

**From:** Dan Neidle [REDACTED]@taxpolicy.org.uk  
**Subject:** Request for comment - Substantial Incorporation Structure  
**Date:** 11 July 2023 at 15:29  
**To:** [REDACTED]@cotswoldbarristers.co.uk, [REDACTED]@property118.com

---

Dear Property 118 and Cotswold Barristers,

I am the founder of Tax Policy Associates, a think tank established to improve the public understanding of tax. I worked for 25 years as a tax lawyer, and was widely recognised as one of the country's leading experts on the tax treatment of debt.

We are writing an analysis of some of the structures you propose on your websites, and which we understand you have sold to clients. We are concerned that these structures do not work. In particular:

1. You say your "substantial incorporation structure" will not normally breach mortgage terms, as you're aware of only two mortgage lenders whose terms prohibit trusts. We spent an hour reviewing standard buy-to-let mortgage T&Cs, and the first six T&Cs we looked at contained a prohibition on transferring the property wide enough to include disposals of the equitable estate. We spoke to a number of leading lawyers advising banks and borrowers, and it was their unanimous view that almost all T&Cs would forbid your structure.
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4. Your assumption that the company is entitled to a deduction for its payments to the landlord is questionable, given that the indemnity arrangement is not a loan relationship. It might be deductible as part of the company's property business, but that is not straightforward.
5. Your assumption that incorporation relief applies seems doubtful, given that the company is retaining legal title to its assets. Hence the "whole of the assets of the business" are not moving to the company.
6. We have seen advice you provided a client where you projected that a client's portfolio of under £10m would be worth £200m in ten years' time, so with potential inheritance tax of £80m. That is an extraordinary projection, and to us looks like scaremongering.
7. Your "Smart Company" proposal involves the issuance of shares entitled to future capital growth. You suggest these shares have no value at issuance. But that cannot be right when at the same time you are projecting that portfolios will grow twenty-fold in 20 years.
8. Your suggestion that landlords can retrospectively declare the existence of a partnership and claim partnership incorporation relief ignores the existence of section 75A and the complexity of the partnership SDLT rules. In particular, you fail to consider that paragraph 21(3) Sch 15 FA 2003 will likely prevent any SDLT relief being available in these circumstances.

We also have some questions:

- (a) you say the Substantial Incorporation Structure is a registered trademark. Where was it registered, and what is the trade mark number?
- (b) are any of Property118's employees, or members of Cotswold Barristers, tax specialists, e.g. with ATT/CTA qualifications?
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- (e) why do you tell clients that barristers' professional indemnity insurance means your clients are "shielded from financial risk"? You must know that is not at all how professional indemnity insurance works.
- (f) we understand you charge £40,000 or more for advising on what is in essence a standard structure. Is that correct?
- (g) why have you not registered the Substantial Incorporation Structure under DOTAS, given that you are receiving a premium fee, your documentation is largely standardised, and the only purpose of the structure is the avoidance of tax?


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I would be grateful for a response by 12pm on Friday. We may publish any response that we receive; if you wish any element of your response to be confidential then please seek our prior agreement.

Kind regards,

Dan Neidle



**From:** Mark Alexander [REDACTED]@property118.com   
**Subject:** RE: Request for comment - Substantial Incorporation Structure  
**Date:** 11 July 2023 at 16:13  
**To:** Dan Neidle [REDACTED]@taxpolicy.org.uk, [REDACTED]@cotswoldbarristers.co.uk

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Dear Mr Neidle


Attached is a response received by email today from HMRC in regards to an investigation they have just completed on one of our clients. There have been 21 others very much like this one over the last seven years. In all cases the outcome has been no further tax to pay.

Our Head of Chambers at Cotswold Barristers is on holiday abroad this week but will respond fully to your very detailed assertions in due course, within a reasonable period of time, but certainly not by the high noon deadline you have set for this Friday.

We respectfully ask you to reconsider publishing your article until then as well as considering the potential for litigation on the grounds of defamation and libel.

Meanwhile, you may wish to consider some of the Testimonial comments posted on our website, including the screenshots below.



 14:43 PM, 8th February 2021, About 2 years ago

I am a partner in [REDACTED] LLP, a firm of Chartered Accountants based in [REDACTED]. A client of mine used Property118.com and Cotswold Barristers to incorporate his property rental business. They made the process very straight forward and were always on hand to answer any questions. The incorporation was subsequently investigated by HMRC and I am very pleased to say that the enquiry has recently been closed down without any issues. Throughout the enquiry, Mark Alexander and Mark Smith provided excellent and timely advice which has definitely helped us through the enquiry.

...the main aim was to provide a secure and timely service which has ultimately helped us through the enquiry process. We have all worked together as a team to prove to HMRC that the incorporation has been properly actioned in accordance with UK tax laws.

 34 Report Comment Re



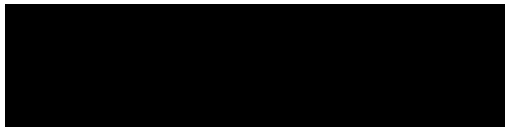
Simon [redacted]

 22:00 PM, 4th February 2023, About 5 months ago

[redacted] are tax specialists for UK & US real estate property investors.

We have worked alongside Property118 to assist 20+ clients in restructuring their rental property businesses. Their purpose for transferring their property portfolio's into a limited company structure was to improve business continuity, legacy planning and lower taxation significantly.

We regard Property118 as a strategic partner in the property incorporation process and will continue to recommend them to our landlord clients.



 38 Report Comment R



Robert [redacted]

 8:59 AM, 11th August 2022, About 11 months ago

Having incorporated in tax year 20/21 we received notification of a tax investigation on 11th July 2022 relating to the 20/21 year. The deadline was 31st August 2022. Mark immediately acted and in conjunction with my accountant they answered all questions. Mark assured me that he would provide all support

with my accountant they answered all questions. Mark assured me that he would provide all support needed at no cost. We sent the information to HMRC on 18th July 2022. On 5th August HMRC informed me I had no more tax to pay and the case was closed.

Mark says it is by far the fastest resolution he has experienced. Brilliant support from 118 and my accountant [REDACTED] Both worked together and I did very little.

Robert [REDACTED]

 4 Report Comment Re

Yours sincerely

**Mark Alexander**  
**property118.com/tax**

E: [Mark.Alexander@Property118.com](mailto:Mark.Alexander@Property118.com)

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-----Original Message-----

From: Dan Neidle <[REDACTED]@taxpolicy.org.uk>

Sent: Tuesday, July 11, 2023 3:30 PM

To: [REDACTED]@cotswoldbarristers.co.uk; Mark Alexander

<[REDACTED].[REDACTED]@property118.com>

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projected that a client's portfolio of under £10m would be worth £200m in in ten years' time, so with potential inheritance tax of £80m. That is an extraordinary projection, and to us looks like scaremongering

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I would be grateful for a response by 12pm on Friday. We may publish any response that we receive; if you wish any element of your response to be confidential then please seek our prior agreement.

