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Count(s)	Word(s)	Char(s)	Char(s) (WS)
Section 1	**4139**	**19430**	**24828**
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Answer-to-Question-_1_

To: George Remworth

From: [Tax Director]

Subject: Tax considerations in relation to proposed disposal of property portfolio and investment plan for development of online retail business

Date: 8 November 2021

INTRODUCTION

This report has been prepared to advise the board of Dubfast & Glasburgh Group plc and the boards of the Dubfast & Glasburgh companies involved in the relevant transactions on the following matters and the key tax considerations in relation to those matters:

1. the proposed disposal of the Dubfast & Glasburgh property portfolio; and

2. the proposed investment in an online retail business.

This report is based on tax law in force as at the date of this report. The advice in this report may need to be updated in the future for any relevant changes in UK tax legislation.

No responsibility is accepted for any reliance place on the contents of this report by any third parties.

Terms used

"Parent" means Dubfast & Glasburgh Group Plc

"PRopco" means DG Proco Ltd.

EXECUTIVE SUMMARY

Sections A to D of this report consider the 4 options and which is most likely to give proceeds after tax and after paying off Propco's debts sufficient to enable the costs of the investment plan of 1,140 to be avaialbe. None of the options will result in the full amount being avaialbel (though noted that the full amount will not be needed until 2025).

FOr the reasons below I would recoomend option 1 (section A):

Section A - This option should lead to post-tax proceeds of £1,079.18 million. I would recommend this option (assumign the purchaser does not require that Parent meet the SDLT costs).

Section B - This option should lead to post-tax proceeds of £1,031.21 million. I would not recommend this option.

However, if the purhcaser were to require any SDLT under option 1 to be paid by teh seller, that could change the suitability of the options.

Section C - If it is possible to have the base cost of teh shares in Newco as £1,730 million, the post tax proceeds after paying off Propco's debts would be £1,079.18 million.

If the base cost in Newco shares is minimal, the post tax proceeds would only be £774.71 million.

In each case that would be less £86.5 million for the SDLT degrouping charge on the assumption the purchaser demands that

that cost is met by the seller. As a result, I would not recommend this option.

Section D - After paying off debts of Propco, this would lead to post-tax proceeds of £1,027.41 million. As a result, I would not recommend this option.

Section E - as noted in section E, other structures are unlikely to be commercially viable.

Section F - there should be various tax deductions avaialble on the costs of the expansion, as noted in this section.

SECTION A: SALE OF PROPERTIES TO THIRD PARTY PURCHASER DIRECTLY

Expected consideration

I would expect that the consideration paid by a purchaser would be approximately the market value of the 60 properties, which is £1,730 million.

This consideration would be paid to Propco. I would expect that under the terms of the relevant loan agreements, the borrowings secured against the properties would be required to be repaid if the properties are sold. As a result, Propco would repay £600 million under those loans.

Tax on Propco on the disposal

Chargeable gain on disposal of properties

Propco would be treated as realising a chargeable gain on disposal of the various properties (and without more would be subject to corproation tax on that gain at 19%). Broadly the gain arising would be the sale proceeds less the cost of the properties (though with some further adjustments for indexation

and rebasing of the assets held in March 1982).

The full calculation of the expected capital gain arising is set out in Appendix 1 to this report. As noted in that appendix, the capital gain would be approximately 539.95.

Depending on the exact gain figures for each of the 23 retail properties acquired befreo 31 March 1982, it may be necessary to make certain elections in relation to how those properties are rebased at their 31 March 1982 value. We would not expect that to be the case based on teh numbers supplied so far, but that point should be confirmed once further details are available.

Transfer the gain to Parent and use of capital losses in Parent

Where two companies are in a capital gains group (as Parent and Propco are), it is possible to transfer capital gains and losses between the two companies.

This can be done by joint election between the two companies within two years of the end of the accounting period of the company making the gain or loss. So if Propco were to sell the assets in the year ended 31 December 2021, the election must be made by 31 December 2023.

This election should be made in this case. The advantage of making that election is that Parent can then set some of the capital losses of £400 million it has from the failed USA expansion.

