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How Do You Solve a Problem Like English Partnerships?

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Abstract

English partnerships are transparent for tax purposes, but there is no legislation outlining the tax rules besides a Statement of Practice (SP) (1975). Limited liability partnerships (LLPs) are treated the same for tax purposes but are bodies corporate. This has led to concerns over employment and partnership status being confused and highlights the necessity for specific anti-avoidance legislation for LLPs. Partnerships and LLPs can also be regarded as (bare) trusts for tax purposes, potentially leading to confusion and disputes as to beneficial ownership. These problems would largely disappear if members of LLPs chose to treat their partnership as a separate legal entity for tax purposes. If they did so, LLPs could be subject to corporation tax; otherwise, they and general partnerships should be subject to tailored, dedicated primary legislation governing the tax treatment—instead of that covering a mere SP.

Keywords: partnerships; Partnership Act 1890; SP D12; LLP; beneficial ownership; legal entity; employment.

[A] INTRODUCTION

Partnerships are a well-established vehicle through which to run a business—offering a closer working relationship with fellow partners in the spirit of common venture. However, as far as tax is concerned, anyone would think that the UK's tax laws considered them a mere afterthought; the tax rules are contained not in primary legislation as with personal and corporation tax but in a Statement of Practice (SP) (D12) from January 1975. This SP sets out the tax interaction between the partners, what happens to joiners and leavers, disposal of assets, and changes in profit ratios. The partnership itself pays neither income tax[1] nor corporation tax[2] on its profits, nor capital gains tax (CGT)

1 Per section 848 ITTOIA 2005.

2 Per section 1258 Corporation Taxes Act 2010.

on disposals[3]—rather the partners do pay tax on their own shares. A partnership is therefore effectively see-through as far as income tax and CGT is concerned, so the legislation concerning personal income tax and sole traders applies. Limited companies have legislation dedicated to their obligations and reliefs under corporation tax.

As far as partnership law is concerned, there is only one piece of legislation concerning the legal interaction of the partners with each other and the business: the Partnership Act (PA) 1890. The mechanics of this legislation can be quite harsh on partnerships which do not have a partnership agreement drawn up outlining their constitution and mutual intentions—for instance, if one partner dies or becomes bankrupt, the whole partnership dissolves, irrespective of anything else (section 33(1)).

The greatest issues, however, lie in a partnership's transparency—the fact that the partnership is not regarded in law as a separate entity from its partners begs the question as to what a partnership actually is—is it a trust? Is it a bare trust as far as His Majesty's Revenue and Customs (HMRC) is concerned, where the partners alone are taxed as beneficial owners? But for inheritance tax (IHT) purposes, partners own rights to the partnership assets, not the assets themselves (as with Limited Liability Partnership (LLP) members)—so that adds another complication. The Fourth and Fifth Anti-Money Laundering Directives would seem to assume that partnerships can act as trusts in certain instances and are subject to reporting requirements within HMRC's Trust Registration Service (TRS); the PA 1890 would also appear to consider a partnership as a form of trust. What about the employment status of the partners themselves? The tax law regards them as self-employed, as does employment law, but there will be as many grey areas for partners as there are for any worker.

The introduction of the LLP into Britain in April 2001[4] added an extra twist. The LLP is treated exactly the same as the "general" partnership for tax purposes but is a UK-wide separate legal entity from its partners (or "members"). Is treating the LLP as a separate legal entity the next step in this evolution? Four major problems must be addressed.

3 Per section 59 Taxation of Chargeable Gains Act 1992.

4 LLPs were introduced into Northern Ireland via the Limited Liability Partnerships Act (Northern Ireland) 2002.

[B] PROBLEM 1—THE LAW

When it comes to partnership law, the PA 1890 is primary legislation enforceable in the courts; but an SP is no such thing—SPs simply:

> explain HM Revenue and Customs interpretation of legislation and the way the Department applies the law in practice. They do not affect a taxpayer's right to argue for a different interpretation, if necessary in any appeal to an independent tribunal (HMRC Manual ADML5100).

In the same manual, some further explanation of the role of the SP is given:

> The main purpose of Statements of Practice is to explain the Department's view of the law where the statute is unclear and may have more than one interpretation or where HMRC considers it would assist taxpayers to have an explanation of HMRC's view of the law. They let taxpayers know which interpretation we will follow.
>
> Our interpretation should be that which most closely reflects the intention of the legislation. It must be one which HMRC can reasonably apply and defend if challenged in the courts. That does not mean it is the only possible interpretation; there may be another, or others, which we reject.

