Institution **CIOT - CTA**
Course **APS Owner-Managed Businesses**

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Exam ID

Count(s)	Word(s)	Char(s)	Char(s) (WS)
Section 1	**3674**	**16354**	**20013**
Total	**3674**	**16354**	**20013**

Answer-to-Question-_1_

REPORT

To: Michael Briggs

From: AD Accounting

Subject: Shareholder dispute

Date: 30th November 2024

INTRODUCTION

This report hase been prepared for Michael Briggs (you) only and should not be relied upon by a third party. Liability will not be accepted if they do.

The report includes the tax implications on the exit of Pedrp Hellas and Dianna Peach. In addition, the awarding of shares to Henry Fall.

We have prepared the report on the basis that all information provided is correct and accurate.

If the information in this report is delayed it will need to be updated to reflect any changes to legistlation.

Please note that we have not considered any third party purchases based on you not wanting to do this.

EXECUTIVE SUMMARY

On the basis that Briggs Ltd (BL) has enough funds in the year ended 30 June 2025, we recommend that a purchase of own shares (POS) by BL should be carried out on Pedro and Dianna's shares. The shares will then be cancelled by BL.

Stamp Duty will be payable of £2,750 by BL on Pedro's shares. £550 will be payable on 400 of Dianna's shares in each tax year.

The purchase of own shares by BL, will mitigate any personal financing my you and any potential tax charges payable by BL. Reducing any personal risk on failure to repay. POS will be a quicker alternative to raising funds.

A repuchase of Pedro's shares should be done in one transaction to help speed up the process.

A professional valuation should be carried out on the valuation of the shares. Advanced clearance should be sought from HMRC to confirm that the valuation represents a true market value (MV). Advanced clearance will mitigate any delay from HMRC on review of the shares.

Pedro should make a claim for Buisness asset disposal relief (BADR) on the sale of his shares. A capital gains tax (CGT) liability of £34,400 will be payable by Pedro. Pedro must make a claim for BADR following the end of the tax year of sale (31 January 2027), with tax payable also due on this date.

As you would like to assist Dianna, we recommend that a POS transaction should be carried out. We recommend that two transactions are done over 2 tax years (2024/25 and 2025/26) to enable Dianna the use of two of the annual exemption allowances (AEA).

Dianna will have two CGT libailities of £13,773.

We recommend that both Pedro and Dianna seek financial and inheritance tax advice following the proceeds received.

To incentives Henry through shares. Enterprise Management Incentive (EMI's) shares should be granted to Henry to allow his holding to increase to 10%. We recommend that these are granted at a discount of £1 to meet Henry's financial expectations. EMI's will give greater flexibility for you to allow Henry to exercise his shares, only when the company targets are met.

Employment income will arise on the discounted shares, chargeable and payable by Henry.

We recommend that if any share sale is considered in the future that this is post 2 years of Henry holding the EMI shares.

BL will need to ensure that the exercise of shares is reported on their ERS form.

VALUATION OF SHARES

You stated that an agreed value of shares will be £275. A professional valuation should be carried out before any sale of shares is done.

Advance clearance should be sought from HMRC to confirm that the valuation of £275 does represent a true MV.

HMRC may want to carry out their own valuation by the shares & valuation team.

We recommend that you sought this clearance to avoid any delay in the exit of Pedro.

EXIT OF PREDO HELLAS

Currently Pedro's base cost for his shares is £200,000. We are unaware of any gift relief claims being made when Pedro purchased his shares from you in June 2017. Please confirm. We have therefore, continued on the basis that his base cost will be £200,000.

Any sale by Pedro of his shares will create a capital gain (CG). Pedro will be entilied to his AEA of £6,000. We assume that this has not been utilised in the year already.

Pedro will be chargeable to CGT at 20% based on his expected income in the year (provided Predo recieves his full termination package this will make him an additional rate taxpayer).

Following the sale, Pedro will lose his personal allowance (PA) of £12,570. PA is tapered away by £2 for every £1 over £100,000 (it is lost after income exceeds £125,140). Any income in the year already deducted against his PA, will be taxed.

As Pedro has been an employee of BL and held his shares for at least two years he will be able to make a claim for BADR (See below). This will mitigate his chargeablility by 10%.

PUCHASE OF PEDRO'S SHARES BY MICHAEL BRIGGS

You mentioned that you are willing to borrow funds to purchase Pedro's shares. Borrowing can be down in two forms, loaning the money from BL or raising finance thorugh a personal loan. Each has been discussed below.