Kind regards,

Dan Neidle  
Tax Policy Associates Ltd





**From:** Carla Morris [REDACTED]@cotswoldbarristers.co.uk   
**Subject:** Re: Request for comment - Substantial Incorporation Structure  
**Date:** 11 July 2023 at 16:35  
**To:** Mark Smith [REDACTED]@cotswoldbarristers.co.uk, Mark Alexander [REDACTED]@property118.com, [REDACTED]@taxpolicy.org.uk

Dear Mr Neidle,

Thank you for your email. We are willing to answer all of your questions over a recorded Zoom call.

Are you free on Monday 24th July at 2:00 pm?

Kind regards,  
Carla



**CARLA MORRIS MBA**  
Founder & Chambers Director

**E** [REDACTED]@cotswoldbarristers.co.uk

D5, Cotswold Airport,  
Cirencester, GL7 6BA



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On Tue, 11 Jul 2023 at 15:42, Chambers Clerk <[clerks@cotswoldbarristers.co.uk](mailto:clerks@cotswoldbarristers.co.uk)> wrote:



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**Date:** 11 July 2023 at 16:29:51 CEST

**To:** [clerks@cotswoldbarristers.co.uk](mailto:clerks@cotswoldbarristers.co.uk), [mark@property118.com](mailto:mark@property118.com)

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Kind regards,



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**Subject:** Re: Request for comment - Substantial Incorporation Structure  
**Date:** 11 July 2023 at 16:36  
**To:** Carla Morris [REDACTED]@cotswoldbarristers.co.uk  
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Then we seem to be at a bit of an impasse. The public should hear your questions, and our answers should be made transparent through video. This is what the public would expect in 2023.

My offer still stands. A Zoom recording answering all of your questions - 24th July at 2:00 pm.

  
**CARLA MORRIS MBA**  
Founder & Chambers Director  
 [carla@cotswoldbarristers.co.uk](mailto:carla@cotswoldbarristers.co.uk)  
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We are writing an analysis of some of the structures you propose on your websites, and which we understand you have sold to clients. We are concerned that these structures do not work. In particular:

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6. We have seen advice you provided a client where you projected that a client's portfolio of under £10m would be worth £200m in in ten years' time, so with potential inheritance tax of £80m. That is an extraordinary projection, and to us looks like scaremongering
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We also have some questions:

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I would be grateful for a response by 12pm on Friday. We may publish any response that we receive; if you wish any element of your response to be confidential then please seek our prior agreement.

Kind regards,

Dan Neidle  
Tax Policy Associates Ltd



**From:** Dan Neidle [REDACTED]@taxpolicy.org.uk  
**Subject:** Re: Request for comment - Substantial Incorporation Structure  
**Date:** 11 July 2023 at 17:46  
**To:** Mark Alexander [REDACTED]@property118.com  
**Cc:** [REDACTED]@cotswoldbarristers.co.uk



Mr Alexander,

In accordance with usual practice, we are providing you with a right of reply in writing. We don't think a call would be helpful or appropriate.

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On 11 Jul 2023, at 16:51, Mark Alexander [REDACTED]@property118.com> wrote:

Mr Neidle

Carla's suggestion of a recorded Zoom video conference is very reasonable, time efficient and completely transparent.

All the best

Regards

**Mark Alexander**

<image001.png>

T: [REDACTED]  
[REDACTED]

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**Sent:** Tuesday, July 11, 2023 4:43 PM

**To:** Mark Alexander <[REDACTED]@property118.com>

**Cc:** [REDACTED]@cotswoldbarristers.co.uk

**Subject:** Re: Request for comment - Substantial Incorporation Structure

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We respectfully ask you to reconsider publishing your article until then as well as considering the potential for litigation on the grounds of defamation and libel.

Meanwhile. you may wish to consider some of the

Testimonial comments posted on our website,  
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<image002.png>

<image003.png>

<image004.png>

Yours sincerely

# Mark Alexander

<image001.png>

E: [REDACTED]@Property118.com

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From: Dan Neidle <[REDACTED]@taxpolicy.org.uk>

Sent: Tuesday, July 11, 2023 3:30 PM

To: [REDACTED]@cotswoldbarristers.co.uk; Mark

Alexander <[REDACTED]@property118.com>

Subject: Request for comment - Substantial  
Incorporation Structure

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agreement.

Kind regards,

Dan Neidle  
Tax Policy Associates Ltd

<HMRC letter redacted 11.07.2023.pdf>

**From:** Dan Neidle [REDACTED]@taxpolicy.org.uk  
**Subject:** Re: Request for comment - Substantial Incorporation Structure  
**Date:** 11 July 2023 at 19:15  
**To:** Carla Morris [REDACTED]@cotswoldbarristers.co.uk  
**Cc:** Mark Alexander [REDACTED]@property118.com, [REDACTED]@cotswoldbarristers.co.uk

That's not how right to reply ever works. It's also not what we do: we don't produce videos; we produce legal and tax analysis in writing. The public can draw its own conclusions from that.

Dan

On 11 Jul 2023, at 19:00, Carla Morris <[REDACTED]@cotswoldbarristers.co.uk> wrote:

Dear Mr Neidle,

Why won't you come on video and ask your questions? The public deserve to make their own assessment.

**CARLA MORRIS MBA**  
Founder & Chambers Director

**E** [REDACTED]@cotswoldbarristers.co.uk

D5, Cotswold Airport,  
Cirencester, GL7 6BA

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On 11 Jul 2023, at 19:51, Dan Neidle <dan@taxpolicy.org.uk> wrote:

Mr Alexander,

Thank you for your email.

Our analysis is on the basis of your and Cotswold Barristers' public comments, and also on the basis of written advice you've provided to clients (which we reviewed with their consent).

It's a shame if you won't comment in writing in advance of publication; if you have any corrections or other comment after publication, please do get in touch.

Kind regards,

Dan Neidle

On 11 Jul 2023, at 18:04, Mark Alexander <mark.alexander@property118.com> wrote:

**Mr Neidle**

**Please see the previous replies from myself and Carla.**

**We are very aware of your background and we admire**

we are very aware of your background and we admire your reputation for what you do. We particularly appreciated your achievements in regards to your recent exposé of a flawed school fees planning scheme.

We do not offer schemes, our advice is always bespoke. The articles we publish online are Case Studies.

You are barking up the wrong tree on this occasion.