So why is this a problem? Simply because an SP is not the law, merely HMRC's interpretation of, and approach to, the law. Businesses operating through partnerships need a greater degree of certainty and objectivity over the law and its application, rather than just HMRC's view of it (useful though that is for practitioners).

This issue about the importance of legislation, SPs and Extra Statutory Concessions (ESCs) was well addressed by former Lord Chief Justice Tom Bingham in his book, *The Rule of Law*:

> all persons and authorities within the state, whether public or private, should be bound by and entitled to the benefit of laws publicly and prospectively promulgated and publicly administered in the courts (2011: 8).

Also, whilst presiding over the case of *Vesty v IRC* (1979) in the High Court, Walton J famously stated (when referring to ESCs): "One should be taxed by law, and not be untaxed by concession" (1979: 197).

This sums up the reason why the rules surrounding partnership tax should be enshrined in primary legislation, so that rights and obligations can be upheld in court, rather than having to rely on HMRC's own interpretation.

The rules themselves essentially state that partnerships are transparent for tax purposes, that the partnership itself is not a separate entity and that the partners are subject to the same income tax, CGT and IHT liabilities on their profit and capital shares as any other individual; a limited company partner is subject to corporation tax on its share. The partners are the beneficial owners with some (not necessarily all) partners also being legal owners of the partnership assets, over all of which (or as much as the partnership agreement states) the proprietary ownership for tax purposes lies. This transparent arrangement essentially makes partnerships bare trusts—in that HMRC is only interested in the beneficial owners' profits and capital interests; the legal owners and the partnership itself are overlooked for direct and capital tax purposes. However, partnerships are a separate entity for value-added tax purposes, having their own number rather than the individual partners' being registered.

As well as the tax rules, partnerships will be concerned about the constituency of their business. Partnership agreements should, according to good practice, set out the partners' intentions which override some of the provisions of the PA 1890. However, many partners might not draw up these agreements—they may not be aware of the significance of countering the presumptions with PA 1890, or of the Act itself.

By having the contents of SP D12 within tailored, enforceable primary legislation, these structures' tax treatment will have the footing which their importance and popularity warrants.

[C] PROBLEM 2—BENEFICIAL OWNERSHIP

The issue of beneficial ownership has caused numerous problems—both legal and tax—because it is often hard to tell whether an asset belongs to the partnership or to the individual partner whose name it is in. As well as causing problems with tax, it can lead to problems with succession and inheritances—does the deceased's property belong to the other partners, or to the legatees in their will? The treatment of partnership assets is governed by a partnership agreement (or the terms of PA 1890), whereas personally owned assets (as well as their stake in the partnership) will follow the deceased's will (or intestacy).

The rules surrounding whether an asset belongs to the partnership or not is determined, in the first instance, by PA 1890 which states that

partnership assets are those bought with partnership funds (section 21) or introduced as partnership stock (section 20); but often it is difficult to establish whether either of these apply. One case which illustrates the nature of the problem is *Wild v Wild* (2018) whereby a dispute arose between two brothers as to whether farmland and buildings formed partnership property; the legal ownership was in the name of their father upon whose death the property was bequeathed by his will to their mother. The claimant brother claimed the assets belonged to the partnership by virtue of their being featured in the farm accounts which formed evidence of a common intention amongst the partners; the other brother claimed that the farm was not a partnership asset, that it was not mentioned in the accounts and—even if it was—that would not be sufficient to form an intention to make it so. The High Court agreed that the farm was not a partnership asset, that there had been no common intention to make it so and no agreement could be inferred without evidence. Following the case of *Ham v Bell* (2016), the court agreed that business efficacy was not enough to imply that the farm was a partnership asset. The legal ownership of the asset would be in the name of some partners (not necessarily all) but beneficial ownership, unless it is stated in a trust deed or partnership agreement, would have to be determined through evidence of common intention.