There is a restriction on the use of that loss. Parent must claim what is called the "deductions allowance" in its return for the relevant year (31 December 2021 if the gain is transferred in that year). That will allow it to offset the gain against £5 million of losses plus 50% of the remaining gain above that amount (subject to a limit of the total amount of losses

available).

As a result, Parent should be able to offset the gain against approximately 272.475 million, calculated as follows:

5 million + (50% of 539.95 million - 5 million) = 5 million + 267.475 million = 272.475 million.

That should reduce the gain from 539.95 million to 267.475 million.

Tax on a gain of 267.475 million at 19% would be 50.82 million.

That gain would then sit in Parent and so it would need to have the necessary funds to pay the resulting tax. If it does not have hte funds, Propco could lend the relevant amount or declare a dividend out of the proceeds it has received. In either case that can be done in a tax free manner.

<u>Other tax considerations on disposal</u>

No further tax should arise for any member of the Dubfast & Glasburgh group under this option.

The purchaser would have to pay stamp duty land tax ("SDLT") on the purchase at rates of up to 5%. Approximately, the SDLT would be £1,730 million x 5% = £86.5 million. There is a 0% and 2% band but only for conisderation under £250,000 per property so is unlikely to materially affect the calculation given the size of numbers here.

That could affect the consideration a pruchaser would be willing to pay as compared with a share sale (which would only be subject to lower stamp duty on shares).

No stamp duty on shares would arise (as no shares are being sold)

and, as no options to tax have been made, no VAT should arise.

The purchaser would want to enter into a s.198 election to ensure that it can claim capital allowances on the fixtures in the properties. The amount which can be attributed to the fixtures is limited to their original cost of £30 million but otherwise any amount can be set.

As the tax written down value of these fixutres is £10 million, that would seem to be a fair number to choose and would not result in any balancing charges or allowances for Propco. A higher number than that would result in tax for Propco and a lower number would result in a further tax dedcution.

It may be that the purchaser is willing to pay more money for ht eproperies as a result of the avaialble capital allowances (though the numbers are quite small compared with the overall consideration).

Sale and leaseback rules

One point to be aware of is the fact that the sale and leaseback rules would apply to this transaction. THose rules should not apply under any of the other alternatives as those are corporate sales rather than direct land sales.

The effect of the sale and leaseback rules is that the deduction available in the Dubfast & Glasburgh group companies for the rent they pay for the properties will be limited to the commercial rents which would have been paid under the lease.

To the extent any rent is disallowed, it can be carried forward for relief in future years.

I would not expect these rules to apply in this case as I would expect that the Dubfast & Glasburgh group companies would be

paying market value rent for the properties, but it is a point to be aware of.

Conclusion

This option should lead to post-tax proceeds of £1,079.18 million (see Appendix 2). Thi sis the recommended option (as discussed below and in teh executive summary).

SECTION B: SALE OF PROPCO

Expected consideration

I would expect the consideration for the disposal to be approximately equal to the market value of the properties (£1,730 million) less the debt in Propco (£600 million). As a result, expected consideration would be £1,130 million.

It may be that the purchaser would request that the debt in propco be repaid before the sale takes place. That may be possible though the necessary funds would need to be sourced to repay the debt. I have assumed that Propco will be sold for £1,130 million without any of the debts being repaid.

Tax on Parent on the disposal

Parent would realise a chargeable gain on the disposal of Propco. That gain would be equal to £919.94 million(see Appendix 3).

You may be aware that sales of shares by companies are often exempt from tax due to an exemption called the substantial shareholding exemption (the "SSE"). However, the SSE will not apply to this transaction as Propco is not a trading company (the letting of property is not considered a trade for UK tax purposes).

As noted above in section A, Parent has capital losses which it can set against this gain.

As a result, Parent should be able to offset the gain against the full £400 million of losses, calculated as follows:

5 million + (50% of 919.94 million - 5 million) = 5 million + 457.47 million = 462.47 million. However, this amount is limited to the amount of the carried forward loss itself of £400 million.

That should reduce the gain from £919.94 million to £519.94 million.

Tax on a gain of £519.94 million at 19% would be £98.79 million.

<u>Other tax considerations</u>

The purchaser would be required to pay stamp duty at 0.5% on the consideration for the shares, being £5.65 million (£1,130 million x 0.5%).

