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Answer-to-Question-__1__

Format - Letter

Mrs J Ferguson

Home Address

(Unknown on information provided)

Chartered Tax Advisor Firm

Our Address

(Unknown on information provided)

30 October 2025

Dear Jo,

Tax Implications of potential divorce transactions, and offered remuneration packages

This letter is based on the information made available to us at the time of writing this letter, and is for the attention of Mrs J Ferguson only. We accept no liability what so ever for use by third parties.

Introduction

This letter covers the tax implications of the potential divorce transactions, which advice on how to best mitigate the potential charges. We have also discussed the offered remuneration package and advised the route which would yeild the most cash per annum.

As part of this advice, we have not provided any in depth information on Inheritance Tax. If you wish to discuss this aspect in more detail, please do let me know accordingly.

Executive Summary

Capital Gains Tax ('CGT') between spouses will be treated as Nil Gain, Nil Loss. This means that any capital transactions between spouses will not give rise to a CGT charge, instead the base cost of the asset from the transferor, will become the base cost for the transferee.

This rule will continue to apply even when spouses have separated, and will last until the earlier of 3 years from the date of separation, being 1 October 2027, or the date of the decree absolute (divorce).

Disposals between Jo and Dominic after the earlier of the above dates will then become a normal CGT transaction, with CGT payable on the calculated gain.

Shares in Dashiell Consulting Ltd

The purchase of own shares by the company will, by default, be a deemed dividend distribution, giving rise to an Income Tax Charge of £169,071.

As all of the Capital Conditions are satisfied, the distribution will instead be deemed a capital payment, subject to CGT, giving rise to a tax liability of £89,386.

BADR will not be available on this disposal as the company would not qualify as a trading company for the purposes of BADR.

Should the commercial property be included within the consideration for Jo's shares, this will not satisfy the capital conditions, and therefore reinstate the income distribution position.

We would therefore recommend to receive full cash consideration for the shares, and look to purchase the property as a separate transaction post completion of the Purchase of Own Shares.

Unit 1

The gift of the Unit will be a deemed disposal at market value, giving rise to an immediate Capital Gains Tax charge.

Business Asset Disposal Relief would not be available on disposal, as this property has been let to Dashiell Consulting Limited at market value. Therefore, the Capital Gains Tax rates applying to this deemed disposal will be 10 and 20%.

It would be possible to claim Gift relief on this deemed disposal whereby the gain arising on Jo would be rolled into the base cost for Jonathan and Lucy, removing the immediate CGT charge for Jo, but inflating the future CGT charge on both Jonathan and Lucy.

We would advise for Jonathan and Lucy to collectively pay Jo a sum of £125,000 for the property, which will result in no Excess Proceeds, and in turn, remove any immediate charge to CGT.

The difference between the £125,000 received and the £260,000 market value will be

deemed to have been gifted to Jonathan and Lucy, resulting in a PET. This PET will be chargeable to IHT should Jo not survive the 7 years from the date of the gift.

Marital Home

Capital Gains Tax will arise in respect of the period of which the property had not been Jo's main residence.

The share of the proceeds received by Dominic on disposal of the property, or for Jo's half share, will be the deemed Gain for CGT purposes.

Under a deferred sale agreement, it is possible to treat the ownership period to have ceased at the date at which Jo moved out of the property, in October 2024. As the full ownership period would then be equal to the occupation period, the full gain on eventual disposal will be exempt by virtue of PRR.

As Jo will have retained an interest in the Marital home, she will be subject to the additional SDLT rates when purchasing a new property.

This SDLT will be recoverable provided the main home is sold within 36 months of purchase of the new property, and a claim is made within 12 months of disposal of the marital home.

Dominic estimates selling the property, or buying Jo's half share, in 5 years time. As this will exceed the 36 month period, we would recommend Jo to remain living with her sister, or moving to rented accommodation, for at least the next 2 years. When the marital home is then disposed, she will be eligible to claim the repayment of SDLT.

New Job opportunity

Jo has been offered three routes for employment.