Yours sincerely

# Mark Alexander

<image001.png>

E: [REDACTED]@Property118.com

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**Sent:** Tuesday, July 11, 2023 5:46 PM

**To:** Mark Alexander <[REDACTED]@property118.com>

**Cc:** [REDACTED]@cotswoldbarristers.co.uk

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Regards

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T: [REDACTED] [REDACTED] ext. 208

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Kind regards,

Dan Neidle  
Tax Policy Associates Ltd

<HMRC letter redacted 11.07.2023.pdf>





COTSWOLD  
BARRISTERS

13.07.2023

Dear Dan,

I have now caught up with the emails from this week. Given the urgency introduced to the situation I am responding from my holiday as best I can.

### **Regulatory**

#### **CB Property 118 and BSB.**

Barristers must disclose, to the BSB and clients, any associations they have with people or entities in their provision of legal services. This is a code of conduct requirement. This was complied with at the outset of our relationship with Property 118 (P118). It has recently (Jan-Mar 2023) been re-examined by the BSB as part of a routine audit of Cotswold Barristers (CB) following an update of the BSB's Transparency Rules. We had correspondence with the BSB about this, and they were and are satisfied our association is compliant. We did review the wording relating to 'delegated authority' at that point, as it was ambiguous. P118 has since amended this portion of their materials, so it makes it clear their consultants only work under delegation when the client has engaged with CB. Again, so long as it is made clear to the client, and the barrister is ultimately responsible, sub-contracting of work is permitted under the Code of Conduct.

The relationship between CB and P118 is governed by an agreement drafted by external counsel specialising in professional regulation.

#### **DOTAS.**

We have had correspondence with HMRC on this. We were approached by the Counter Avoidance department who wanted further information on what we do to see if any of it fell within the definitions in the DOTAS manual. Our submissions to HMRC were that DOTAS was not engaged, and this correspondence ended in July 2021 with no requirements from HMRC regarding DOTAS.

### **Mortgages and Insurance**

#### **Mortgages.**

We note that your interpretation is that SIS would amount to a breach of most if not all mortgage terms. We respectfully disagree. We examine the mortgage terms of clients seeking SIS, and where there is a bar on dealings with the beneficial interest we advise accordingly and seek the permission of the lender before proceeding when so instructed. Please note that we have dealt with almost all lenders in the BTL sector in relation to hundreds of loans and refinances and have never encountered a situation where the inception of SIS has led to a mortgage being recalled or even a suggestion that terms had been breached. Lenders understand that their security is not compromised by SIS as the legal charge held will override any subsequent dealings with beneficial interests should enforcement action be needed.

#### **Insurance.**

As you know, advising on insurance contracts is a regulated matter, and no-one at CB or P118 is so regulated. Our clients are always advised to approach their regulated broker and/or insurer to make sure that both legal and beneficial interests are noted on the policy together with the mortgage

COTSWOLD BARRISTERS LTD 01285 700741  
D5, Cotswold Airport, Kemble, GL7 6BA  
COMPANY NUMBER 8751593

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Cotswold Barristers Ltd provides management and client care for Cotswold Barristers Chambers



lender's interest. P118 is able to refer clients to a specialist regulated broker where needed, to ensure that all interests are covered. Again, in our near-8 years of operation in this sector we have not been made aware of any issues with insurance cover for any client post-SIS.

### Tax Questions.

I start by observing that our interpretation of these tax rules has been agreed with by HMRC on (I believe) between 20-30 occasions following full disclosure of the incorporation process and the subsequent operation of the clients' business in their new company. Part of our terms of business is that we always assist when HMRC approaches a client on any aspect of what we have advised and executed. These approaches are typically in the form of an aspect enquiry or compliance check, where varying degrees of information are required. This will almost always involve explaining the narrative of the business operation prior to SIS, the nature of the incorporation transaction (with supporting document suite), the consideration provided including indemnities, and the justification for entitlement to incorporation relief. Various other questions are asked from time to time but overall there can be no doubt that HMRC has had full sight, on many occasions, of exactly what the processes are.

Specifically:

- a) The claim for incorporation relief includes a transfer of the business as a going concern<sup>1</sup>, along with all the assets excluding cash, and that the assets for this purpose are the beneficial interests in the properties. Part of the document suite is a contract for sale of the legal interests, which when read in the light of s.28 TCGA makes the tax point for CGT the date of the incorporation, so the fact that the legal interest is transferred later does not affect the entitlement under s.162. HMRC has never suggested that the transfer of legal interests should be completed at incorporation where a contract for sale has been entered into and has never denied this relief for this reason.
- b) The company provides an indemnity for the mortgage payments that the former owners are still legally liable for. This is a deductible business expense for CT purposes and is a permitted element of the consideration for the business. It does not affect entitlement under s.162 (please see ESC D32 and CG65745). HMRC has never denied this relief for this reason, nor has it suggested that the legal owner should be taxed on funds deemed received under this indemnity.
- c) Since 2015, when the first of these incorporations was executed, we have never had any form of challenge to our interpretation of the CT code that allows the indemnities for the mortgage to be deducted. This would of course accord with the position for companies who acquire rental property in their own right.

I will not be in a position to discuss the share valuations or SDLT until I return from leave in the week of 24<sup>th</sup> July, as I need access to material not available to me at present.

I note that you may well consider HMRC is getting these interpretations wrong in their dealings with us. You are of course entitled to that view, and if you are right then CB, P118 and HMRC are all incorrect. You will acknowledge however, I am sure, that this stance is very different from asserting that CB and P118 are advising on and executing structures that HMRC are going to challenge and levy taxes and penalties on. This is obviously not the case.

Also, any suggestion that we have not fully complied with our regulatory duties with BSB and HMRC cannot be sustained.

---

<sup>1</sup> For the avoidance of doubt and confusion, regarding your email to Mark Alexander yesterday, the typical Sale and Purchase Agreement refers to the sale of a partnership business, along with all its assets, to a company.



COTSWOLD  
BARRISTERS

May I also add that CB and P118 have spent nearly 8 years researching and developing these structures. We pool information to ensure everyone is as well-informed as possible from our collective case experiences. We number ACCA and AAT qualified people and Chancery Bar specialists in our ranks. We have built a good deal of know-how based on our research and real-world experiences with HMRC and others, so that we can ensure what we advise on is compliant, robust and sustainable. No step is taken until a suitably experienced specialist barrister is ready to advise that the step is proper.

Yours,

*mwsmith*

Mark Smith, Barrister  
Head of Chambers, Cotswold Barristers.

**From:** Dan Neidle [REDACTED]@taxpolicy.org.uk

**Subject:** Re: Please see letter attached

**Date:** 17 July 2023 at 12:50

**To:** Mark Smith [REDACTED]@cotswoldbarristers.co.uk

**Cc:** Carla Morris [REDACTED]@cotswoldbarristers.co.uk, Mark Alexander [REDACTED]@property118.com

Mr Smith,

Many thanks for your email.