Due to the transparent nature of partnerships and LLPs, assets therein belong to the partners/members (for IHT purposes the partners own rights over the partnership's assets, see below, whereas members own a corresponding share of the assets themselves). However, identifying the beneficial ownership, when only the legal ownership is visible to all (eg through Land Registry entries), can prove difficult. Assets owned by separate legal entities such as limited companies will not pose such problems due to: a) the corporate veil keeping the owners away from the business's assets; and b) there being a footprint (usually concerning CGT or stamp duty land tax) showing assets being transferred into the company. Whilst the default position for partnerships is that each partner shall own a share of introduced assets[5] (thus a part-disposal for the new partner),[6] beneficial ownership can be ring-fenced through a partnership agreement, thus rebutting that presumption.

5 Section 22 Partnership Act 1890.

6 Paragraph 5.2, SP D12.

[D] PROBLEM 3—A TRUST IN DISGUISE?

The PA 1890, from the beginning in section 1(1), gives the definition of a partnership:

> Partnership is the relationship which subsists between persons carrying on a business in common with a view of profit.

However, this is a fairly broad definition and does not preclude the partnership from being a trust; indeed, there's some suggestion that this is precisely what a partnership is. Section 20(1) and (2) PA 1890 talk about legal owners holding the property for the beneficiary partners (my emphasis):

> (1) All property and rights and interests in property originally brought into the partnership stock or acquired, whether by purchase or otherwise, on account of the firm, or for the purposes and in the course of the partnership business, are called in this Act partnership property, and *must be held and applied by the partners exclusively for the purposes of the partnership* and in accordance with the partnership agreement.
>
> (2) Provided that the legal estate or interest in any land, or in Scotland the title to and interest in any heritable estate, which belongs to the partnership shall devolve according to the nature and tenure thereof, and the general rules of law thereto applicable, but *in trust, so far as necessary, for the persons beneficially interested* in the land under this section.

The words "held and applied", "in trust" and "beneficially interested" all point toward to the partnership's being more of a trust, with partners owning a share of the right to the assets, rather than the assets themselves as with an LLP, which is more akin to a bare trust.

The fact that some partnerships have to register with the TRS would also indicate this possibility. There is no specific criterion for partnerships to register, but if the legal and beneficial owners of partnership assets are different people and the partnership agreement states that assets are being held under express trust by their owners, then there is no exemption for partnership registration—despite partners' already being registered with HMRC for self-assessment.

As well as being regarded as a trust, there are arguably some grey areas between the laws of partnership and agency. Partners are agents for their partnership, as they are joint and severally liable for their actions; sections 5-18 PA 1890 outline how partners act on behalf of and bind their "firm" as a form of mutual agency where "each partner is both an agent of her fellow partners and, as a member of the partnership,

a principal" (DeMott 1995: 109). However, partnership is very much an internal relationship between the individual and the partnership and other partners with whom they share profits and losses. Within an agency relationship, the principal will control the agent whereas partners (by default) have equal control and participation in the business. One distinction between (what may be called) a "pure" agency relationship and one of partnership will simply be the intention to create a partnership (as outlined in *Michigan Law Review* 1913). A partnership agreement is supposed to outline the partners' intentions with respect to the day-to-day running of the business, the capital ownership of the asset, the profit split and management roles—essentially overriding the presumptions contained within PA 1890.

Debate can be had as to whether a partnership is a trust or a bare trust—or whether an LLP is more akin to a bare trust with deemed direct ownership of the assets by the members; or whether it is an agency relationship. Problem 3 is less of a problem, more a potential clash of principles and entities—an identity crisis for partnerships, but what are they exactly?

[E] PROBLEM 4—A WORKER OR NOT?

This problem can not only be a quandary for the individual, but one which often highlights an issue for partnerships/LLPs as tax transparent entities and prompts the solution which I will be proposing now (just as I did in my Chartered Institute of Taxation (CIOT) Fellowship dissertation: Thorpe 2015). For general partnerships, the transparent nature means that a partner will be self-employed; however, such partners are not bodies corporate, but rather a collection of multiple sole traders coming together in a common venture. But, for LLPs, as separate legal entities, should the same presumption apply? The same tax rules apply, but we are not comparing like with like and this causes confusion with respect to the status of members.

Members as employees?

The problem of status was highlighted succinctly by Rimer LJ in *Tiffin v Lester Aldridge*:

> The drafting of s.4(4) raises problems. Whilst I suspect the average conscientious self-employed professional or businessperson commonly regards himself as his hardest master, such perception is inaccurate as a matter of legal principle. This is because in law an individual cannot be an employee of himself. Nor can a partner in a

> partnership be an employee of a partnership, because it is equally not possible for an individual to be an employee of himself and his co-partners. Unfortunately, the authors of s.4(4) were apparently unaware of this (2012: paragraph 31).