Option 1 is a package of £60,000 salary along with a company car through salary sacrifice. This option has a gross employment package of £62,033 and a resulting net cash position per annum of £46,537.

Option 2 is a package of £60,000 salary, but does not encompass a company car option. Instead any business mileage will be reimbursed at the HMRC given rate of 45p per mile for 10,000 miles, and 25p thereafter. This option has a gross employment package of £62,250, with a resulting net cash position of £43,466 per annum.

The third option is for Jo to operate as a limited company. The company would invoice the new employer £5,000 per month, resulting in a turnover of £60,000 per annum. The most beneficial profit extraction method is to take a salary of £12,570 from the company, which is tax deductible for Corporation Tax, with a balance paid to Jo in dividends equalling the distributable reserves. Overall, Jo would be able to take a gross remuneration of £47,708, with a net cash position after tax and car lease costs of £41,121.

It would therefore be our advice to accept option 1, as this would yeild the highest cash position per annum.

Main Content

Shares in Dashiell Consulting Ltd

Firstly, Jo currently holds 35% of the ordinary share capital within Dashiell Consulting Ltd. These shares were gifted to Jo by Dominic for no consideration in 2018. On the basis that these shares were gifted after the date of the marriage on 15 August 2018, this gift

would have been a deemed disposal at Nil Gain Nil Loss. There would have been no immediate CGT payable by Dominic, and Jo would have a base cost of £70.

As part of the divorce, Jo and Dominic have agreed that the shares will be purchased by Dominic for a sum of £450,000. However, as Dominic cannot afford to purchase these shares himself, Dashiell Consulting Ltd will complete a 'Company Purchase of Own Shares'.

Income Distribution

The default position of a Company Purchase of Own Shares is for the Income treatment to apply.

The Income position treats the proceeds received as an income distribution made by the company, taxed as a dividend on the recipient. The Dividend Allowance would be available which would tax the first £1,000 at 0%, on the basis it has not been used elsewhere. The balance will then be taxed at the dividend rates, being 8.75%, 33.75% or 39.35% depending on other income for the year.

This deemed dividend would be equal to the proceeds received, less the original cost of the shares. Therefore should the Income treatment apply, a resulting dividend of £449,930 will become taxable in the year of receipt at your top rate of Income Tax.

Along with the dividend, there would also be a disposal of the shareholding, which has potential to give rise to a Capital Gain. The deemed proceeds of disposal will be equal to the original subscription price, with the actual price paid for the shares being an allowable cost against this amount.

It has been assumed that Dominic was the original subscriber for the shares at a cost of

£70. Therefore, the deemed disposal will not give rise to a capital gain or loss.

You will note in appedix 1, we have estimated your income for the year to 5 April 2027 to be £60,000 from your new employment offer.

Should the income distribution treatment apply, a tax liability of £169,071 would arise and be payable by 31 January following the end of the relevant tax year.

Capital Distribution

Provided certain criteria are satisfied, the capital treatment would apply whereby the distribution received will be a capital distribution, and therefore taxed to CGT.

In order to obtain the capital treatment of the Purchase of Own Shares, the following criteria must be met -

- 1) Company must be an unquoted trading company
- 2) Purchase must be for the benefit of the trade
- 3) Seller must be UK resident at the time of the sale
- 4) Seller must have owned the shares for a period of 5 years ending with the date of sale
- 5) The holding must be substantially reduced
- 6) Seller must not be associated with the company after the sale takes place
- 7) Consideration must be of cash

Condition 1) would be satisfied as the company is not a listed on the stock market, and more than 50% of its activities arise from non-investment activities.

Condition 2) would also be satisfied as the divorce of co-directors will likely impact the management of the business, and therefore would be a benefit of the trade if a Company Purchase of Own Shares takes place.

Condition 3) would also be satisfied as Jo is a UK resident and will likely be a UK resident at the time of sale

Condition 4) would be satisfied as Jo has owned the shares since July 2018, being 7 years.

Condition 5) will be satisfied as this reduction must be more than 75% of the share holding. As Jo is selling all of her shares in the company back to the business, this condition would be met.