In response:

1. You say the reference to "delegated authority" was ambiguous. We have seen several cases where Property118 wrote to clients saying that they were (and I quote) "bound by the same professional standards as the Barrister, and [their] service to you falls under the protection of their regulatory body, the Bar Standards Board". I don't think that's ambiguous - it's just false. Do you agree?

2. Is there anybody with ATT/CTA qualifications at Property118 or Cotswold Barristers?

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Kind regards,

Dan Neidle

On 13 Jul 2023, at 13:59, Mark Smith <[REDACTED]@cotswoldbarristers.co.uk> wrote:

KR



**Mark Smith**  
Barrister & Head of Chambers



[E mark@cotswoldbarristers.co.uk](mailto:mark@cotswoldbarristers.co.uk)

D5, Cotswold Airport,  
Cirencester, GL7 6BA



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**Mark Smith**  
Barrister & Head of Chambers

[E mark@cotswoldbarristers.co.uk](mailto:mark@cotswoldbarristers.co.uk)

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Cirencester, GL7 6BA



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<MStoDN13.07.2023.pdf>

**From:** Dan Neidle [REDACTED]@taxpolicy.org.uk  
**Subject:** Re: Please see letter attached  
**Date:** 17 July 2023 at 16:24  
**To:** Mark Smith [REDACTED]@cotswoldbarristers.co.uk  
**Cc:** Carla Morris [REDACTED]@cotswoldbarristers.co.uk, Mark Alexander [REDACTED] [REDACTED]@property118.com

---

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[Redacted]

[Redacted]



[Redacted]  
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[Redacted]  
[Redacted]  
[Redacted]

[Redacted]



[Redacted] Smith

AVANCE CARRERA

[REDACTED]

[REDACTED]

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BARRISTERS

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



[REDACTED]


[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



**From:** Mark Alexander [REDACTED]@property118.com   
**Subject:** RE: Please see letter attached  
**Date:** 17 July 2023 at 16:51  
**To:** Dan Neidle [REDACTED]axpolicy.org.uk, [REDACTED]@cotswoldbarristers.co.uk  
**Cc:** Carla Morris [REDACTED]@cotswoldbarristers.co.uk

---

Dear Mr Neidle

Why are you in such a rush to publish your article?

Mark Smith has made it very clear to you that he is on holiday with his family.

This is beginning to feel like a Salem Witch Hunt. You have appointed yourself as Judge, Jury and Executioner. You have asked a huge number of questions but you are not prepared to offer a reasonable amount of time for them to be answered. Do you consider that to be reasonable and professional? I don't.

In answer to one of your latest questions that Mark Smith has already answered, yes we do employ ACCA and AAT qualified staff. Furthermore, we engage several Ambassadors who are FCCA's, CTA's etc.

Why have you not properly read the response from Mark Smith and the PDF I sent to you?

You claim to have seen the PDF document I sent to you previously, but that is impossible because it was prepared specifically for you.

You are also accusing us of having not fully thought through all of the points you have raised. You have no basis for thinking this, save perhaps for having read some Case Studies highlighting some of the high level points we want landlords to consider when reading Property118. I also suspect that you have seen a Property118 Report and Recommendations sent to a Client who has chosen not to engage Cotswold Barristers. If this is the case then you cannot possibly be fully aware of how we operate.

Please think of Property118 as Barristers Clerks. Our Consultants triage Clients, obtain quotations and make initial recommendations for Clients and Cotswold Barristers to consider. If the Client and Barrister decide to engage, that is when the advice starts, NOT BEFORE!

In my opinion, your former professional credibility is being used to potentially destroy legitimate businesses, WITHOUT performing proper due diligence.

I urge Mark Smith to enjoy his holiday and not to take even more time out of it to dance to your tune.

If you choose to pursue your unreasonableness we will respond accordingly.

All the best

Regards

**Mark Alexander**  
**property118.com/tax**

T: [REDACTED]  
[REDACTED]

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---

**From:** Dan Neidle [REDACTED]@taxpolicy.org.uk>  
**Sent:** Monday, July 17, 2023 4:24 PM  
**To:** [REDACTED]@cotswoldbarristers.co.uk  
**Cc:** Carla Morris <[REDACTED]@cotswoldbarristers.co.uk>; Mark Alexander

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**Subject:** Re: Please see letter attached

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— — —

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KR



**Mark Smith**  
Barrister & Head of Chambers

**E** [REDACTED]@cotswoldbarristers.co.uk

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--  
[REDACTED]

**From:** Dan Neidle [REDACTED]@taxpolicy.org.uk  
**Subject:** Re: Please see letter attached  
**Date:** 17 July 2023 at 18:20  
**To:** Mark Alexander [REDACTED]@property118.com  
**Cc:** [REDACTED]@cotswoldbarristers.co.uk, [REDACTED]@cotswoldbarristers.co.uk

M Alexander,

It is usual practice to give someone 24 hours to respond to comments. By the time we publish, you will have had over two weeks. I am not sure why you think we are rushing.

Some quick responses:

1. I am sure why you keep talking about accounting-qualified staff. I am asking whether any employees of Property118, or barristers working for Cotswold Chambers, are tax qualified, i.e. ATT/CTA. I understand from several sources that you do not. Is that correct or incorrect?
2. Why did you write to clients that Property118 is "bound by the same professional standards as the Barrister, and [their] service to you falls under the protection of their regulatory body, the Bar Standards Board"? You surely know this was not correct.
3. I think you misunderstand what it means to be noted on an insurance as having an "interest". This is merely a convenience, and means the insurer may notify the "noted" party in the event the policy is about to lapse (although since 2012 that is not always the case), the rights and obligations, or give the "noted" parties a right to claim. So if a landlord is the policyholder and a trust is declared, the only person able to claim under the insurance remains the landlord, and the landlord will have no loss. He has ceased to have an insurable interest in the property. This seems a serious problem for your structure. I'm not sure how it can be fixed, because the mortgage will require that the landlord maintains insurance, but the landlord cannot maintain insurance. Perhaps the only answer is to hope that a modern *Collingridge* case, but on these very different facts that seems unlikely (the fact the vendor was unpaid in *Collingridge* was important; that's not the case here).
4. Property118 and Cotswold Barristers say with great confidence that in almost all cases mortgages won't be defaulted by declaring a trust. It's therefore surprising that you are not immediately able to answer my question about the - very standard - provision in Nation terms. The answer seems clear to me, and the very experienced real estate finance lawyers we've spoken to - a trust puts the mortgage in default. I expect the banks will also say it's clear to them. If you disagree then it would be helpful if you could explain why, rather than to large conveyancing companies.