The section 4(4) referred to is that within the Limited Liability Partnerships Act (LLPA) 2000, which states:

> A member of a limited liability partnership shall not be regarded for any purpose as employed by the limited liability partnership unless, if he and the other members were partners in a partnership, he would be regarded for that purpose as employed by the partnership.

This section pretends that the LLP member is a partner in a general partnership and asks the courts to consider whether that partner would be employed when looking at their role and nature of their relationship in the business, using employment law precedent:

> It requires an assumption that the business of the LLP has been carried on in partnership by two or more of its members as partners; and, upon that assumption, an inquiry as to whether or not the person whose status is in question would have been one of such partners. If the answer to that inquiry is that he would have been a partner, then he could not have been an employee and so he will not be, nor have been, an employee of the LLP (*Tiffin* 2012: paragraph 32).

Rimer LJ was pointing out the fact that a genuine self-employed business owner (ie an equity partner) cannot also be an employee; however, this is based on the notion that the individual and business are one and the same. What if they were totally separate?

Limited Liability Partnerships

LLPs bring an interesting dimension to this question; for tax purposes they are treated in exactly the same way as general partnerships (ie are transparent), so Rimer LJ's points above still stand, but the legal–tax divide widens because they are bodies corporate (ie separate legal entities). It is an odd mix—applying the limited liability protections of a limited company to something which remains transparent and effectively non-existent as far as direct and capital taxes are concerned. As Morse points out: "it has no shareholders or share capital, no directors and no specific requirements as to meetings or resolutions" (2002: 465). Partners are called "members", and there is no joint and several liability for debts as there is with a traditional partnership—members are only liable for their own investments. Indeed, the LLP is more like a form of company rather than partnership—"despite its name, is not a modified form of partnership but a modified form of company—it was even

suggested by one MP[7] during the debates that it even fell foul of the Trades Description Act" (Morse 2002: 462). One reason why the LLP does not act like any partnership is because when the LLPA 2000 and Limited Liability Partnership Regulations 2000 were put together, they imported large parts of the Companies Act 1985, the Insolvency Act 1986 and the Company Directors Disqualification Act 1986. However, the PA 1890 was left out—something which Morse points out as being a reason why there is no "easily accessible corpus of legislation" (2002: 464) for LLPs. The summary document of the Law Commission and Scottish Law Commission's report on partnership law (see below) likewise points out that LLPs are more akin to companies, with much of the Companies Act 1985 applying to them (2003: 3). Also, and more decisive is section 1(5) LLPA 2000 which states: "except as far as otherwise provided by the Act or any other enactment, the law relating to partnerships does not apply to a limited liability partnership".

So, if the LLP is essentially a limited company in all but name, it seems an oddity both that it should be taxed as a transparent entity and that members cannot distance themselves from the business in the same way that a company director can.

From a tax perspective, a member is self-employed, per section 863 of the Income Tax (Trading and Other Income) Act (ITTOIA) 2005), but this is now tempered by sections 863A-G inserted by the Finance Act 2014. If conditions concerning the level of remuneration, the extent of their influence over the affairs of the LLP and of capital contributions are all met, then that member will be subject to PAYE and national insurance. It is an attempt to clear those waters which have been muddied between tax and employment law.

These new sections are designed to treat an LLP member as an employee for income tax purposes if all those conditions are met. The transparency of partnerships is causing the lines between the business and the individual to become blurred—and section 4(4) seems to be confusing partnership with employment. Besides the tax issue, this can be a minefield for employment law—can a partner/member claim employee protections/rights, such as unfair dismissal, sick pay and employer pension contributions? Could an LLP member not be treated as an employee for legal and tax purposes? According to the Supreme Court in the case of *Clyde & Co LLP v Bates van Winkelhof* (2014), an LLP member can be a "worker" for the purposes of section 230(3) Employment Rights Act 1998 with respect to "whistleblowers". This adds further confusion as

[7] Austin Mitchell MP (23 May 2000).

to the status of members and whether they can be employees or workers as far as employment law is concerned, despite their being self-employed for tax purposes.