Condition 6) would also be satisfied as Jo and Dominic are no long living together as husband and wife, nor will Jo own more than 30% of the share capital after the disposal.

Condition 7) would be satisfied, provided that the full consideration is paid in Cash.

Therefore, as all of the above conditions are satisfied, the Capital Treatment will apply, exposing the transaction to CGT, rather than Income Tax.

Business Asset Disposal Relief ('BADR') may also be available on disposal if the following conditions are met.

- 1) Owns more than 5% of the share capital

- 2) Company is an unquoted trading company

- 3) Jo has owned the shares for more than 2 years

Jo would satisfy conditions 1) and 3), however condition 2) would not be satisfied as for BADR, the definition of trading company is no more than 20% of the total assets are from non-trading assets. As the investment property is 27% of the total value of the assets, BADR would not be available.

The distribution will therefore be subject to CGT at a rate of 10 and 20%, depending on other earnings for the year. As Jo would have other income of around £60,000, this gain would be chargeable to CGT at a rate of 20%, resulting in tax payable of £89,386 (see appendix 2).

By satisfying the Capital conditions, a tax saving of £79,685 would arise, resulting in a greater amount of cash to be received from disposal.

It would be beneficial to seek advanced clearance from HMRC in respect of the Company Purchase of Own Shares to ensure they agree the Capital Treatment will apply. This will then prevent HMRC from contesting the tax treatment of the transaction.

Commercial Property from Dashiell Consulting Ltd

Within earlier correspondence, Jo alluded to the potential to purchase the commercial property from the business so she may then let the property out in her own name.

One of the conditions for the beneficial Capital Treatment is for all of the proceeds to be

in the form of cash. Therefore, if an arrangement had been agreed whereby the consideration was part cash, part property, the capital treatment would not longer apply, resulting in the proceeds to be deemed an income distribution.

Due to this, the less favourable tax position would arise.

In order to maintain the Capital Treatment, we would advise to agree for the consideration to be paid in cash, and then to purchase the property from the business once the purchase of own shares has completed.

Unit 1

Jo owns a commercial unit, Unit 1, Lavender Business Park, which she purchased solely in 2019 for £125,000. This unit is used, and has always been used, by Dashiell Consulting Limited as their premises, and Jo has charged a full market rent to the company.

Gift of the Property to Jonathan and Lucy

Capital Gains Tax

A gift of an asset will give rise to both a Capital Gains Tax charge, and an Inheritance Tax ('IHT') Charge.

For CGT purposes, the disposal will be deemed to be a disposal at Market Value to connected persons. This means that the proceeds will be equal to £260,000. Jo would be laible to CGT on the difference between the value at the date of the gift, and her original cost.

Unfortunately, as the Unit had been let to the company at full market rent, the deemed

disposal would not satisfy the conditions for BADR, and therefore the Capital Gains Tax charge would be at a rate of 10 or 20%, depending on the level of income for the year.

However, as Jo would not have received any cash for this disposal, she can defer the capital gain into the base cost of the Unit by making a claim to Gift Relief. This relief will roll the gain into the base cost for Jonathan and Lucy, which will then increase their respective gains once they decide to sell the Unit. In order to claim Gift relief, it would be necessary that this gift is made before the Purchase of Own Shares is completed, as the Unit would then be an asset used with Jo's personal company.

Should Jonathan and Lucy make a payment to Jo as consideration for the property which is less than the current market value, the 'Excess Proceeds', being the resulting figure of proceeds less original cost, will be immediately chargeable to Capital Gains Tax.

In order to avoid a CGT charge arising on the gift, Jonathan and Lucy could pay a total of £125,000 to Jo for the property. Therefore, the Excess Proceeds would equate to Nil as both the cash received, and original cost, would be £125,000.

If Jo can defer the gift of the Unit to Jo and Lucy until 6 April 2027, she would be able to receive a total of £128,000 for the Unit, as this would leave excess proceeds of £3,000, being equal to the Annual Exemption for the year - again resulting in no tax.