No SDLT should arise as only shares are being sold and there is no VAT on a sale of shares.

<u>Conclusion</u>

This option should lead to post-tax proceeds of £1,031.21 million (see Appendix 2).

As the post-tax proceeds would be less than option 1 (sale of the properties directly) and the entirety of the brought forward capital losses in Parent would have been utilised (whereas under option 1 some of those losses would remain to be used against any future capital gains), I would not recommend this option.

However, if the purhcaser were to require any SDLT under option 1 to be paid by teh seller, that could change the suitability of the options.

SECTION C: TRANSFER PROPERTIES TO A NEWCO AND THEN SELL NEWCO

Expected consideration for Newco

I would expect that the conisderation a pruchaser would pay for Newco would be the market value of the properties Newco holds (£1,730 million). The debts would remain in Propco and so would not serve to depress the price.

Transfer of properties into Newco

We have not discussed the consideration which would be paid by Newco for the properties from Propco. As a new company, Newco will not have any resources beyond those injected into it by Parent.

It should be possible to have Parent subscribe for shares equal to the market value of the properties (£1,730 million) with the subscription price left outstanding as a intercompany debt. Then Newco could acquire the properties from Propco for market value as an intercompany debt left outstanding.

The two debts could be netted off against one another such that Parent owes Propco an amount equal to the market value of the properties (£1,730 million). That amount could then be resolved by Propco making a distribution in an amount equal to the value of that debt.

We should confirm with corporate legal counsel that that should be psossible.

Chargeable gain on transfer of properties

Newco and Propco would be, at the time the properties are transferred, in a capital gains group with one another (as they would both be wholly owned by Parent).

As a result, the transfer of the properties would be deemed to take place on a "no gain, no loss" basis, broadly meaning that Propco would not be treated as realising a gain on this transfer and Newco would be treated as holding the properties with the same base cost as Propco.

However, where the transferee under such a transfer goes on to leave the capital gains group within 6 years of the transfer (as Newco will do when it is sold), what is known as a degrouping charge arises.

That degrouping charge is calucalted by treating the relevnat assets (here the properties) as being sold and immediately repurchased at market value at the date of the "no gain, no loss" transfer.

This degrouping charge would then be added to the proceeds Parent would realise on a sale of Newco.

The degrouping charge will be equal to the market value of the properties at the date of the "no gain, no loss" transfer less the cost of those properties. That is the same figure as calcualted in Appendix 1, £539.95 million.

SDLT

Similarly to the points made regarding chargeable gains above, while there is no SDLT on transfers of properties within a group, that relief will not apply if there are arrangements in existence such that a person has or could obtain control of the purchaser company (here, Newco) but not the vendor company (here, Propco).

As the intention is that Newco will be sold shortly after, SDLT group relief should not be avaialable.

It is also worth noting that even if it is possible to ensure that the test for "arrangements being in existence" for the purchaser to gain control of Newco but not Propco is not met, there is a futher rule whic provides that if Newco leaves the group within 3 years, the SDLT will apply.

The SDLT will be the same as teh SDLT noted above in section A (£1,730 million x 5% = £86.5 million) as the properties would be treated as being transferred at market value (regardless of the price actually assigned to them in the transfer from Propco to Newco).

This SDLT would arise on Newco but I would expect that the purchaser would require it to be paid by the Dubfast and Glasburgh gorup (as a tax arising due to seller side pre-transaction restructuring).

Other tax conisderations

No VAT should arise on these transfers as no options to tax have been made over the relevant properties.

<u>Sale of Newco</u>

Parent would realise a chargeable gain on the disposal of Newco. That gain would be equal to £2,269.95 million if the base cost of the shares in Newco is nil and £539.95 million if hte base cost of the shares in Newco is £1,730 million (see Appendix 5 and dicussion above regarding base cost).

The SSE will also not apply here as Newco is not a trading company (the letting of property is not considered a trade for UK

tax purposes).

There is a rule which allows the SSE to apply to the sale of a Newco which has had a trade transferred into it. However that rule will not apply here as Newco has not had a trade transffered into it. Rather it has had a property letting business transferred into it. As noted above, a property letting business is not a trade and so the SSE will not apply here.

