**Sale of AlpineXpress/Verbier Bus Co**

**Investors**

* Stephen Nurse (SN). UK citizen, UK resident, UK taxpayer
* Kimberly Dillon (KD). US citizen, CHF/UK remittance tax payer

**Background to company**

There are actually 2 companies. But economically we control both of them. The second company was set up largely to facilitate investment via EIS, both to get tax relief at source and also to pave the way for a sale benefiting from CGT relief

1. “AlpineXpress SARL” (AX) (The original company, dates back to 2004)
2. “Verbier Bus Company SA” (VBC) (The new company, set up for EIS purposes, set up in 2014)

**Balance sheet/Income statement**

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| --- | --- | --- |
|  | **AlpineXpress SARL** | **Verbier Bus Company SA** |
| **Assets** | Cash: ~CHF 1m  Loan to SN: CHF 1.2m | Cash: ~CHF 1m  Vehicles: CHF 700k |
| **Capital structure** | “Parts socials” 100% owned by SN | Ordinary A: 100 shares owned by KD  Ordinary B (EIS): 10 shares owned by SN |
| **Invested Capital** | CHF70K, from SN at estate auction in 2009 | CHF50K from KD 2013  CHF1,100K from SN EIS issue date: 1 Apr 2015 |
| **EBITDA** | Combined: ~CHF 700k pa, anticipated EBITDA multiple 7x. Sale ~CHF 5m | |

**Objective:**

1. Tax-efficient extraction of the retained earnings (~CHF 2m) to investors (KD & SN0
   * CGT: No CGT in Switzerland, but UK CGT is payable on the sale of a Swiss company, by UK resident tax-payer.
   * However, sale of EIS shares (30% of VBC) is CGT free in UK
2. Sale of business (which could involve closing one of the companies) to a third party investor, in the most tax efficient manner

**Issues to consider**

1. Both companies have significant cash & liquid assets that we would like to extract prior to a 3rd party sale as we believe it will be difficult to get this included in purchase price at face value (i.e. 7xEBITDA + liquid assets)
2. Sale of VBC is CGT free for the EIS shares held by SN. How can we shift more of the value realized to this subset of shares?
   1. Difficult to shift value to VBC tax efficiently. If AX operated at a loss (bleeding out the cash), and pushing the cash to VBC, this will increase the corporation tax burden of VBC. Might as well pay the CGT (20%) rather than Swiss taxes (~25%)

**Proposed Solutions**

**Objective 1: Extraction of retained earnings:** VBC does share buyback to convert retained earnings to a Capital Gain (concentrated in the EIS-eligible shares only), as opposed to paying dividends

* 1. VBC buys back some (not all) of the EIS shares, from the investor (SN) for cash, for a high valuation, i.e. CHF2,000,000. As these shares are EIS, no CGT in UK for SN, and we believe there is no CGT in Switzerland
  2. **Problems: Only 10% of the combined company is EIS-eligible:**  Would the accountants/HMRC care that all the retained earnings are given to this subset of shareholders?

**Objective 2: Sale of company:** The objective is to shift the value to the CGT free shares. For illustration, assume we sell the company for CHF 5m (wishful thinking!)

1. SN lends CHF 5m to VBC
2. VBC buys back the EIS shares for CHF 7m (i.e. CHF2m from cash, and CHF5m from loan proceeds) to shift the value to Capital gains via the EIS shares
3. When company is sold to a third party, the loan is repaid by buyer

**In preparation for the sale: Should we move the legacy retained earnings from AX (non EIS) to VBC (with EIS)?**

1. Current and future profits could be directed to VBC
2. Problem: there is an additional 10% corp tax on CHF150K in profit (CHF15K) due to corp tax banding

**Solution:** Could we sell AX shares to VBC for just CHF70K (i.e. the original purchase price, so no CG realized). Questions:

1. Would the Swiss authorities care that the sale of AX is ‘off-market’, i.e. book value of ~CHF1,000,000?
2. Would the UK authorities see the transaction?

**Questions for a Swiss accountant/ lawyer**

* Would the Swiss Fisc or HMRC object if VBC (or KD or 3rd party) bought AX for ‘only’ CHF70k despite AX holding ~CHF1m of cash etc.?
* Are there any Swiss taxes associated with the Sale of shares (actions) in an SARL or SA, by a UK resident and UK taxpayer? (Sale of SARL is documented in public record.)
* Can we reduce the CGT on AX in any way? Entrepreneur’s relief? (AX is a CH company)
* Can an SA buy back a small number of its own shares, at a price it decides?

**Bigger questions**

* I understand if we are domiciled in Portugal, there is no CGT on foreign earnings. Have you experience with that?

**Swiss tax position with VBC and AX**

* Dividend tax in Switzerland is 35%
  + If remitted to a UK investor, we can deduct the UK dividend tax from the Swiss obligation
* There are already unrealised gains in the company that will attract this tax
* The return of the debt could be done tax free

Options 1

* Run for 3 yrs at a loss.
* Accumulate gains somewhere else in a tax favourable jurisdiction

Option 2

* Run it a cash based business, and run at a loss

Need to get the profits out of Switzerland as getting hit by 35% dividend tax

Corporate tax is 20%

**Defer capital gains tax until non UK resident.**

-Get paid ALSA shares, so CGT tax charge not realised until x years later when not resident in the UK.