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Answer-to-Question-_1_

CTA Ltd

Leeds

14 November 2024

Miguel Sousa

Av. Dos Pinheiros 24,

3F, Parque das Nacoes 1990-193

Lisbon, Portugal

Chartered Tax Advisers' recommendations in respect of your employment offer and proposed investments

Dear Miguel,

I hope you are well.

I am writing to you to follow up on our recent video call where we discussed your recent employment offer and proposed investments. This letter contains relevant background on the UK tax legislation applicable to you, and our recommendations from a tax perspective as to the structuring of your investments and estate.

Please note, this letter has been prepared solely for your use and we do not accept any liabilities as a result of reliance placed on this report by third parties. Additionally, nothing in this report should be understood as investment advice. We are tax advisers and thus not authorised to provide such advice. Where we have made recommendations in terms of your investments, we have done so from a tax perspective only.

This letter is based on the UK tax legislation and guidance as of November 2024.

Executive summary

- You will be split year UK resident in 2024/25, with your resident part of the year starting on 6 January 2025 until the end of the tax year;
- Whilst you are non-UK domiciled under general law, as you are UK resident, were born in the UK and have a UK domicile of origin, you will be deemed UK domiciled in 2024/25;
- You will be subject to UK income tax and CGT on your worldwide income and gains. Additionally, you are deemed domiciled for IHT purposes and thus your worldwide assets form part of your estate;
- Your net income per month from Camil Ltd (assuming pension contributions and a car benefit) will be £4,016;
- Whilst your package is already tax efficient, I understand it is not fit for your purposes. Therefore, I recommend either asking Camil Ltd to reimburse your qualifying relocation costs up to the value of £8,000 as this will be tax free, or opting for a less tax efficient option and asking for £6,151 additional gross salary;
- I recommend that you pursue the purchase of a UK home, gifting the shares to your daughter and investing the remainder in tax efficient UK ISAs instead of purchasing the Portuguese villa;
- I recommend that you purchase the shares in Camil Ltd outside of the trust arrangement as this will allow her to inherit them on your death with the possibility of business property relief for IHT;

Section 1: UK residency, domicile and the implications for you

UK residence

In the UK, an individual's residency status determines how they will be subject to UK income tax and CGT on their worldwide earnings.

UK resident individuals will be subject to income tax on their worldwide income and gains, no matter where they are sourced. However, non-UK resident individuals will only be subject to income tax on their UK sourced income and gains relating to UK residential / commercial property and UK land.

In appendix 1, I have included more detail on the tests we use and how these apply to yourself, but we can conclude that you will be UK resident from 6 January 2025 - 5 April 2025 in the UK 24/25 tax year. This is a split year of residency for you, which means you will be taxed as a UK resident for the dates above and for the period in the tax year prior to this (6 April 2024 - 5 January 2025), you will not be subject to UK income tax or CGT as you had no UK earnings or gains.

This means that, as those earnings you referenced on our call such as the £60,000 severance payment and £500,000 payment will not be subject to UK income tax, as they were earned in August 2024, prior to your period of UK residency.

As you will be working permanently for Camil Ltd, you will remain UK resident for the following tax year also. This also means that all employment income earned for Camil Ltd will be taxed in the UK on an arising basis.

Domicile

I have included a more detailed analysis in appendix 2, but I can conclude that you will be non-UK domiciled by general law due to you inheriting your mothers Portuguese domicile as a domicile of dependence. However, as you are UK resident for 2024/25 and had a UK domicile of origin (inherited from your father at birth), you would be classed as a formerly domiciled resident in the UK and deemed to be domiciled in the UK for tax purposes.

This means that you are not able to claim reliefs applicable to non-domiciled individuals, and that you will be taxed on your worldwide income and gains for your period of residency.

Additionally, you would be deemed domiciled for inheritance tax purposes as you would be UK resident within the three years before your death and you are a formerly domiciled resident. Therefore, your worldwide estate will be subject to inheritance tax on your death, as will any gifts of worldwide assets in your lifetime.

Section 2: The tax implications of your employment offer with Camil Ltd

I understand you are currently considering a job with Camil Ltd. As discussed, I have calculated your post tax income for this job with your employment package as it currently stands (i.e. pension contributions and car benefit included).