As noted above in sections A and B, Parent has capital losses which it can set against this gain.

If the gain is £539.95 million, as noted in section A, the gain can be reduced from 539.95 million to 267.475 million using the losses.

Tax on a gain of 267.475 million at 19% would be 50.82 million.

If the gain is 2,269.95 million, the full 400 million of losses could be utilised, reducing the gain to 1,869.95.

Tax on a gain of 1,869.95 million at 19% would be 355.29 million.

Other tax considerations on sale of Newco

The purchaser would be required to pay stamp duty at 0.5% on the consideration for the shares, being £8.65 million (£1,730 million x 0.5%).

No SDLT should arise as only shares are being sold and there is no VAT on a sale of shares.

Conclusion

If it is possible to have the base cost of teh shares in Newco as £1,730 million, the post tax proceeds after paying off Propco's

debts would be £1,079.18 million.

If the base cost in Newco shares is minimal, the post tax proceeds would only be £774.71 million.

In each case that would be less £86.5 million for the SDLT degrouping charge on the assumption the purchaser demands that that cost is met by the seller.

SECTION D: TRANSFER PROPERTIES TO NEWCO AND THEN SHARE SUBSCRIPTION IN NEWCO

<u>Consideration for share subscrption</u>

As noted above in section C, I would expect that the conisderation a pruchaser would pay for Newco would be the market value of the properties Newco holds (£1,730 million). The debts would remain in Propco and so would not serve to depress the price.

<u>Transfer of properties into Newco</u>

For the same reasons as noted above, while a chargeable gain and SDLT would not necessairly arise at first on the transfer of the properties by Propco to Newco, they would later arise as Newco will leave the group Propco is in.

The only difference to the analysis noted above is that the chargeable gain in this case would actually arise in Newco (rather than Parent) as it is leaving the group otherwise than by a sale of shares. As noted above, I would expect the purchaser to require any sell side restructuring costs to be met by the seller. It would be possible to reallocate this gain to the Dubfast and Glasburgh group.

No stamp duty or VAT for the reasons noted above in section C.

Subscription for shares in Newco

Parent would not be disposing of anything under this option and so no chargeable gain would arise for it.

Equally, no SDLT, stamp duty on shares or VAT should arise.

Repatriating proceeds into Dubfast & GLasburgh group

The potential issue with this structure would be repatriating the proceeds into the D&G group. If the pruchaser subscribes for shares in Newco, they would pay the subscription amounts to Newco (rather than Parent). As such, the only way to get the money into the D&G gorup would be for Newco to pay full MV for the properties.

Conclusion

After paying off debts of Propco, this would lead to post-tax proceeds of £1,027.41 million (see appendix 7).

SECTION E: ALTERNATIVE STRUCTURES

One alternative to ensure that the SSE would be available might be to transfer the properties into a trading subsidiary and then sell that subsidiary.

However, we have assumed that that would not be commercially possible (either because the Dubfast & Glasburgh group does not wish to dispose of any of the trading subsidairies or because the relevant buyer would only wish to buy properties) and so have not conisdered the option further.

SECTION F: TAX CONSIDERATIONS RELATING TO INVESTMENT PLAN FOR

PROPOSED ONLINE BUSINESS

Software development

Depending on the precise nature of the work undertaken, this cost may qualify for research and development allowances (possibly allowing a deduction against the taxable profits of Parent of the amount of the research plus an additional super deduction) or normal capital allowances (allowing a one off annual investment allowance deduction of £1 million and then writing down allowances each year at 18%).

Warehouses

In some situations it is possible to roll the gain made on the dispsoal of an asset into the cost of acquiring a new asset. This operates on a group wide basis (so a gain in Propco, for example, could be rolled over against an asset acquired by Parent).

However, rollover will not be possible in this case. Firstly it is not available on disposals of shares (so would not apply to the options in sections B, C or D) and is only available where the assets disposed of and acquired are used in a trade (so would not apply to section A as Propco is not using the properties in a trade).

However, various allowances should be available in relation to the warehouses:

1. Plant and machinery capital allowances - to the extent the annual invesment allowance is not used up on the software development, that should be avaialbel against these costs. Otherwise, writing down allowances of 18% per year should be available.