Jonathan and Lucy would in either case receive the property with a deemed base cost of £260,000, unless a Gift Relief Claim is made.

See Appendix 3.

Inheritance Tax

For IHT purposes, the gift of the Unit would be a Potentially Exempt Transfer ('PET'), and will only give rise to an IHT charge should Jo not survive the 7 year period from the date of the Gift. Should Jo not survive the 7 years from the date of the gift, Jonathan and Lucy may be liable to an IHT liability based on the value of the Unit at the date of the gift.

Should Jonathan and Lucy pay an amount of £125,000 to Jo for the Unit, Jo would be deemed to have made a gift equal to the difference between the Market Value, and the amount received, being £135,000. This gift will be a PET for IHT purposes, and chargeable to IHT should Jo not survive the 7 years from the date of the gift.

Marital Home

The marital home was purchased by Jo and Dominic in July 2018 for £300,000. Since separation, Jo has left the property and currently lives with her sister. The current market value of the property is £650,000.

In our earlier correspondence, I note that you have mentioned that Dominic is unable to purchase your half share of the property as he does not have the funds to do so. Dominic has not immediate plans to sell the property until at least when his children have moved out, in roughly 5 years time.

Deferred Sale Agreement

It may be agreed that you retain your interest in the property and upon sale in 5 years time, you will be entitled to half of the net proceeds, being £225,000 after mortgage redemption.

This capital sum received would be deemed to be your share of the 'Gain' on disposal, potentially subject to Capital Gains Tax. However, as the property has been your main

residence throughout the entire period of ownership, you would be entitled to Private Residence Relief ('PRR'), which has the effect of exempting the gain attributable to the occupation period.

There are complexities surrounding deferred sale agreements, as you left the property in October 2024, the property would not be your main residence for the period from October 2024 to the date of sale.

Ordinarily, this period of non-occupation, less 9 months, would be chargeable to Capital Gains Tax. However, if a deferred sale agreement is made, the period of ownership would have deemed to have ended at the date you left the property, being in October 2024.

Therefore, as the period from purchase to October 2024, the property had always been your main residence, the entirety of the gain will be exempt from Capital Gains Tax under PRR, and therefore no amounts will become payable.

Stamp Duty Land Tax

Stamp Duty Land Tax ('SDLT') will be due to be considered when purchasing a new home. As Jo would still retain an interest in the the Marital home, any purchase of a new property would be chargeable to SDLT at the additional rates. This additional rate is 5% on top of the normal SDLT rate chargeable for the value of the property.

It is possible to reclaim the additional SDLT paid on the purchase of the second property if the main property is disposed of within 36 months of purchase of the second property, and the claim is made within 12 months of sale of the main property.

However, as Dominic estimates a period of 5 years until either the property is sold, or he is able to purchase your half share of the property, the claim would not be available.

We would therefore advise to continue to live with your sister, or move to rented accomodation, for at least a further two years. When the property is then sold, this will then allow for a claim to be made to recover the additional SDLT paid.

New Job Offer

Jo has been offered a new job with Benekia Ltd, which Jo has been given the choice between Employment, with a company car through salary sacrifice and reimbursement for business miles, or through creation of a Limited Company.

Employment Offer

The employment offer is for £60,000 per annum, starting in April 2026. The employment has been offered with, or without, a company car through salary sacrifice. The alternative option available is the option to trade as a limited company.

Option 1 - With Company Car

Under the offer with a company car, Jo will receive the availability of a car which she is able to use for private use. This car will give rise to a taxable benefit in kind, however the salary sacrifice contribution will lessen this exposure to tax.

With the company car, Jo would have an overall employment package of £62,033. After paying the Income Tax and Class 1 primary National Insurance Contributions, Jo would receive a total of £46,537 per annum.

Option 2 - without company car

Jo has the option to lease the car privately at a cost of £300, and the company would then reimburse Jo for any business miles undertaken in the car, being estimated at 5,000.

