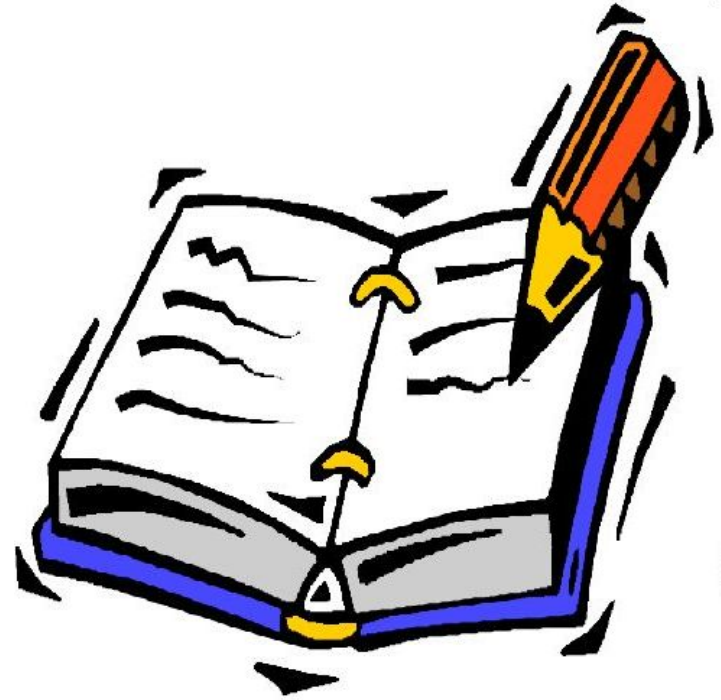

3. For profit companies

Zhanat Alimanov, assistant professor

Home assignment 5

- 8. **Statute on State Enterprise**
- 9. **Statute on Non-Commercial Organizations**
- **Revise Chapters 2, 9 & 10, Civil Code**



Terms

1. State enterprise – государственное предприятие
 2. Business Partnerships – Хозяйственные товарищества
 3. General Partnership – Полное товарищество
 4. Limited Partnership – Командитное товарищество
 5. Limited Liability Partnership (LLP) – ТОО
 6. Corporation = Joint Stock Company – АО
 7. General Partner – Полный товарищ
 8. Limited partner – Вкладчик
 9. Partner – участник
 10. Interest - доля
-

Plan (Peculiarities of organizational forms)

4. Sale of Interest to the Third Parties
5. Sale of Interest to the Company itself
6. Forced Sale of Interest
7. Liabilities of Companies for the debts of its Owners



Remark

Legal Entity = Union of

- People = **Partnerships**
- Capital = **Corporation**
- Work = **Cooperative**



Remark

	General Partnership	Limited Partnership (Коммандитное товарищество)	LLP / Additional liability Partnership	Corporation
Owners	General Partners (Полные товарищи)	General Partners (полные товарищи) & Limited Partners (вкладчики)	Partners (участники)	Shareholders (акционеры)
Stake	Interest (доля)	Interest (доля)	Interest (доля)	Shares (акции)
Who can manage	Owners only	Owners only (general partners)	Outsiders (со стороны)	Outsiders

5. Sale of Interest/Shares to the Third Parties



Example

Let's assume that **Alexei** found his friend **Boris** who is willing to buy his interest for KZT 20,000.

Maxim does not want Boris as Boris does not have a lot of money.

Alexei wants to send Maxim to hell, and proceed with the deal.

Can **Alexei** sell his interest to Boris?



A. General Partnership

Max: against
Tanya: ran away

**Can Alexei sell
his interest to Boris?**

- **Yes**
- **Yes**, however, he needs to offer his stake first to Max & Tanya at the same price
- **No**, he needs consent of Tanya
- **No**, he needs consent of Max
- **No**, he needs consents of Tanya & Max



B. Limited Partnership

Max, limited partner: against
Tanya, general partner: ran away

Can Alexei sell
his interest to Boris?

- Yes
- Yes, however, he needs to offer his stake first to Max & Tanya at the same price
- No, he needs consent of Tanya
- No, he needs consent of Max
- No, he needs consents of Tanya & Max



B. Limited Partnership

Alex, general partner: against
Tanya, general partner: ran away

Can Maxim sell
his interest?