Your current after tax monthly salary would be £4,016. As it stands, this amount would look to be enough to cover any rental payments as well as your child maintenance obligations. However, the employment offer as is does contain some of the most tax efficient remuneration methods available. This is because you have been offered £7,000 worth of employer pension contributions which are completely income tax free, and a low emissions company car worth £53,250 for only £1,065 per annum in additional taxable income. Whilst I would struggle to recommend more tax efficient options for you, I understand that, given your recent diagnosis, neither of these remuneration methods is worth much to you given you are unlikely to be able to draw on your pension and you are currently unable to drive.

In appendix 4, I have outlined that you may be able to ask Camil Ltd for additional salary instead of the pension contributions. If you ask them for an additional £6,151, their net position would be exactly the same and you would recieve an additional £6,151 salary. However, after tax, this would equate to £3,568 which represents just over half of the amount offered via a pension contribution. From a tax perspective, the most tax efficient remuneration is obviously pensions, but as I know your current circumstances, I think the additionally salary would be more useful to you and so I recommend this course of action.

However, I would like to make you aware of a specific exemption relating to relocation. As you are relocating from Portugal to England as a result of being employed by Camil Ltd, and this is to allow you to attend your workplace, you will be eligible for a relocation allowance of up to £8,000, tax free.

Therefore, you could ask Camil Ltd to remove the company car benefits and pension benefits and instead reimburse £8,000 worth of qualifying costs for your relocation. This would cost them no more, and if you can ascertain this quantum of costs for your moving of residence, this seems like a very tax efficient alternative that I would recommend you to consider. Of course, this only applies if you actually need £8,000 worth of qualifying relocation expenses, which for completeness, are costs such as:

- Costs associated with the disposal of your old residence;
- Costs associated with the acqusition of your new residence (i.e. temporary accommodation whilst viewing);
- Removal benefits and expenses such as costs of transporting your belongings.

All costs reimbursed must be reimbursed by the end of the tax year after your relocation, i.e. 5 April 2026.

<u>Section 3: My recommendations in respect of your proposed investments</u>

In terms of which investment is the best for you, I have examined both investments from an income tax, capital gains tax and inheritance tax perspective.

I have separated the investments into two options:

Option 1: You would purchase the property in Portugal for £400,000 and rent the house in the UK instead of purchasing. You would have no excess cash to invest after this.

Option 2: You would purchase the UK property for £155,000 and subscribe for shares in Camil Ltd for a subscription price of £195,000 (market value). The remainder of your cash would be available for any other investments as advised by your financial advisor.

Option 1:

If you purchase the villa in Portugal, you would utilise all of your available income. You would however, generate £9,000 per annum in profits per year. As you would be UK resident, this would be chargeable to UK income tax. However, the provisions of the UK / Portugal double tax agreement state that income from property is taxed where it is situated. Given this, you would only suffer the Portuguese income tax on this amount and recieve net income of £6,480 per annum.

However, if you purchase the villa, you would be forced to rent a property in the UK of which you would pay rent of £9,000 per annum. Therefore, from a net income perspective, you would be in a deficit each month as your property income would be less than your rent.

For your villa in Portugal, we are unlikely to have to consider capital gains as I understand you are not planning to sell this before you die. Furthermore, as the property is not a UK based asset and your daughter is not UK resident, if she inherits this property, UK CGT will not be due. However, this will form part of your estate for inheritance tax purposes. As you are deemed domiciled in the UK, this Portuguese property would be treated for IHT purposes in the same way a UK property would.

Effectively, the value of this property would be compared against the available nil rate band (£325,000) and the excess would be charged to IHT at 40%.

Option 2

In this case, you would purchase the UK property for £155,000. Whilst no income would arise to you as a result, no tax would arise and you can live in a house suited to you. No income tax consequences would arise as a result of this purchase. No stamp duty would arise on the purchase of this property as you would purchase it for less than £250,000.

In terms of capital gains tax, as this is would be your main residence and you would live here, you would be able to exempt the gain arising in your period of occupation under private residence relief. Even though you plan to hold this property, this would be useful as if your daughter inherits this property, any occupation by yourself is deemed to be cocupation on her part too, so it would reduce the chargeable gain on the property if she chose to dispose of this once she inherits this. From a capital gains perspective, whilst this is not as efficient as the Portuguese property, there are still worthy reliefs available.

Furthermore, as you have occupied the property at some stage and it is your main residence, upon your death, your daughter will suffer less IHT as your nil rate band will be increased as she is a lineal descendant inheriting in interest in your main residence.