2. Structures and buildings allownace - an allowance of 3% per

year on qualifying contruction costs (that should broadly be all the costs on the warehouses other than the 25% on plant and machinery and the 20% on land and any SDLT).

APPENDIX 1: CHARGEABLE GAIN ON DISPOSAL OF PROPERTIES BY PROPCO

23 retail properties acquired before 31 March 1982:

|-----------|-----------|-----------|-----------|-----------|

Proceeds	750
Less: cost (note 1)	(200)
Less indexation (note 2)	(500.2)
Gain	49.8

Note 1: For assests acquired before 31 March 1982 there is a rule which ensures that the cost of the asset is deemed to be its market value as at 31 March 1982 (£200 million in this case), subject to certain exceptions which I would not expect to apply here.

Note 2: The indexation would again be based on the market value as at 31 March 1982.

200 x (278.1-79.44)/79.44 = 200 x 2.501 = 500.2

37 retail properties acquired between 1 April 1982 and 31 December 2019:

|-----------|-----------|-----------|-----------|-----------|

Proceeds	980
Less: Cost	(300)
Less: Indexation (Note 3)	(189.85)
Gain	490.15

Note 3: Indexation would need to be caluclated on a property by property basis based on the acquisition date of each property. However, as an estimate, we have assumed the following:

1. two properties were acquired after December 2017 (meaning that no indexation allowance is avaialble in respect of those properties);

2. to establish the average indexation on each of the remaining 35 properties, it is reasonable to work out the indexation from the mid point in the period from March 1982 to December 2017 (January 2000) and treat that as being the indexation available on each property.

Therefore the indexation would be caluclated as follows:

total cost x (278.1-166.6)/166.6 x number of properties applies to / total properties

300 x 0.669 x 35/37 = 189.85

Total gain = 49.8 + 490.15 = 539.95

APPENDIX 2: POST-TAX PROCEEDS OF SALE OF PROPERTIES

|-----------|-----------|-----------|-----------|-----------|

Proceeds	1,730
Less: repayment of loans	(600)
Less: tax	(50.82)
Post-tax proceeds	1,079.18

APPENDIX 3: GAIN FOR PARENT ON SALE OF PROPCO

Proceeds	1,130
Less: cost (note 1)	(60)
Less: indexation (note 2)	(150.06)
Gain	919.94

Note 1: I assume that the capital gains base cost of £60 million is after any rebasing. But please do let me know if that is not the case.

Note 2: Indexation = 60 x (278.1-79.44)/79.44 = 60 x 2.501 = 150.06.

APPENDIX 4: POST-TAX PROCEEDS OF SALE OF PROPCO

Proceeds	1,130

Less: tax (98.79)

Post-tax proceeds 1,031.21

APPENDIX 5: GAIN FOR PARENT ON SALE OF NEWCO (SECTION C)

Option 1: no base cost of shares in Newco

|-----------|-----------|-----------|-----------|-----------|

Proceeds 1,730

Plus de-grouping charge gain 539.95

Less: cost (minimal)

Less: indexation (note 2) (none)

Gain 2,269.95

Note 1: No indexation on assets acquired after December 2017.

Option 2: base cost of shares in Newco of £1,730 million

|-----------|-----------|-----------|-----------|-----------|

Proceeds 1,730

Plus de-grouping charge gain 539.95

Less: cost (1,730)

Less: indexation (note 2) (none)

Gain	539.95

Note 1: No indexation on assets acquired after December 2017.

APPENDIX 6: POST TAX PROCEEDS SECTION C

Option 1: no base cost of shares in Newco

Proceeds	1,730
Tax	(355.29)
Repay loans in propco	(600)
Post tax proceeds	774.71

Option 2: base cost of shares in Newco of £1,730 million

Proceeds	1,730
Tax	(50.82)
Repay loans in propco	(600)
Post tax proceeds	1,079.18

APPENDIX 7: POST TAX PROCEEDS SECTION D

Proceeds (sale of properties to Newco)	1,730

Tax (degrouping charge of 539.95 at 19%)	(102.59)
Repay loans in propco	(600)
Post tax proceeds	1,027.41