- Yes
- Yes, however, he needs to offer his stake first to Alex & Tanya at the same price
- No, he needs consent of Tanya
- No, he needs consent of Alex
- No, he needs consents of Tanya & Alex



C. Limited Liability Partnership

Max

Alex

Tanya

Max: against

Tanya: ran away

**Can Alexei sell
his interest to Boris?**

- **Yes**
- **Yes**, however, he needs to offer his stake first to Max & Tanya at the same price
- **No**, he needs consent of Tanya
- **No**, he needs consent of Max
- **No**, he needs consents of Tanya & Max



D. Additional Liability Partnership

Max

Alex

Tanya

Max: against

Tanya: ran away

**Can Alexei sell
his interest to Boris?**

- **Yes**
- **Yes**, however, he needs to offer his stake first to Max & Tanya at the same price
- **No**, he needs consent of Tanya
- **No**, he needs consent of Max
- **No**, he needs consents of Tanya & Max



E. Corporation

Max

Alex

Tanya

Max: against

Tanya: ran away

Can Alexei sell his interest to Boris?

- **Yes**
- **Yes**, however, he needs to offer his stake first to Max & Tanya at the same price
- **No**, he needs consent of Tanya
- **No**, he needs consent of Max
- **No**, he needs consents of Tanya & Max



5. Sale of Interest/Shares to the Company itself



Example

Tired of constant obstacles created by **Maxim's** attitude & **Tanya's** absence, **Alex** says, "Fine! I quit! Take your interest back. I do not want to be part of the firm! Let the firm take the interest back! Give me back my part of the interest in the firm!"

Let's assume that the firm has the assets left.

Does the firm have to buy back its interest?

Max

Alex

Tanya



A. General Partnership

Max

Alex

Tanya

Does the firm have to buy back its interest?

1. **Yes**, provided he notifies other partners on 6 months prior notice
2. **Yes**, there is no need for prior notice.
3. **No.**



B. Limited Partnership

Alex is general partner.

Does the firm have to buy back its interest?

1. **Yes**, provided he notifies other partners on 6 months prior notice
2. **Yes**, there is no need for prior notice.
3. **No.**



C. Limited Liability Partnership

Max

Alex

Tanya

Alex is general partner.

Does the firm have to buy back its interest?

1. **Yes**, provided he notifies other partners on 6 months prior notice
2. **Yes**, there is no need for prior notice.
3. **No.**



D. Additional Liability Partnership

Max

Alex

Tanya

Alex is general partner.

Does the firm have to buy back its interest?

1. **Yes**, provided he notifies other partners on 6 months prior notice
2. **Yes**, there is no need for prior notice.
3. **No.**



E. Corporation

Alex is general partner.

Does the firm have to buy back its interest?

1. **Yes**, provided he notifies other partners on 6 months prior notice
2. **Yes**, there is no need for prior notice.
3. **No.**

Max

Alex

Tanya



6. Forced Sale of Interest/Shares against the will of owner

SOLD



Example

Let's assume that everything is fine with the law firm.

In fact, the firm is very good. However, **Alex** as a professional is very bad. He made a bad job on a few contracts, and now the firm is facing a **huge liability suit** in the amount of KZT 1 bln.

Can Max & Tanya get rid of Alex as a partner/shareholder?

Alex does not want to leave.

Max

Alex

Tanya



A. General Partnership

Alex: against

Max & Tanya: do not want him as a partner

Can Max & Tanya get rid of Alex as a partner/shareholder?

- **Yes**
- **Yes**, through the court, provided there is (1) decision of all partners, and (2) good reason
- **Yes**, through the court, provided there is (1) decision of the General Meeting, and (2) Alex grossly violated his obligations to the Partnership.
- **No**, not against his will



B. Limited Partnership

Alex: against

Max & Tanya: do not want him as a partner

Can Max & Tanya get rid of Alex as a partner/shareholder?