So far, you and Mr Smith have failed to answer a single technical point I've made - you refer to other advisers, and unspecified correspondence with HMRC, but otherwise there has been no answer at all to what are mostly very basic points (the exception being the paragraph which is genuinely difficult, but which you should have fully considered before you started advising on partnership incorporation relief).

So our view continues to be that you are advising in an area where you do not have expertise, and your subject does not work.

Kind regards,

Dan Neidle

On 17 Jul 2023, at 17:07, Mark Alexander [REDACTED]@property118.com wrote:

Dear Mr Neidle

Sorry, a few further points.

Mark Smith has already answered one of your key points in regards to insurance. Cotswold Barristers always advise their clients to ensure that three parties are shown as having an interest on relevant insurance policies; 1) the mortgage lender, 2) the legal owner and 3) the beneficial owner(s).

Another of your key points was related to mortgages. In Mark Smith's absence you might wish to direct those questions to the two large conveyancing companies I have listed below. This is because they have completed dozens if not hundreds of mortgages where the legal ownership has been transferred to the company after a business sale has been substantially performed as explained in the PDF I sent to you last week, and is now attached again to this email for your convenience.

[REDACTED] Solicitors

Contact:

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED] Solicitors LLP

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

All the best

Regards

**Mark Alexander**

<image001.png>

T: 01603 327218 ext. 208

E: [REDACTED]r@Property118.com

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**Sent:** Monday, July 17, 2023 4:51 PM

**To:** Dan Neidle [REDACTED]

**Cc:** Carla Morris [REDACTED]

**Subject:** RE: Please see letter attached

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All the best

Regards

**Mark Alexander**

<image001.png>

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E: [REDACTED] [Property118.com](mailto:[REDACTED]@cotswoldbarristers.co.uk)

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**Sent:** Monday, July 17, 2023 4:24 PM

**To:** [REDACTED] <[REDACTED]@cotswoldbarristers.co.uk>

**Cc:** Caria Morris <[REDACTED]@cotswoldbarristers.co.uk>; Mark Alexander <[REDACTED]@property118.com>

**Subject:** Re: Please see letter attached

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E: [REDACTED] <[\[REDACTED\]@cotswoldbarristers.co.uk](mailto:[REDACTED]@cotswoldbarristers.co.uk)>  
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3. Insurance. So can I take it you agree with my comment that the Substantial Incorporation Structure would void existing buildings insurance contracts, and so (absent amending the insurance) default the mortgage? I note that advising on the legal/tax effect of existing insurance contracts is not a regulated matter. The advice I've seen you send clients does not mention the insurance point at all. It is also notably absent from your websites.

4. Mortgages. A typical example would be Nationwide. The mortgage contains a covenant not to "assign, transfer, mortgage or otherwise dispose of the property". The term "property" is then defined to include "all your estates, rights, title and other interests" in the building. That seems clearly to forbid dealings in the equitable estate - and it's a typical approach. Whether or not a lender would actually be prejudiced will depend on the facts, but is not relevant; if the negative pledge is breached then that is a default. I have discussed the analysis with a wide range of leading real estate finance lawyers, who act for both lenders and borrowers. They unanimously agree.

The fact no lender has picked this up before is probably because they haven't been notified of the trust - certainly it gives you no assurance as to the legal position.

5. Incorporation relief. It is most unlikely that the deeming rule in s28 impacts s162. Deeming rules are usually restricted to their purpose (see DCC). You certainly cannot rely on any clearance your clients received from HMRC unless you specifically drew their attention to the point. Did you?

6. On what basis do you think the mortgage indemnity payments would be deductible? They're not payments on a loan relationship. You say yourself they are part of the consideration: that suggests they are capital not income (and so not deductible - a similar outcome to the *Kato Kagaku* case). You again cannot rely on the fact that HMRC never queried the point, unless you specifically drew it to their attention.

7. On what basis are the mortgage indemnity payments received by the legal owner not taxable? To repeat: the legal owner remains the borrower under the loan in their own capacity, and not as trustee, so the indemnity payments are also received in their own capacity. Once more, the fact HMRC has not identified the issue is unsurprising if you do not raise it with them.

8. The best realistic outcome would therefore seem to be that the indemnity payments are capital, in which case they aren't taxable for the legal owner, but not deductible for the company. The structure results in the client losing all tax deductibility/credit - they'd have been better off not entering into the structure at all. But there are much worse outcomes, for example where the indemnity is not capital, so is deductible for the company but taxable for the legal owner. That could easily double a landlord's tax bill.

Currently my overall impression is that your structure raises complex legal tax issues which you have not thought-through, and that instead of undertaking the proper tax analysis you rely upon correspondence with HMRC in which you do not set out the full technical position. Certainly these issues are not mentioned in your advice to clients which we have seen.

We therefore currently propose to say that in our view your structure will in most cases default the mortgage and result in a higher ongoing tax bill, with the potential for additional up-front CGT and SDLT cost.

Kind regards,

Dan Neidle

[REDACTED]



[REDACTED]



[REDACTED]



[REDACTED]



[REDACTED]

[REDACTED]



[REDACTED]

D5, Cotswold Airport,  
Cirencester, GL7 6BA



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<SIS Explained.pdf>



Re: Please see letter attached

To: Mark Alexander,

[Hide](#)

Cc: [REDACTED]@cotswoldbarristers.co.uk, Carla Morris

Mr Alexander,

In response:

1. ATT/CTA are tax qualifications. AAT and ACCA are not tax qualifications. ATT/CTA qualified advisers are regulated and subject to the Professional Conduct in Relation to Taxation. I believe none of your staff, or Cotswold Barristers, have tax qualifications. I believe Property118 is unregulated and not subject to the PCRT. .
2. Mark Smith did not explain why a clearly false statement was included in your client advice. He said you had used the term "delegated authority" ambiguously. The sentence I quote is not ambiguous - it is misleading and false. It was wrong to say you were "bound by the same professional standards as the Barrister, and [their] service to you falls under the protection of their regulatory body, the Bar Standards Board".
3. An insurance professional is not the right person to ask. You should have spoken to an insurance law specialist. I don't think you did, or you wouldn't be talking about "noting an interest". The fact no insurer raised the point is irrelevant, particularly if the trust arrangement wasn't disclosed to any insurer.
4. You are not answering the question. The Nationwide terms are clear. You and Mark Smith frequently say that you're only aware of two mortgage lenders in the market whose terms prohibit granting a trust. That is wrong. One of our team spent an hour reviewing standard terms, and the first half dozen examples she found all prohibited it.
5. I'm not sure you understand s75A - tax avoidance is not a condition for it to apply. If the retrospective creation of a partnership is a "step" (which it may be; I'm not sure) then s75A will apply to undo the SDLT relief. But when I referred to partnership SDLT I meant Sch 15 FA 2003 and in particular paragraph 21(3). This likely prevents partnership "incorporation relief" from applying in circumstances where the partnership was declared retrospectively, and so the original property purchase was not subject to the SDLT partnership charge.
6. I have no interest in the other points you make. I am expressing an opinion - one widely shared by other leading advisers - that your structure does not work as a technical matter. You are free to agree or disagree with that, but if you provide no contrary technical arguments then you are very unlikely to persuade me you are right. Lists of people I've never heard of, who you say agree with you, are not going to change my mind either.