This confusion could be removed altogether by separating an LLP from the individual—treating both LLPs as separate legal and tax entities, unless they vote to be treated as transparent. A member, as well as being an owner, could treat themself as an employee taking a salary—akin to a director of a limited company. Furthermore, the LLP could have its own liability for tax rather than relying on its being essentially a bare trust with the rules being contained within an SP.

[F] LEGAL ENTITIES

Problem 4 (A Worker or Not?) is caused by the fact that general partnerships are not separate legal entities, and, as Rimer LJ says, you cannot be an employee of yourself; however, an LLP is a separate entity so why does that also apply to a member? The Law Commissions' report recommended that general partnerships be separate legal personalities/"*sui generis*" entities in English law, as in Scots law—though not a body corporate; the Commission did not:

> wish to import the often-antiquated rules of the common law of corporations into partnership law. Partnership has its own rules relating to its formation, internal management, legal relations with third parties and termination (2003: paragraph 5.38).

So even within the UK we have a mismatch, with different treatment of partnerships but with LLP law being UK-wide. The report further stated:

> We believe that separate legal personality is the clearest way of explaining the nature of partnership, particularly if our recommendations for continuity of partnership are adopted (that a change in membership should not terminate the partnership) (paragraph 5.5).
>
> Partnerships often operate as though they were an entity. … Not only will [independent legal personality] bring the law into line with practice, it will make a legal reality of the relationship assumed by clients (2003: paragraph 5.6).

Their final recommendations with respect to the separate legal personality issue were that:

(1) A partnership should have legal personality separate from the partners but should not be a body corporate.

(2) A partnership should be viewed as a legal person whose characteristics are determined by

> (a) the draft Partnerships Bill except so far as varied by contract, (b) the terms of the partnership contract (if different from the default rules of the Bill) and
>
> (c) the rules of common law and equity so far as not being inconsistent with the express provisions of the draft Partnerships Bill (2003: paragraph 5.40).

However, there was no recommendation that partners should be treated as employees—indeed the specific recommendation was that "a partnership should not be capable of engaging a partner as an employee" (paragraph 13.43). In paragraph 13.42, the report pointed out that a dual role as a partner and as an employee could call into question the tax status of the partner and even the existence of the partnership. LLPs were not featured in the Law Commissions' report (2003) due to their being a new creation at the time.

It is the LLP's tax status, however, that I wish to call into question.

[G] A POSSIBLE SOLUTION

I would agree that general partnerships should retain the flexibility and transparency for tax purposes because that is part of their attraction; however, LLPs are different. If an LLP is not a partnership, should it be treated like a company instead? Cottrell gives detailed analysis between LLPs and limited companies with respect to "ownership, direction and management" (1967: 101), but, ultimately, they are not the same entity, and for tax purposes there is no similarity at all. We are left with an odd scenario whereby a member cannot be an employee of their LLP and (seemingly) has no legal protections afforded by employment law (though *Clyde v Van Winkelhof* (2014) has cast doubt on that); yet a company director can also be an employee and enjoy all those corresponding benefits. This is despite both the LLP and the company being separate legal entities. The LLP's tax transparency is the reason why not and the same reason why a general partner cannot be an employee.

If LLPs were treated as separate entities both legally and for tax purposes, the problems that I have highlighted in this note would likely be resolved. The obvious argument against such a proposal is that, if LLPs and limited companies were essentially the same, then surely one is obsolete—and given the limited company's history[8] and the number of

[8] Some of the oldest companies in England include: the Royal Mint being incorporated in 886, Cambridge University Press in 1534 and (until its closure in 2017) the Whitechapel Bell Foundry in 1570.

companies[9] active in the UK, the likely candidate for removal would be the LLP. However, the "inherent flexibility" of the partnership, as Morse calls it (2002: 460), is likely to be something that many businesses would want, along with the feeling of common enterprise which only partnerships have—as Jonathan Fox, former managing partner at accountancy firm Saffrey Champness (now Saffreys) points out to *Accountancy Age*:

> A partnership between like-minded individuals who recognise that they are all dependent on one another … promotes congeniality and a shared sense of direction that I know, having worked in much larger "corporate" and structured professional services firms, can be lacking (Huber 2012).

So, it is likely that there will always be demand for the LLP in its current form, even though it is transparent for tax purposes, with members unable to draw a salary or call upon the protection of employment law. But what if LLPs could elect whether to be treated as transparent or not, allowing for the collegiate character referred to by Mr Fox but also giving members the choice as to whether they wish to remain as a transparent partnership? That element of choice could make the LLP sufficiently distinct from a partnership for tax purposes. By electing to become a corporate, an LLP could be subject to corporation tax—covered by a certain and well-established body of laws contained in statute—with members taking out employment contracts, drawing a salary as well as their profit shares and having the security of employment law at the same time.