- **Yes**
- **Yes**, through the court, provided there is (1) decision of all partners, and (2) good reason
- **Yes**, through the court, provided there is (1) decision of the General Meeting, and (2) Alex grossly violated his obligations to the Partnership.
- **No**, not against his will



C. Limited Liability Partnership

Max

Alex

Tanya

Alex: against

Max & Tanya: do not want him as a partner

Can Max & Tanya get rid of Alex as a partner/shareholder?

- **Yes**
- **Yes**, through the court, provided there is (1) decision of all partners, and (2) good reason
- **Yes**, through the court, provided there is (1) decision of the General Meeting, and (2) Alex grossly violated his obligations to the Partnership.
- **No**, not against his will



D. Additional Liability Partnership

Max

Alex

Tanya

Alex: against

Max & Tanya: do not want him as a partner

Can Max & Tanya get rid of Alex as a partner/shareholder?

- **Yes**
- **Yes**, through the court, provided there is (1) decision of all partners, and (2) good reason
- **Yes**, through the court, provided there is (1) decision of the General Meeting, and (2) Alex grossly violated his obligations to the Partnership.
- **No**, not against his will



E. Corporation

Alex: against

Max & Tanya: do not want him as a partner

Can Max & Tanya get rid of Alex as a partner/shareholder?

- **Yes**
- **Yes**, through the court, provided there is (1) decision of all partners, and (2) good reason
- **Yes**, through the court, provided there is (1) decision of the General Meeting, and (2) Alex grossly violated his obligations to the Partnership.
- **No**, not against his will



7. Liability of Companies for the debts of the Owners



Example

Let's assume now that the firm is really fine and it is **Alex who has lots of debts**. The creditors come to the firm, and demand to pay Alex's debt.

Alex's debt is **50 mln**, and the firm net assets are **50 mln**. Alex owns **20%** of it.

Is the firm liable for the debts of Alex?



A. General Partnership

Alex's debt: 50 mln.
Firm's net assets: 50 mln.
Alex's stake: 20%

Is the firm liable for the debts of Alex?

- Nothing
- **10 mln.**, that is **20%** of **50 mln** debt.
- **50 mln.**

Max

Alex

Tanya



B. Limited Partnership

Max

Alex

Tanya

Alex: general partner

Alex's debt: 50 mln.

Firm's net assets: 50 mln.

Alex's stake: 20%

Is the firm liable for the debts of Alex?

- Nothing
- **10** mln., that is **20%** of **50** mln debt.
- **50** mln.



B. Limited Partnership

Max

Alex

Tanya

Alex: limited partner

Alex's debt: 50 mln.

Firm's net assets: 50 mln.

Alex's stake: 20%

Firagainst

Is the firm liable for the debts of Alex?

- Nothing
- **10 mln.**, that is **20%** of **50 mln** debt.
- **50 mln.**



C. Limited Liability Partnership

Max

Alex

Tanya

Alex's debt: 50 mln.

Firm's net assets: 50 mln.

Alex's stake: 20%

Firagainst

**Is the firm liable for the debts of
Alex?**

- Nothing
- **10 mln.**, that is **20%** of **50 mln** debt.
- **50 mln.**



D. Additional Liability Partnership

Max

Alex

Tanya

Alex's debt: 50 mln.

Firm's net assets: 50 mln.

Alex's stake: 20%

Firagainst

Is the firm liable for the debts of Alex?

- Nothing
- **10 mln.**, that is **20%** of **50 mln** debt.
- **50 mln.**



E. Corporation

Max

Alex

Tanya

Alex's debt: 50 mln.

Firm's net assets: 50 mln.

Alex's stake: 20%

Firagainst

**Is the firm liable for the debts of
Alex?**

- Nothing
- **10** mln., that is **20%** of **50** mln debt.
- **50** mln.



2. Legal Entity = Union

Legal Entity = Union of

- People = **Partnerships**
- Capital = **Corporation**
- Work = **Cooperative**



Practice Questions



Example

Stariko raises KZT 1 bln. capital by issuing:

- (1) Bonds (облигации); **or**
- (2) Equity or common shares (обычные акции).

Aibek bought these securities.

What are the differences?