Kind regards,

Dan Neidle



**From:** Mark Alexander [REDACTED]@property118.com   
**Subject:** RE: Please see letter attached  
**Date:** 17 July 2023 at 19:38  
**To:** Dan Neidle [REDACTED]@taxpolicy.org.uk  
**Cc:** [REDACTED]@cotswoldbarristers.co.uk, Carla Morris [REDACTED]@cotswoldbarristers.co.uk

---

Dear Mr Neidle

Please see my **highlighted** responses appended to your questions below.

Some quick responses:

1. I am sure why you keep talking about accounting-qualified staff. I am asking whether any employees of Property118, or barristers working for Cotswold Chambers, are tax qualified, i.e. ATT/CTA. **Mark Smith and I have already answered this question three times. Yes we do employ ACCA and AAT qualified Accountants, I understand from several sources that you do not. Is that correct or incorrect? Your sources are wrong, i.e. they are incorrect.**

2. Why did you write to clients that Property118 is "bound by the same professional standards as the Barrister, and [their] service to you falls under the protection of their regulatory body, the Bar Standards Board"? You surely know this was not correct. **Mark Smith answered this question last week.**

3. I think you misunderstand what it means to be noted on an insurance as having an "interest". This is merely a convenience, and means the insurer may notify the "noted" party in the event the policy is about to lapse (although since 2012 that is not always the case). It does not change the rights and obligations, or give the "noted" parties a right to claim. So if a landlord is the policyholder and a trust is declared, the only person able to claim under the insurance remains the landlord, and the landlord will have no loss. He has ceased to have an insurable interest and the insurance is void. This seems a serious problem for your structure. I'm not sure how it can be fixed, because the mortgage will require that the landlord maintains insurance, but the landlord cannot maintain insurance. Perhaps the only answer is to hope that a modern court follows the very old *Collingridge* case, but on these very different facts that seems unlikely (the fact the vendor was unpaid in *Collingridge* was important; that's not the case here). **We sought advice from an insurance professional on this point. Several of our**

clients have had claims and not encountered any of the problems you are alluding to.

4. Property118 and Cotswold Barristers say with great confidence that in almost all cases mortgages won't be defaulted by declaring a trust. It's therefore surprising that you are not immediately able to answer my question about the - very standard - provision in Nationwide's mortgage. terms. The answer seems clear to me, and the very experienced real estate finance lawyers we've spoken to - a trust puts the mortgage in default. I expect the banks will also say it's clear to them. If you disagree then it would be helpful if you could explain why, rather than just referring me to large conveyancing companies. Are you suggesting then that Blacks Solicitors LLP and Harrold Benjamin Solicitors are wrong? Have you not considered that the solicitors you have spoken to might not fully understand the advice that Cotswold Barristers actually give to their clients?

So far, you and Mr Smith have failed to answer a single technical point I've made – this is not true, we have, but you have chosen to ignore them. My email to you earlier today refers. you refer to other advisers, and unspecified correspondence with HMRC, but otherwise there has been no answer at all to what are mostly very basic points (the exception being the partnership SDLT point, which is genuinely difficult, but which you should have fully considered before you started advising on partnership incorporation relief). Again you are implying that Cotswold Barristers have not considered the S75A point, WE HAVE. I agree that it is a tricky one and many of our clients do pay the SDLT, particularly where they cannot substantiate the existence of a Partnership as per the 1890 Act definitions. Furthermore, we have never recommended any business owner to form a Partnership simply to avoid tax. You know as well as we do that there are many reasons to consider Limited Liability, whether that is in an LLP or a Company, e.g. ring fencing business risk from personal affairs (where possible), business continuity, legacy planning, investment etc.

So our view continues to be that you are advising in an area where you do not have expertise, and your subject does not work. Your view is flawed. That said, believe it or not, moving forwards I my preference is to with you as an ally as opposed to you being an opponent

Opposition

I suspect one of your motives, whether you choose to admit it or not, is to be regarded professionally as a champion of the people. That's something I have achieved on many occasions. In landlord law it was the case law I created as Property118 Action Group, Mark Alexander vs West Bromwich Mortgage Company. In the commercial finance sector it was being a founder of NACFB and my 20 years of service to that 'not for profit' organisation. In the Private Rented Sector it has been growing the most influential website in the UK, Property118, which is dedicated to facilitating the sharing of best practice.

Our strategic alliance is with Cotswold Barristers is supported by hundreds of professional service providers including the Solicitors I mentioned in my email yesterday. Add to this dozens of well as dozens of large and highly respected Accountancy businesses, a few of which I have listed below.

**Alex** [redacted] **ACCA (also a Property118 Tax Consultant)**

[redacted]  
[redacted]  
[redacted]  
[redacted]

**Wes** [redacted]  
[redacted]  
[redacted]  
[redacted]  
[redacted]  
[redacted]

**Alan** [redacted]  
[redacted]  
[redacted]  
[redacted]  
[redacted]

**Simon** [redacted]  
[redacted]  
[redacted]  
[redacted]

**Simon** [redacted]  
[redacted]  
[redacted]

[REDACTED]  
[REDACTED]  
[REDACTED]

Our Tax Consultants also have a strong pedigree. For example, Rupert [REDACTED] was the former CEO of [REDACTED] and the originator of Tax Liability Cover and one of the leading brokers of PI insurance to the Accountancy profession. He had a team of 80 tax consultants who assisted in over 2,500 tax investigations. Another is Jonathan [REDACTED] who was the CEO of two ISO certification companies as well as consulting on business acquisitions for PWC and Boston Consulting Group.

If you can be bothered to do your research properly you will see from the David and Goliath battle I took on against the West Brom that I am not the type of person that walks away from an unfair set of circumstances or challenge.

Are you really sure that your crusade and attempts to take down our business is something you wish to pursue?

My preference is to work with you to take down the real rogue operators in our sector. The choice is yours.

