Postlethwaite
EMPLOYEE OWNERSHIP & SHARE SCHEMES

# Comparison of exit methods

| | EOT | MBO | Third Party Sale | Liquidation |
|---|---|---|---|---|
| **Tax** | Shareholders pay no CGT on disposal. | Tax at 10% on first £1million of profit (assuming entrepreneur's relief available) on disposal. 20% on remainder | Tax at 10% on first £1million of profit (assuming entrepreneur's relief available) on disposal. 20% on remainder | In theory the proceeds will be subject to capital treatment (including entrepreneur's relief of first £1million of proceeds), but this is subject to detailed anti-avoidance rules |
| | Tax benefits may be clawed back if certain requirements do not remain in place until end of tax year following sale | N/A | N/A | Tax benefits may be clawed back if investors start a new business following liquidation of close company ("anti-phoenixism") |
| | Employees can receive income-tax-free bonuses of up to £3,600 p.p.p.a., though these must be paid on a "same terms" basis | No tax-free bonuses, though it may be possible to use the £2,000 pa dividend exemption to reward manager shareholders | N/A | Clearance may be obtained from HMRC that capital gains tax will apply to liquidation proceeds |
| **Total sale price partly linked to future performance (earnout)?** | Can be done, but rare | Can be done, but rare | Often required by buyer, but risk that changes /integration in purchaser's group will make it hard to satisfy conditions, limiting or preventing any payment | N/A |
| **What percentage may be sold?** | At least 51%, though tax clearance is easier for sales of 75%+ | Any amount, though tax clearance may be more difficult without a material change of ownership | Any amount | Must be entire company |

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APPROVED SPECIALIST ADVISER OF EOA EMPLOYEE OWNERSHIP ASSOCIATION
BETTER BUSINESS TOGETHER

## Comparison of exit methods

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| **Structure** | Trust company must fulfil a number of statutory requirements at the time of the deal and going forward. Sellers must not have "control" of the Company going forward, eg through rights to appoint majority of board or comprehensive veto rights | Often requires holding company | Will be a matter for purchaser, though there will often be a requirement for some sellers to reinvest a proportion of the proceeds | Company and business will no longer exist. Employees will all be terminated/made redundant unless transferred to a buyer as part of a business or undertaking |
| **Can company be sold on?** | Yes, though trust deed may constrain this, and sale agreement may include anti-embarrassment clause so that original sellers can benefit from uplift in value. Sellers can also benefit through keeping a holding in EOT-owned company | Yes – this is usually the intention. Anti-embarrassment clause often not necessary because sellers subscribe sweet equity in Newco so benefit from eventual sale | Normally only a matter for purchaser | No |
| **Legacy** | Often intended to create long term employee ownership | Frequently a stop gap before sale to third party or secondary buyout | Normally only a matter for purchaser, and seller generally has very little protection against the purchaser, eg, ceasing to use the business name, or selling on or dispersing the business | None (see "anti-phoenixism" above, if investors start up a new business) |

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