Problem

1. Voting
2. Assets vs. liabilities
3. Order of claim



Problem 1

Let's assume that we have transportation company **Shipco**.

Property Structure

Assets: USD 300 mln.

Is it likely that it will receive the loan of USD 30 mln?



Problem 1

Let's assume that we have transportation company **Shipco**.

Property Structure

Assets: USD 300 mln.

Liabilities: USD 390 mln.

They made losses this year, and they urgently need additional 30 mln. to launch one important project.

How legally can they solve the problem?



Problem 2 (**Risks**)

Let's assume that there is a KZ oil company called **Oilco**.

It would like to obtain a loan of USD100 mln.

Let's assume that Bank A is willing to give them the loan at 11% interest.



Problem 2 (Risks)

The structure of the interest is the following:

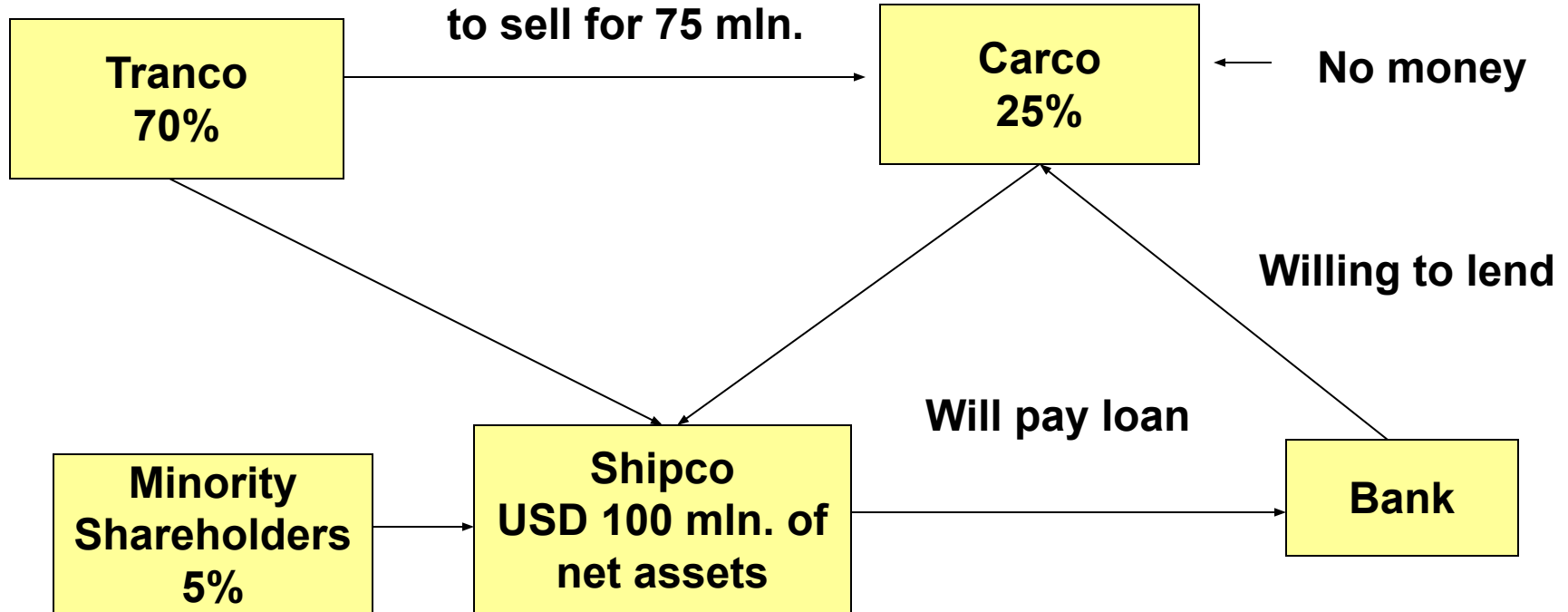
- (1) Country risk - 5%
- (2) Price risk – 3%
- (3) Default risk – 1%
- (4) 2% are the rest.

How legally can they reduce the risk, i.e., reduce the interest?



Problem 3 (Risks)

Let's assume that we have the following corporate structure:



***Pay attention to Income Tax**