Sincerely

**Mark Alexander**  
**property118.com/tax**

T: [REDACTED]

E: [REDACTED] [@Property118.com](mailto:[REDACTED]@Property118.com)

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**From:** Dan Neidle <dan@taxpolicy.org.uk>

**Sent:** Monday, July 17, 2023 6:21 PM

**To:** Mark Alexander <mark.alexander@property118.com>

**Cc:** mark@cotswoldbarristers.co.uk; Carla Morris <carla@cotswoldbarristers.co.uk>

**Subject:** Re: Please see letter attached

M Alexander,

It is usual practice to give someone 24 hours to respond to comments. By the time we publish, you will have had over two weeks. I am not sure why you think we are rushing.

Some quick responses:

1. I am sure why you keep talking about accounting-qualified staff. I am asking whether any employees of Property118, or barristers working for Cotswold Chambers, are tax qualified, i.e. ATT/CTA. I understand from several sources that you do not. Is that correct or incorrect?

2. Why did you write to clients that Property118 is "bound by the same professional standards as the Barrister, and [their] service to you falls under the protection of their regulatory body, the Bar Standards Board"? You surely know this was not correct.

3. I think you misunderstand what it means to be noted on an insurance as having an "interest". This is merely a convenience, and means the insurer may notify the "noted" party in the event the policy is about to lapse (although since 2012 that is not always the case). It does not change the rights and obligations, or give the "noted" parties a right to claim. So if a landlord is the policyholder and a trust is declared, the only person able to claim under the insurance remains the landlord, and the landlord will have no loss. He has ceased to have an insurable interest and the insurance is void. This seems a serious problem for your structure. I'm not sure how it can be fixed, because the mortgage will require that the landlord maintains insurance, but the landlord cannot maintain insurance. Perhaps the only answer is to hope that a modern court follows the very old *Collingridge* case, but on these very different facts that seems unlikely (the fact the vendor was unpaid in *Collingridge* was important; that's not the case here).

4. Property118 and Cotswold Barristers say with great confidence that in almost all cases mortgages won't be defaulted by declaring a trust. It's therefore surprising that you are not immediately able to answer my question about the - very standard - provision in Nationwide's mortgage terms. The answer seems clear to me, and the very experienced real estate finance lawyers we've spoken to - a trust puts the mortgage in default. I expect the banks will also say it's clear to them. If you disagree then it would be helpful if you could explain why, rather than just referring me to large conveyancing companies.

So far, you and Mr Smith have failed to answer a single technical point I've made - you refer to other advisers, and unspecified correspondence with HMRC, but otherwise there has been no answer at all to what are mostly very basic points (the exception being the partnership SDLT point, which is genuinely difficult, but which you should have fully considered before you started advising on partnership incorporation relief).

So our view continues to be that you are advising in an area where you do not have expertise, and your subject does not work.

Kind regards.

Dan Neidle

On 17 Jul 2023, at 17:07, Mark Alexander  
<[REDACTED]@property118.com> wrote:

Dear Mr Neidle

Sorry, a few further points.

Mark Smith has already answered one of your key points in regards to insurance. Cotswold Barristers always advise their clients to ensure that three parties are shown as having an interest on relevant insurance policies; 1) the mortgage lender, 2) the legal owner(s) and 3) the beneficial owner(s).

Another of your key points was related to mortgages. In Mark Smith absence you might wish to direct those questions to the two very large conveyancing companies I have listed below. This is because they have completed dozens if not hundreds of mortgages where the legal ownership has been transferred to the company after a business sale has been substantially performed as explained in the PDF I sent to you last week, and is now attached again to this email for your convenience.

[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED] LLP

[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]

All the best

Regards

# Mark Alexander

<image001.png>

[REDACTED]  
[REDACTED] [Property118.com](https://Property118.com)

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**From:** Mark Alexander  
**Sent:** Monday, July 17, 2023 4:51 PM  
**To:** Dan Neidle <[REDACTED]@taxpolicy.org.uk>; [REDACTED]@cotswoldbarristers.co.uk  
**Cc:** Carla Morris <[REDACTED]@cotswoldbarristers.co.uk>  
**Subject:** RE: Please see letter attached

Dear Mr Neidle

Why are you in such a rush to publish your article?

Mark Smith has made it very clear to you that he is on holiday with his family.

This is beginning to feel like a Salem Witch Hunt.

You have appointed yourself as Judge, Jury and Executioner. You have asked a huge number of questions but you are not prepared to offer a reasonable amount of time for them to be answered. Do you consider that to be reasonable and professional? I don't.

In answer to one of your latest questions that Mark Smith has already answered, yes we do employ ACCA and AAT qualified staff. Furthermore, we engage several Ambassadors who are FCCA's, CTA's etc.

Why have you not properly read the response from Mark Smith and the PDF I sent to you?

You claim to have seen the PDF document I sent to you previously, but that is impossible because it was prepared specifically for you.

You are also accusing us of having not fully thought through all of the points you have raised. You have no basis for thinking this, save perhaps for having read some Case Studies highlighting some of the high level points we want landlords to consider when reading Property118. I also suspect that you have seen a Property118 Report and Recommendations sent to a Client who has chosen not to engage Cotswold Barristers. If this is the case then you cannot possibly be fully aware of how we operate.

Please think of Property118 as Barristers Clerks. Our Consultants triage Clients, obtain quotations and make initial recommendations for Clients and Cotswold Barristers to consider. If the Client and Barrister decide to engage, that is when the advice starts, NOT BEFORE!



In my opinion, your former professional credibility is being used to potentially destroy legitimate businesses, WITHOUT performing proper due diligence.

I urge Mark Smith to enjoy his holiday and not to take even more time out of it to dance to your tune.

If you choose to pursue your unreasonableness we will respond accordingly.

All the best

Regards

# Mark Alexander

<image001.png>



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**From:** Dan Neidle <[REDACTED]@taxpolicy.org.uk>

**Sent:** Monday, July 17, 2023 4:24 PM

**To:** [REDACTED]@cotswoldbarristers.co.uk

**Cc:** Carla Morris <[REDACTED]@cotswoldbarristers.co.uk>; Mark Alexander <[REDACTED]@property118.com>

**Subject:** Re: Please see letter attached

Mr Smith,

Thanks for your reply. I'm afraid we can't hold off publication that long. We could just about wait til end this week, but that's it.

Ordinarily I'd think that nothing I've asked is a new question - they should

Obviously I'd think that nothing I've asked is a new question - they should be matters that you thought through years ago, and commonly address in your advice. My fear, however, is that in fact they are issues you have not previously considered.

Kind regards,

Dan Neidle

On 17 Jul 2023, at 13:44, Mark Smith  
<[REDACTED]@cotswoldbarristers.co.uk> wrote:

Dear Dan,

As you will have seen from the ooo reply I am not at my desk at present.

I would ask that you do not publish anything until I have had a chance to respond to your message substantively, which I will do by the end of next week.