Something similar is available in the United States with limited liability companies (LLCs). These are partnerships which can elect for corporate treatment (by filing Form 8832—Entity Classification Election with the Internal Revenue Service) and become "opaque", namely a separate legal entity which owns the profits of a business. Owners of LLCs are also known as members and the LLC can be treated as either a partnership, corporation or as part of the member's own tax identity. If an LLC elects to be treated as a corporate, a member who actively works for the LLC can be treated as an employee.

[H] CONCLUSION

Partnerships in the UK are somewhat confused: they are legal entities in Scotland but nowhere else in the UK; they operate as separate entities from their owners as far as the realities of businesses are concerned but not according to the tax system. Also, LLPs are legal entities and bodies

[9] Over 4.7million, representing over 93% of all bodies corporate in 2021/2022 per Companies House official statistics (30 June 2022).

corporate but are not treated as such by the tax system so their members cannot be equated to company directors/employees; furthermore, despite the importance and prominence of partnerships and LLPs within the modern business landscape, there is no tailored legislation outlining their tax rules.

Most of these problems could be resolved by the following:

1 Place SP D12 onto a statutory footing.

2 As well as being bodies corporate in law, allow LLPs the option to be treated as such for tax purposes—choosing either to:

   a. be treated as a transparent entity so its members are subject to income tax on their share of LLP's profits, per the current rules; or

   b. be treated as a body corporate in all respects, akin to a limited company, subject the LLP itself to corporation tax and allow members to sign employment contracts and draw a salary.

Problem 1 (The Law)—the status, standing and importance of partnership tax law might be solved by having the PA 1890 and LLPA 2000 complemented by corresponding primary legislation, enforceable by the tribunals/courts.

Problem 2 (Beneficial Ownership)—the uncertainty surrounding beneficial ownership of assets might be resolved with respect to LLPs because, whilst they already hold business assets in their own name, it is the members who do so for tax purposes. If the LLP owned them in all respects, the legal and beneficial ownership would lie with the LLP, and there would be no confusion between business and individuals.

Problem 3 (A Trust in Disguise?)—the question as to what a partnership is exactly might be resolved to some degree (from a tax perspective at least) by both of my suggestions (1 and 2 above). If the law for partnership tax is contained within a tailored piece of legislation partnerships, then it would at least have its own tax identity within statute. The rights, obligations and interactions between the partners would still overlap the laws of trust and agency. However, from a tax perspective, if they had their own set of laws setting out the consequences of partnership business and partner interaction, they could then be taxable entities in their own right in law, rather than merely as an SP.

Removing the reporting obligations of a taxable partnership under the TRS (where any property is held in express trust) would also help remove any doubts as to what a partnership is. Partners within a taxable partnership are currently subject to self-assessment and are identified with a unique tax reference number—HMRC knows who they are and what

their income is from the partnership, so further anti-money-laundering reporting requirements are completely unnecessary. If LLPs were separate entities, they could potentially be taken out of the partnership sphere altogether, helping to simplify the process as to what LLPs are and resolve the confusion around their being one thing in law and another for tax.

Problem 4 (A Worker or Not?)—the interaction between the business and its owners and the employment issues arising may be resolved if members were no longer their own masters (to use Rimer LJ's phrase) nor treated as a collective of sole traders. Distance between the individual and the business for tax purposes would mean the master would be the LLP itself and the member an employee—if they chose to be.

There would be no need for general partnerships to be subject to these suggestions—most traders want a simple and transparent vehicle from which to operate; the recommendation from the Law Commissions that these partnerships should not be bodies corporate supports this assertion (2003). LLPs did not become subject to the Law Commissions' conclusion simply because of timing; had LLPs been created earlier (or the report made later), the conclusions might well have included a similar recommendation about a separate tax identity for LLPs. The LLP, as a body corporate already in law and more akin to a limited company in every respect except tax, is different; my suggestion would merely be extending the body corporate status to that of tax. The ability to choose whether that treatment applies or not would also distinguish the LLP further and help it rise above any confusion about partnerships and where they fit for tax purposes.

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