Shares

I understand that alongside this house, you would then purchase shares to hold in trust for your daughter. This is particularly important from an inheritance tax perspective.

A gift to a trust is a chargeable transfer for IHT purposes, and becomes immediately chargeable to IHT for yourself. Appendix 5 shows our calculations behind the IHT payable. As this is your first chargeable transfer, the value of the gift is covered in whole by your annual exempt IHT amounts and your remaining nil rate band. Therefore, no IHT would arise to you on the gift of these shares. The positive point about gifting these shares in trust now, is that you are protected from future market value increases as the gift for IHT purposes is protected from a growth in value. Your daughter would then recieve these shares on your death and her base cost would be equal to the market value at the date of probate. This would be deducted from her proceeds to compute an eventual gain if she chose to sell them.

This would however reduce the remaining nil rate band on your death to £136,000. Assuming your UK property keeps its value, this means that an IHT charge will most certainly apply to your daughter when she receives the house as inheritance. She would pay IHT at a rate of 40% on any value of assets above this £136,000 nil rate band remaining (subject to any nil rate band enhancements).

However, there is a possibility you may own these shares for more than two years, and own more than 5% of the share capital. These shares would then be relevant business property for the purposes of IHT and subject to 0% IHT. This can only be applicable if the shares are transferred on death, and were not a chargeable lifetime gift. If this option is chosen, I therefore recommend that you purchase these shares outside of the trust and instead leave them as part of your estate. This would allow them to be eligible for business property relief on your death.

Further investments

Whilst I understand that you are going to speak to a financial advisor to consider further investments, I would like you to consider speaking to them about UK ISAs such as a stocks and shares / Cash ISA. You can invest £20,000 per year into UK ISAs and the benefits are as below:

- Interest on the savings is tax free;
- Any gain on the cash / shares is tax free.

I recommend that you bring this up in your meeting with your advisor to consider this is a further investment.

My recommendation

Based on the discussions above, that:

- Your Portuguese property would not be overly profitable in the short run;
- The villa will still remain part of your estate for IHT;
- Your UK property would be eligible for PRR;
- Any gift of shares to a trust would not be charged to IHT as it is covered by your NRB;
- There is possibility of your shares qualifying for IHT business property relief;

I recommend option two from a tax perspective. This is further supported by the fact you are able to make further tax efficient investments in various ISAs if you wish.

Section 4 - Next steps

I understand this letter is comprehensive, but please get in touch once you have had a chance to digest the content and I'd be happy to have another call to discuss.

Yours sincerely,

Mandy Price
CTA Ltd

Appendices

Appendix 1: SRT analysis

To determine an individual's residency, we have to examine the statutory residency tests which comprise of three groups of tests to arrive at the residency status. These must be considered in order, and are:

a) Automatic overseas tests;

b) Automatic UK tests;

c) Sufficient ties tests.

Taking yourself for example, you would start UK employment on 6 January 2025 and it is assumed that you would arrive in the UK on this date. Therefore, in 2024/25, you will spend 89 days in the UK.

In terms of the automatic overseas tests, you will spend too many days in the UK to satisfy either of the two, and you do not work full time overseas. You will therefore not be automatically non-UK resident.

However, for automatic UK tests, we consider three individual tests.

- 183 day test (which is not satisfied as you have only spent 89 days in the UK);
- UK home test - which you could satisfy if you purchase the UK home;
- Working full time in the UK test: this is likely to apply to yourself.

Full time work: You will meet the conditions for this test if you are:

- Work full time in the UK for a period of 365 days, of which some falls in the tax year;
- More than 75% of your work in that period is carried out in the UK.

As you would work solely in the UK and would work full time permanently, this test would be met and you would be automatically UK resident for 2024/25 (6 April 24 - 5 April 25). We have not considered the home test as we have already concluded on residency.

This would mean that your entire income and gains throughout the tax year would be subject to UK income tax and CGT. However, there is a possibility to split the year for UK residency, so that only the portion of the year when you become UK resident will be chargeable in full to UK taxes.]

As we are not certain that a home would be purchased in the UK, the case applying here would be case 5, starting full time work in the UK.

You would qualify for split year if:

- You are UK resident in 2024/25;
- You are non-UK resident in 2023/24;
- not meet the sufficient ties test before you start UK work.