Is this agreed?

Yours

[REDACTED]

On Mon, 17 Jul 2023 at 12:50, Dan Neidle  
<[REDACTED]@taxpolicy.org.uk> wrote:

Mr Smith,

Many thanks for your email.

In response:

1. You say the reference to "delegated authority" was ambiguous. We have seen several cases where Property118 wrote to clients saying that they were (and I quote) "bound by the same professional standards as the

quote, "bound by the same professional standards as the Barrister, and [their] service to you falls under the protection of their regulatory body, the Bar Standards Board". I don't think that's ambiguous - it's just false. Do you agree?

2. Is there anybody with ATT/CTA qualifications at Property118 or Cotswold Barristers?

3. Insurance. So can I take it you agree with my comment that the Substantial Incorporation Structure would void existing buildings insurance contracts, and so (absent amending the insurance) default the mortgage? I note that advising on the legal/tax effect of existing insurance contracts is not a regulated matter. The advice I've seen you send clients does not mention the insurance point at all. It is also notably absent from your websites.

4. Mortgages. A typical example would be Nationwide. The mortgage contains a covenant not to "assign, transfer, mortgage or otherwise dispose of the property". The term "property" is then defined to include "all your estates, rights, title and other interests" in the building. That seems clearly to forbid dealings in the equitable estate - and it's a fairly typical approach. Whether or not a lender would actually be prejudiced will depend on the facts, but is not relevant; if the negative pledge is breached then that is a default. We have discussed the analysis with a wide range of leading real estate finance lawyers, who act for both lenders and borrowers. They unanimously agree.

The fact no lender has picked this up before is probably because they haven't been notified of the trust - certainly it gives you no assurance as to the legal position.

5. incorporation relief. It is most unlikely that the deeming rule in s28 impacts s162. Deeming rules are usually restricted to their purpose (see DCC). You certainly cannot rely on any clearance your clients received from HMRC unless you specifically drew their attention to the point. Did you?

6. on what basis do you think the mortgage indemnity payments would be deductible? They're not payments on a loan relationship. You say yourself they are part of the consideration: that suggests they are capital not income (and so not deductible - a similar outcome to the *Kato Kagaku* case). You again cannot rely on the fact that HMRC have never queried the point, unless you specifically drew it to their attention.

7. On what basis are the mortgage indemnity payments received by the legal owner not taxable? To repeat: the legal owner remains the borrower under the loan in their own capacity, and not as trustee, so the indemnity payments are also received in their own capacity. Once

payments are also received in their own capacity. Once more, the fact HMRC has not identified the issue is unsurprising if you did not raise it with them.

8. The best realistic outcome would therefore seem to be that the indemnity payments are capital, in which case they aren't taxable for the legal owner, but not deductible for the company. The structure results in the client losing all tax deductibility/credit - they'd have been better off not entering into the structure at all. But there are much worse outcomes, for example where the indemnity is not capital, so is deductible for the company but taxable for the legal owner. That could easily double a landlord's tax bill.

Currently my overall impression is that your structure raises complex legal tax issues which you have not thought-through, and that instead of undertaking the proper tax analysis you rely upon correspondence with HMRC in which you do not set out the full technical position. Certainly these issues are not mentioned in your advice to clients which we have seen.

We therefore currently propose to say that in our view your structure will in most cases default the mortgage and result in a higher ongoing tax bill, with the potential for additional up-front CGT and SDLT cost.

Kind regards,

Dan Neidle

On 13 Jul 2023, at 13:59, Mark Smith  
<[REDACTED]@cotswoldbarristers.co.uk> wrote:

KR



COTSWOLD  
BARRISTERS

**Mark Smith**  
Barrister & Head of Chambers

E [REDACTED]@cotswoldbarristers.co.uk

D5, Cotswold Airport,  
Cirencester, GL7 6BA



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COTSWOLD  
BARRISTERS

**Mark Smith**

Barrister & Head of Chambers

E @cotswoldbarristers.co.uk

D5, Cotswold Airport,  
Cirencester, GL7 6BA



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<MStoDN13.07.2023.pdf>

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COTSWOLD  
BARRISTERS

**Mark Smith**

Barrister & Head of Chambers

E @cotswoldbarristers.co.uk

D5, Cotswold Airport,  
Cirencester, GL7 6BA



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Thank you.

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**From:** Mark Alexander [REDACTED]@property118.com   
**Subject:** RE: Please see letter attached  
**Date:** 21 July 2023 at 09:47  
**To:** Dan Neidle [REDACTED]@taxpolicy.org.uk  
**Cc:** [REDACTED]@cotswoldbarristers.co.uk, Carla Morris [REDACTED]@cotswoldbarristers.co.uk

---

Mr Neidle

Your last email, which was just one among many antagonistic emails, included a question that clearly indicates your very limited knowledge of our business operations.

To quote you verbatim ...

I'm not sure you understand s75A - tax avoidance is not a condition for it to apply. **If the retrospective creation of a partnership is a "step" (which it may be; I'm not sure)** then s75A will apply to undo the SDLT relief. But when I referred to partnership SDLT I meant Sch 15 FA 2003 and in particular paragraph 21(3). This likely prevents partnership "incorporation relief" from applying in circumstances where the partnership was declared retrospectively, and so the original property purchase was not subject to the SDLT partnership charge."

In response to that; the existence of a Partnership is a matter of fact and cannot be retrospectively established. Considering your awareness of this fact, your insinuation that it could be backdated, or that we are suggesting it, raises suspicions about your motives. For the record, we would never suggest retrospective creation of a Partnership.

Your attempts to discredit our work with technical arguments are disconnected from reality.

You previously implied that we are operating a templated tax avoidance scheme. That is untrue. Any recommendations we make to clients are as personal as their circumstances. Before any action is taken the work carried out by Property118 is referred to Cotswold Barristers. They then review it independently before engaging with a client to provide bespoke professional advice and any subsequent implementation.

We were more than reasonable when we offered to meet with you via a recorded Video Conference to tell you more about

our business and to answer your questions, but you declined that. Our reasonableness has not been reciprocated by you.

Your ignorance of our business model is one of your more obvious motives for attempting to blackmail us, but we have since discovered that it goes much deeper than that.

You have the audacity to threaten us with publishing an article designed to inflict significant damage on our businesses unless we surrender valuable intellectual property to you, and to spend significant unpaid time (during our holidays) correcting your flawed assumptions.

In light of the above we have no desire to respond further to your aggressive correspondence and outrageous demands.

Furthermore, at this stage we are respectfully requesting that you provide full disclosure of the parties you have been working with/for on this fishing exercise.

With all due respect

**Mark Alexander**  
**property118.com/tax**

T: [REDACTED]  
[REDACTED]@Property118.com

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