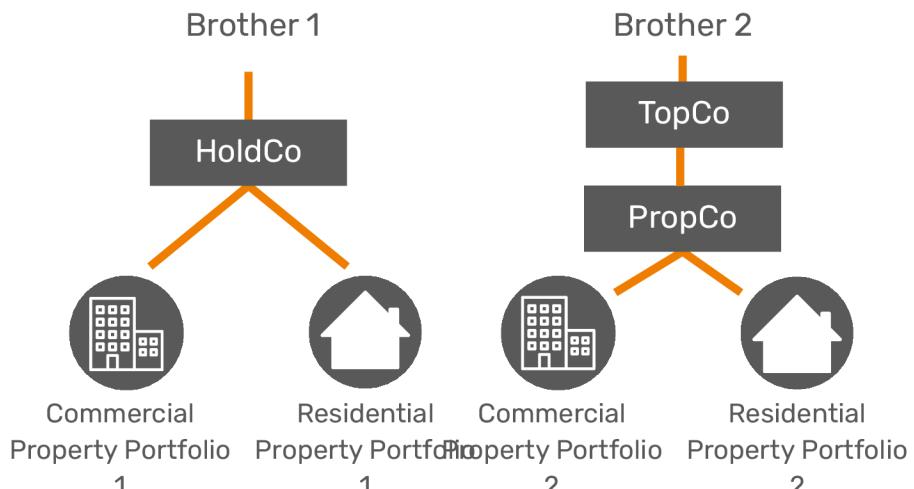
## Client 3 – Separating a Property Portfolio

Two brothers owned a group of companies worth £35m which held investment properties of various types, some commercial and some investment. The brothers wanted to take the business in different directions and had agreed which properties they would each manage moving forward. Using a capital reduction demerger the properties were split between the brother equally without incurring any CGT, corporation tax, income tax or SDLT. The only tax exposure was a 0.5% Stamp Duty on half of the value of the portfolio.

### Original Structure



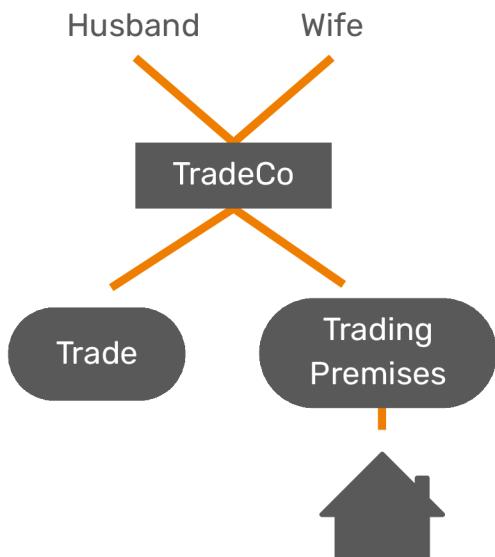
### New Structure



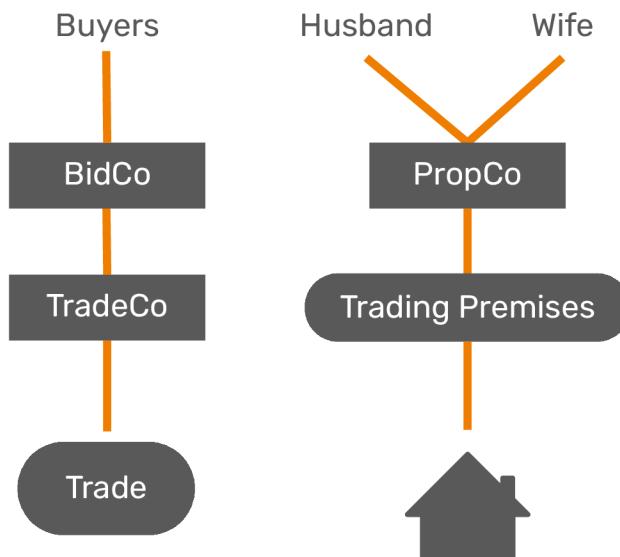
## Client 4 - Sale of Trading Business, Retention of Property

A husband and wife were preparing to sell their trading company, for which a third-party buyer had expressed interest at a valuation of approximately £2 million. However, the buyer did not want to acquire the property held within the company, intending instead to relocate operations to their own premises over a three-year period. To facilitate the sale and retain the property, we advised and executed a demerger to separate the property from the trading business.

### Original Structure



### New Structure



# Get in Touch



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As a member of the ICAEW and CIOT Nick specialises in technical corporate tax planning and company reorganisations advising on a variety of projects from mergers and acquisitions to company incorporation, management buyouts and demergers. Nick is a regular writer for various tax journals with articles published in Taxaction, Tax Advisor and ICAEW Taxline. Presenting regular lectures to fellow professionals through various CPD providers including MBL, CPDStore and a variety of CIOT branches.



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Pete began his career with the Inland Revenue in 1988 with roles in tax districts in Birmingham and London before spending several years in head office, culminating as the Inland Revenue's expert on the rules for company distributions and advance corporation tax. Since going into private practice 25 years ago, Pete has worked for Big 4 firms and run his own business for 11 years, advising a wide range of clients from owner managed businesses to the largest corporate groups. Pete is Chair of the CIOT's Owner Managed Business Tax Technical Committee, as well as being a member of the Tax Policy and Oversight Committee and of the Education Committee.

## Client Testimonials



Our company Emerald Associates met with Nick who was courteous and helpful from the outset. It was also very reassuring to have our accountant, who was present at the Teams meeting, say that he had used their services and that they were indeed the experts in the field of Tax. Nick provided great clarity.



I've worked with Pete Miller and Nick Wright from Jerroms Miller on a few projects and each time have found their assistance and expertise invaluable. They and their team have a wealth of expertise and experience across a broad spectrum of taxes, in particular corporate reorganisations.



Jerroms Miller have provided specialist tax support on a number of transactions and reorganisations for our clients. As well as being technically very good Pete and Nick provide excellent ongoing support to clients both during and after the transactions which is both valuable and reassuring.



Jerroms Miller are a fantastic resource for dealing with our complex tax issues or when we need a second opinion on a technical query. Pete, Nick and the rest of the team are always quick to respond with clear and concise advice.



Nick Wright is joined by leading industry experts on the **@TheTaxHour** Podcast.  
Listen for:

- **Insights into the world of taxation**
- **Expert advice**
- **Latest Tax updates**



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