The relevant ties would be family, accommodation, work and the 90 day tie. None of your family are UK resident before you start work, you would possibly have a UK home at this point if you move in earlier but you would not have a work tie or 90 day tie. On the basis that you have one tie, you must not have spent more than 100 days in the UK before 6 January 2025 to be UK resident. This is clearly satisfied as you only spent one week in the UK prior to working in the UK.

You would therefore be split year resident in 2024/25, with your UK resident period starting on 6 January 2025 and until 5 April 2025, and any time before ths in 2024/25 you would be non-UK resident.

Appendix 2: Domicile status analysis

Domicile is a concept of law and not legislation. In the UK, having a non-UK domicile allows an individual to claim certain reliefs.

Domicile is determined as follows:

a) Domicile of origin (follows father at birth);
b) Domicile of dependence (follows father or mother is father is dead until the age of 16);
c) Domicile of choice

Your domicile status by general law would likely be Portugeuse domicile. Even though you have a UK domicile of origin as this was your father's domicile, your mother had a Portuguese domicile of origin and did not likely displace this as she moved back to Portugal after your father died. You would therefore have acquired a Portuguese domicile of dependence after this point. You starting work in the UK full time and acquiring a property here would unlikely class as severing all ties with Portugal, as you still remain in touch with your daughter in Portugal and may potentially have assets there.

Even though you currently plan to die in the UK, you would have to sever all ties to Portugal to acquire a UK domicile of choice, which I don't think is the case.

Nevertheless, under UK law, you would still be UK deemed domicile. This is because you are a formerly domiciled resident by way of:

- having a UK domicile of origin;
- Being UK resident in the tax year.

Therefore, the remittance basis would not be applicable here and you would be taxed on your worldwide income and gains in your UK resident period.

<u>Appendix 3: Post tax (net) income from Camil Ltd</u>

Type of income	£				
Salary	70,000				
Less: Pension contributions	(3,500)				
Company car (W1)	1,065				
Free charging (N1)	-				
Total employment income	67,565				
Less: Personal allowance	(12,570)				
Total	54,995				
37,700 @ 20%	7,540				
17,295 @ 40%	6,918				

NICs:					
50,270 - 12,570 @ 12%	4,524				
70,000 - 50,270 @ 2% (N2)	395				
Total IT and NIC	19,377				
Net employment income	67,565 - 19,377 = 48,188				
Per month:	4,016 net				
Less: child maintenance	(700)				
Net	3,316				

W1: A company car is a taxable benefit and taxed according to the C02 percentages.

List price	53,250		
C02% (as fully electric)	2%		
BIK	£1,065		

N1: Electric charging is not classed as fuel and so not taxable. Additionally, charging facilities at work are a specifically exempt benefit.
N2: Only cash earnings chargeable to class 1 NICs, but pension contributions do not reduce cash earnings for NICs.

<u>Appendix 4: Implications of opting out of pensions and no company car</u>

Pension is currently a tax free benefit and an allowable deduction. At the moment, you will recieve £7,000 of employer pension contributions but I understand this is not ideal given your circumstances. You could instead ask your employer to give you a smaller amount in cash instead of a pension contribution, as below.

Cash amount	6,151		
Employer NICs	849		

Total cost to employer	£7,000		

If you were to recieve this amount through your salary, you would recieve:

Additional income	6,151		
tax at 40%	(2,460)		
NIC at 2%	(123)		
Net per year	3,568		

No company car

If you received no company car, your income tax bill would reduce but you could simply ask your employer to pay you the same benefit amount as cash. They would pay no more national insurance giving this to you as salary as opposed to a car.

<u>Appendix 5: Comparison of Portugal house vs UK home</u>

Net income:

	Portugal house		Buying UK house	
Taxable income	9,000		-	
Rent paid	750 x 12 = (9,000)		-	
UK tax on income as UK resident (N1)	(2,520)			
Immediate IHT implications for trust income (W1)			nil	
Stamp duty (W2)			Nil	
Net	(2,520)		Nil	

N1: You would pay income tax in the UK on your portugal rental income. You would pay this tax at a higher rate (40%) and you would pay income tax of £3,600. However, Portuguese authorities would also like to tax this income. The DTA states that the income would be taxed where situated, so this would be wholly taxed in Portugal.

W1: As you would put the shares received from the UK company into a trust for your daughter, this would be a chargeable lifetime gift for the purposes of IHT and would immediately be chargeable to yourself, as below.