LOAN FROM BRIGGS LTD

When a company makes a loan to a participator this will result in a tax charge payable to HMRC. The charge is equal to 33.75% of the loan.

To purchase all of Pedro's shares, a loan of £550,000 will need to be made plus £2,7550 to cover the stamp duty payable. A tax charge of £186,553 will arise. The charge is payable to HMRC 9 months and a day from the end of the accounting period (AP). Unless you repay the loan in full before this date.

The loan will become chargeable as a dividend on you if you fail to repay the loan back. BL would be able to claim the the tax charge from HMRC however, no corporation tax (CT) relief can be obtained on the write off against profits.

Dividends are taxed at top slice (taxed last against any other income). The large dividend will result in the loss of your PA and being taxed at 39.35%.

This will be an expensive option if your resources are limited to begin with, potenital risk not being able to repay the funds and the additional tax payble by BL, we do not recommend this option.

RAISING FUNDS THROUGH PERSONAL LOAN

The raising of funds by means of a bank loan can be a risky and expensive route again.

You would need to borrow enough funds to pay Pedro and SD (see below), on the purchase of the shares.

Interest will be charged on the loan, however, tax relief can be obtianed against your income in the year, as you would be purchasing funds to by shares in a trading company.

If you fail to repay the loan, this puts your personal wealth at risk. For this reason we do not recommend this option.

An alternative option would be for BL to purchase the shares. This has been discussed below.

PURCHASE OF SHARES BY BRIGGS LTD

When shares are purchased by a company from a shareholder, this is known as a purchase of own shares.

A POS can only take place provided the following conditions are met;

- The shareholder held at least 5%. Pedro will meet this condition as he currently holds 19%.

- The company is a personal trading company. BL is a qulifying trading company, so this condition is met.

- They have held the shares for 5 years and are UK resident. Pedro meets this condition having held shares for 7 years and being UK resident.

- Following the share buy back they have reduced their holding by 25%. Pedro will no longer hold any shares, this condition will be met.

- Following the share buy back they are no longer connected to the company. Pedro will no longer hold any shares, this condition will be met.

- The purpose of the buy back is the benefit the trade. Due to the shareholder disagreements, this condition will be met. HMRC allow for shareholder disagreements as a valid benefit of the trade, as continued disagreement could affect the trade in the future.

Based on the above, Perdo and BL meets all the conditions.

The benefit of a share buy back, will provide a faster purchase which is what you are aiming for, no financing will be necessary by yourself as BL currently has enough funds to buy back all of Pedro's shares. It also, provides no risk on loan repayments.

You will need to ensure that cash in BL is not required for any other reason and you're happy for the funds to be used for the purchase. However, considering that you would like this to happen quikly, a POS would be the quickest option.

The treatment of the POS will be chargeable on Pedro under CGT. He will be liable to CGT at 10% and 20% before any relief claims made. Pedro will be able to utilise his AEA of £6,000 against the gain.

If a gift relief claim was made by you on the shares sold to Henry at the undervalue amount fo £60 per shares, the gain shown in APPEDIX A will be increased. You can finalise this in our next meeting.

Once the shares are purchased by BL, they will then be cancelled. This will increase Henry's holding by 1%.

BUSINESS ASSET DISPOSAL RELIEF (BADR)

BADR is a relief that allows gains to be charged to CGT at 10%. There is a lifetime allowance of £1 million on gains taxed at BADR.

Pedro will be able to make a claim for BADR as he holds at leats 5% in BL, he has been an employee of BL, BL is a personal trading company and he has held his shares for at leats 2 years prior to the sale.

To enable Pedro to mitigate his gain to 10% he should make a claim for BADR. This will need to be done on 31 January following the end of the tax year of sale. We understand that no siginifcant BADR calims have been made in the past. We asusme that the gain will be fully covered by BADR.

The sale of his shares will be treated as a material disposal for BADR purposes. As Pedro is disposing all of his shareholding.

APPENDIX A shows that a CGT of £34,400 will arise on Pedro, on the assumption he makes a claim for BADR, we therefore, recommend that Pedro makes the claim for BADR to apply. Pedro will recieve after tax proceeds of £515,600. The tax liability will double if our recommendation is not taken.

STAMP DUTY (SD)

The purchase of Pedro's shares will attract SD of 0.5% on the value of the shares. A SD liability of £2,750 (550,000* 0.5%) will be payable by BL.

SUMMARY

Even though you are willing to borrow funds to purchase shares. Our recommendation would be for BL to purchase Pedro's shares under the POS route. This will mitigate the need of you personally raising finance and mitigating any of your personal wealth from being at risk.