The overall employment package with this option would be £62,250, however due to larger expenses, such as the lease for the car, the net cash position would equate to £43,466.

Of the two employment options, it would be beneficial for Jo to opt for the option with the company car, as this would result in a higher net cash position.

See appendix 4 for comparison of Employment Contracts.

Limited Company vs Option 1

Should Jo choose to operate as a limited company, she would be required to report and pay Corporation Tax based on the company profits for the year.

The Company would be in receipt of £60,000 turnover, of which, after expenses, would likely see gross profit before tax of £43,380, including a salary to Jo of £12,570. Corporation Tax is payable on this amount at 19%, resulting in a Corporation Tax charge of £8,242. Therefore, the distributable reserves would equate to £35,138.

These reserves are able to be then distributed to Jo via dividend, which would be taxable to Income Tax, but at the beneficial Dividend rates.

The most beneficial profit extraction route from the company would be to mix dividends with a salary of £12,570. The salary would in the this case be sufficient to benefit from receiving the NIC credit towards state benefits, whilst not suffering any NIC Charge. The balancing dividends would then be chargeable at dividend rates.

Should Jo decide to operate as a limited company, she would receive an overall remuneration package of £47,708, and after tax and paying for the lease on the car, have

received net cash of £41,121.

See appendix 5 for comparison of Employment contract 1 vs Limited Company.

It is therefore beneficial to chose option 1, as this will yeild the highest net cash position per annum.

I hope the above proves useful. Once you have had time to read through the above, I would suggest that we have a meeting to discuss this advice in detail to ensure you are comfortable with the same and the next steps.

I look forward to hearing from you.

Yours faithfully,

Tax Advisor.

Appendix

1) Income Treatment of Company Purchase of Own Shares

Proceeds		450,000	
Cost		-70	
Dividend			449,930

Dividend Allowance	1,000 x 0%	0	
Basic Rate	0 x 0%	0	
Higher Rate	65,140 x 33.75%	21,985	
Additional Rate	383,790 x 39.35%	147,086	
Total Tax			169,071
Capital Gains Tax			
Proceeds		70	
Cost		-70	
Gain / Loss		Nil	

2) Capital Treatment of Company Purchase of Own Shares

Proceeds		450,000	
Cost		-70	
Gain			449,930
Annual Exemption			-3,000
			446,930
CGT @ 20%		89,386	
CGT Payable			89,386

3) Capital Gains Tax on Sale at Under Value

Proceeds		125,000	
Cost		125,000	
Excess Proceeds			Nil
Base Cost	Jonathan	Lucy	
Market Value	130,000	130,000	
Gift Relief	0	0	
	130,000	130,000	

4) Comparison of Employment Contract with or without Company Car

		with Co Car	Without Co Car	
Salary		60,000	60,000	
Car Beneift		5,033	0	
Sal Sac		-3,000	0	
Mileage			2,250	
		62,033	62,250	
Less				
Income Tax		12,245	11,432	
NI		3,251	3,210	
PCP		Nil	3,600	
Fuel		Nil	542	
Net Cash		46,537	43,466	

Emp Package		62,033	60,000	
PA		-12,570	-12,570	
		49,463	47,430	
Basic Rate	37,700 x 20%	7,540	7,540	
	@ 40%	4,705	3,892	
		12,245	11,432	
NIC				
	37,700 x 8%	3,016	3,016	
	@ 2%	235	194	
		3,251	3,210	

5) Employment vs Limited Company

		Employment	Limited
Salary		62,033	12,570
Dividends		N/A	35,138
		62,033	47,708

Less			
Income Tax		12,245	2,987
NIC		3,251	0
Remaining car payment		N/A	3,600
Net Cash		46,537	41,121

Payment from limited			60,000
Expenses			4,050
Salary			12,570
Profit			43,380
CT @ 19%			8,242
Reserves			35,138
Salary		12,570	
Dividends		35,138	
Salary			
IT	0 x 20%		0
NIC	0 x 8%		0
Dividends			
IT	1,000 x 0%		0
	34,138 x 8.75%		2,987