Chargeable gift	13,000 x 15 = 195,000		
Less:			
AE	(3,000)		
AE 23/24	(3,000)		
Total	189,000		
Less: Remaining NRB	(189,000)		
IHT on transfer	Nil		

However, your remaining nil rate band would be reduced by £189,000 to (325,000 - 189,000 = 136,000). If your estate for UK tax purposes exceeds this amount, your daughter will be charged to IHT on the value of your estate exceeding this amount.

W2: As the property will be purchased for less than 250,000 and you do not have multiple homes, no stamp duty will be payable.

<u>PLAN - DO NOT MARK!</u>

Ask: Draft a letter to Miguel specifically touching on the employment offer from Camil Ltd and estate planning.

Transactions:

- Move to UK:

- New job in UK - how will he be taxed in the UK and what is his likely net income??

- Is he UK domiciled or a formerly domiciled resident? Additionally, what is his residency position and is this affected by how many days he spends in Portugal (i.e. annual leave?)

- Disease diagnosis which means IHT is now in scope

- would like to set up a trust so his daughter is provided for! (immediate IHT implications as chargeable lifetime transfer) - market value of shares chargeable to IHT at 20% on him if exceeds the nil rate band.

- he wants to know which investment to make? Villa in Portugal or house in the UK and shares in Camil Ltd. Additionally, with option two, where can he set up a savings account?

Strawman plan:

- Determine UK residency / non-residency, how the DTA will affect this and then discuss domicile. He is likely to be UK domiciled under bieng a formerly domiciled resident and so deemed domicile - no remittance basis!

Additionally, how is his existing income taxed? Is it clean income if split year resident etc, are there implications of bringing these funds into the UK?

What impacts for IHT? Non-domiciled individuals only liable to IHT on UK situs assets - recommend him to keep assets offshore to avoid UK IHT for his daughter. Bare in mind he plans to spend time in portgual - how much time can he spend without altering the residency outcome?

- as a result of UK residency, how will he be taxed on UK employment income and what would his post tax income be? Can we recommend any other tax efficient alternatives to be included in his package?

- Which investment is the most tax efficient taking into account residency position and IHT position?

Portugal

A villa in portugal would be subject to UK income tax if UK resident, and also portugeuse income tax on the rental income.

HOwever, non-UK situs asset would not be considered for UK IHT purposes as he is non-domiciled.

UK house

However, UK house if rented leaves no IHT / CGT / IT implications but it is not an investment.

If bought, and he lives there throughout and then he sells before he dies, it will be exempt from CGT under PRR.

However, if he dies and leaves this asset to his daughter in his estate, this will be part of his estate for IHT purposes and charged to the extent it exceeds his nil rate band. She would pay IHT at 40% as tax on death. However, can this be exempt from IHT as part of a individuals residence passing to lineal descendants on death and it does not exceed £2m. This looks likely as he has occupied the property at some stage.

What is the cost vs benefit breakdown of each though? I.e. if he buys portugla, he rents. If he buys UK, he does not.

As part of UK property, he would buy the shares to go into trust for his daughter. This would be a chargeable liftime transfer on a loss to donor principal (i.e. loss of MV). IHT charged at 20% less any AEs and nil rate band.

Miscellaneous:

- Where can he set up savings account? ISAs in UK have tax free status but overseas would not be chargeable to IHT.

Final plan:

a) Introduction - include caveat on investment advice, that it is only for purposes of him, based on legislation as of the date etc

b) Summary of conclusions (exec summary)

c) Section 1 - client overview of SRT and implications (as he would not be aware of this), summary of residence positions and domicile status and what impacts this has on income tax, CGT and IHT

What are the impacts of the DTT?

d) Section 2 - What are the UK tax implications of his role in the UK (IT and NIC) as well as his likely net income (of both IT and NIC). Can we make this any more efficient by asking for anything else instead of his car? He also doesn't want a pension, what other benefits can he be provided with? He is unlikely to make it to pension age so what else?

e) Which investment decision should he make? How will his existing income be taxed such as £500,000 and £60,000 and does this impact his decision? Portugal vs UK home and shares implications. Which is best from a tax perspective!? Also, examine net cost vs benefit for both.

What is the impact of putting his shares in the trust and does this impact his investment decisions?

Any savings accounts he should consider?

Consider both acquiring the properties, income and then CGT if UK based.

f) Next steps