BL has enough funds in the bank to pay Pedro out right and we assume that you're happy for funds to be used for this reason. We recommend that before any sale you seek HMRC approval on the value of the shares to prevent delay. Once this has been confirmed, the sale can be carried out quickly.

Due to the large amount of funds that Pedro will recieve from the sale, we recommend that he seeks financial advise on ways to invest his funds tax efficiently. Pedro could consider EIS reinvestments to mitigate or reinvest funds. However, further advise is recommended.

There will be no national insurnace contributions (NICs) payable on the sale of shares.

TERMINATION PAYMENTS

The statutory reduancy amount of £24,234 will be fully covered by Pedro's £30,000 exemption amount.

As Pedro's contract stated a notice period of 6 months, the amount he will receive on this amount will be fully taxable. Regardless on whether he worked this period or not. BL will need to ensure PAYE will deducted each month and paid to HMRC.

The £120,000 ex gracia amount is not a contractual payment. None of this will be eligble for offset against the remaining £30,000 exemption.

Pedro will be taxed on the full £120,000. He will need to report this on a self-assessment tax return. Should he need any assistance, we can do this for him.

A CT deduction can be made by BL on termination payments, however, as they are not stitpulated in his contract, the deduction is limited for 4x the statutory redundancy amount (£946,936).

EXIT OF DIANNA PEACH

The sale of Dianna's shares can be obtainned through the same alternatve options as stated above.

We recommend that a purchase of Dianna's shares is done by BL.

Dianna has a base cost for of her shares of £800. APPENDIX B shows that a CGT liability of £35,693 will arise on the sale of Dianna's whole shareholding. After tax proceeds of £184,307 will be available.

Based on Dianna's income position according to the SA302, Dianna is a basic rate tax payer. The sale of all her shares will be charged to CGT at 10% on the remaining basic rate band (BRB) and 20% on the excess over.

As Dianna is no longer an employee or officer of BL, she will not meet all of the conditions for BADR, as such no claim can be made.

Due to Dianna having some of her BRB available she will mitigate some of the gain being taxed at 20%.

There is no alternative option for Dianna to make a claim to mitigate her CGT liability at 20%. However, as you have mentioned you are willing to assist Dianna, two sales could take place over two tax years (2024/25 and 2025/26), this will reduce the amount of funds taxed at 20% and will enbale the use of two AEA.

APPENDIX B shows that a CGT liability if £13,773 will arise on the sale of 400 shares, After tax proceeds of £192,454 will arise on both sales. This will give mitigate a tax liability of £8,147 when compared to a sale of all her shares.

To for this, a sale will need to take place before 5th April 2025, and the next taking place after 6th April 2025.

Due to the tax saving, our recommendation would be to carry out to share purchase by BL, again mitigating any personal finacing by yourself or tax charges. We assume that Dianna is willing to consider selling all of her shares over two tax years. If both sales are made by 30 April 2025, Dianna will be able to receive all funds within 5 months. Subject to funds being available in BL.

The sale of Dianna's shares will means Henry's holding will increase to 4%.

INHERTIANCE TAX (IHT)

IHT becomes payable on the value of the persons estate at their death. If any gifts are made, these could become chargeable.

Shares are a chargeable asset to IHT on death. However, it is likely that Business Property Relief (BPR) will reduce any IHT liability to nil, provided that the shares were held for 2 years before death.

Following the sale of both Pedro and Dianna's shares, it is important to note that the shares would then no longer become eligble for BPR on death. The cash received will then become fully chargeable to IHT. We recommend that they seek advice on ways to mitigate the increase in their estates.

DIANNA

As we know Dianna is not in good health. We therefore, strongly recommend that Dianna seeks IHT advice on the proceeds received following the shale of her shares.

If Dianna has full use of the nil rate band (NRB) (currently £325,000) this will offset against the cash received. Any unused NRB from her hunsband would have transferred to Dianna, so if hers is unavilable. It may be covered by any transferred amount.

<u>INCREASING HENRY FALL'S SHAREHOLDING IN BRIGGS LTD.</u>

Firstly if our advice stated above is taken, the purchase of shares by BL, will increase Henry's shareholding by 1%.

You can consider giving incentivising Henry though shares by way of a transfer of shares from you or through a share scheme. Each has been discussed below.

GIFT OF SHARES FROM MICHAEL TO HENRY

If you wish to gift Henry some of your shares, this will result in a CG on you. You will be charged to CGT on the gain arising. As you have a base cost of £1 per share this will prove expensive as majoirty of the gain will be taxed at 20%.

Depending to the amount of shares sold, you could make a claim for BADR. As you are disposing of your shares, this will be treated as a material disposal for BADR. You are an officer of the company and having held the shares for at leats two years, a claim would be available.

We would need to confirm whether you made a claim for BADR on the shares purchased from Pedro In June 2017. However, as no subtaintial claims have been made it is likely you have enough lifetime allowance available.

To make the claim for BADR, you would need to ensure that at least 5% of your shares are sold to Henry, otherwise, you would not meet all the conditions.

As Henry is only able to pay £1 for the shares, this would be a sale at under MV. However, for the purpose of CGT, the sale will be treated as taking place at MV. You will be charged on the value of the shares at the date of sale.

GIFT RELIEF (GR)

A way to mitigate your gain would be to make a claim for gift relief. GR works by deferring the gain and offsetting it against the base cost of the shares. This would push the gain into Herny's shares base cost. Henry will then continue with a lower base cost.

As the gain would then become chargeable on Henry, when he disposes of his shares, Henry would need to agree to this, so a joint claim will need to be made. If Henry is happy with this option then the claim will need to be made within 2 years from the end of the tax year of sale.

If you want to incentives Henry, it is unlikely that he may want to proceed with this route.

As there will be no benefit to Hnery having a lower base cost.

EMTERPRISE MANAGEMENT INCENTIVE (EMIs)

EMI's is a share scheme which is used to award certain employees. It is also used as a benefit to help keep key members of staff.

The maximum amount of shares which can be awarded under EMI is £250,000. So no more than £250,000 on the value of shares can be awarded to Henry. This however, should bring him up to a 10% holding.

EMI is a flexibly way to gift shares. Shares can be given to employees at a discount. As Henry is not able to pay more that £1 per shares this will be ideal for him and likely to be an incentive to stay in BL. The lower payment per share will meet the benefit of Henry as he will receive more shares at a lower rate now.

No tax implications will arise on the grant of the shares.

An employment income charge will arise on EMI shares which have been granted at a discount on the sale of shares.

The amount charged to employment income is the lower of the MV at grant or the MV at exercise, less the amount paid by Henry for the shares (£1 per share).

Income tax (IT) and NICs will be payable by Henry.

You will have control on when Henry can exercise his shares (you can stimpulate this on grant). Therefore, the option to only allow Henry to exercise once BL targets are met, can be obtained.

The excerise of the options must take place within a period of 10 years from the date of grant. This should be met provided targets are met in 2 years.

In the event of the shares being exercised, they must be reported on BL's ERS form. We will be able to help you with this.

If targets are not met, and in the event of any sale. The excercise of the shares, where there is a potential sale of BL shares in place. This will cause a disqualifying event on EMI shares.

The effect of a disqualifying event will mean that the shares will be treated as exercised and subject to NIC. BL will be liable to pay NIC. This will need to be reimbursed by Henry.

BL could obtain a CT deduction on the employment income paid by Henry.

A CG will arise on Henry, less the amount charged to employment income and amount paid. Tax planning can be done.

EFFECTS ON THE INCREASE OF HENRY'S SHARES

Currently Henry does not meet the criteria for BADR or BPR, as he does not hold enough shares.

Once the excerise of Henry's shares, provide his hodling no exceeds 5% and he has held his shares for at least 2 years before sale or death. He will be able to make a claim for BADR or BPR.

Once you have read through this report, please let me know if you have any questions.

Ann Adviser
AD Accounting.

APPENDIX A - CAPITAL GAIN ON SALE OF PEDRO'S SHARES

	£		
PROCEEDS (2,000*275)	550,000		
Less;			
Cost	(200,000)		
Net	350,000		
Less:			
AEA	(6,000)		
Chargeable	344,000		
CGT			
BADR @10%	34,400		
After tax proceeds (550,000-34,400)	515,600		

APPENDIX B - CAPITAL GAIN ON SALE OF DIANNA'S SHARES

	£ - All shares	£ - 400	
Proceeds (275*800)	220,000	110,000	
Less:			
Cost (800*1)	(800)	(400)	
Net	219,200	109,600	
Less:			
AEA	(6,000)	(6,000)	
chargeable gain	213,200	103,600	
CGT			
37,700-6,626 @10%	3,107	3,107	
213,200 - 50,270 @20% 103,600 - 50,270 @20%	32,586	10,666	

tax payable	35,693	13,773	
After tax proceeds 220,000-35,693 110,000-13,773	184,307	96,227	