

The Chartered Tax Adviser Examination

November 2024

Application and Professional Skills

Taxation of Individuals

Pre-seen information

You may print this copy of the pre-seen information but you will not be permitted to take this into the test centre. It will be contained in the final Exhibit in each question.

Pre-seen information

Client Name: Miguel Sousa (a new client)

Email received from Miguel:

From: Miguel Sousa
To: Mandy Price, CTA Ltd
Date: 23 October 2024
Subject: UK Tax Advice

Dear Ms Price

Thank you for your time on the telephone yesterday and agreeing to a video meeting next Friday. As requested, and in advance of our meeting, I have set out a few background details for you.

I am a Portuguese national and I have been living in Portugal since the age of six. I was born in Manchester, England on 21 May 1995.

I have one daughter, Sara, who was born in Lisbon on 2 March 2018. I divorced her mother, Ana, in 2021 but we are still on good terms. Sara lives with her mother in Lisbon. I pay £700 a month in maintenance payments for Sara under the divorce agreement.

I have a PhD in computer science. After I left university, I joined an IT company, ClearIT SA, in Lisbon as a software designer. However, ClearIT SA was bought by another company in July 2024 and my role was made redundant shortly afterwards. I received a large severance payment on leaving and I have been living off this and unemployment benefit since. I still have £60,000 of my severance in a savings account here in Lisbon.

My younger brother, Paolo, is also an experienced computer software engineer. For the last couple of years, we have been designing together a piece of computer software that mirrors the nerve impulses created by the human brain. We sold the licence to this software to a UK company, Camil Ltd, earlier this month for £1 million. My 50% share is currently held in a bank account in the UK. Camil Ltd has also offered Paolo and I a job further developing the software for them, which is what I would like to discuss with you.

I have no other assets or savings. I live in a rented apartment in Lisbon. The address is Av. Dos Pinheiros 24, 3F, Parque das Nações 1990-193, Lisbon, Portugal.

Finally, you asked me for a summary of my last Portuguese tax return, which is for the calendar year 2023. The headline figures are:

	£	£
Salary	80,000	
Medical benefit	<u>7,000</u>	
Total employment income		87,000
Total tax paid		28,740
Effective rate		33%
Social security paid		9,570
Effective rate		11%

I look forward to our call next week. In the meantime, if you have any questions regarding the above, please do not hesitate to ask.

Best regards

Miguel Sousa

Continued

Extracts from the Double Tax Treaty between UK and Portugal 1968

Article 6

Income from Immovable Property

(1) Income from immovable property may be taxed in the Contracting State in which such property is situated.

(2)

(a) The term "immovable property" shall, subject to sub-paragraph (b) below, be defined in accordance with the law of the Contracting State in which the property in question is situated.

(b) The term "immovable property" shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships and aircraft shall not be regarded as immovable property.

(3) The provisions of paragraph (1) shall apply to income derived from the direct use, letting, or use in any other form of immovable property. Those provisions shall also apply to income from property which, under the law of the Contracting State in which the property in question is situated, is assimilated to income from immovable property.

(4) The provisions of paragraphs (1) to (3) shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of professional services.

Article 10

Dividends

(1) Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

(2) Dividends paid by a company which is a resident of one Contracting State to a resident of the other Contracting State who is subject to tax in that other State in respect thereof, may be taxed in the first-mentioned State and according to the law of that State but the tax so charged shall not exceed:

(a) 10 per cent of the gross amount of the dividends if:

(i) The recipient is a company which is a resident of Portugal which controls directly at least 25 per cent of the voting power in the company paying the dividends; or

(ii) The recipient is a company which is a resident of the United Kingdom which holds directly at least 25 per cent of the capital of the company paying the dividends;

(b) In all other cases, 15 per cent of the gross amount of the dividends.

Article 11

Interest

(1) Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

(2) However, such interest may be taxed in the Contracting State in which it arises, and according to the law of that State; but where the resident of the other Contracting State is subject to tax there in respect thereof, the tax so charged in the first-mentioned State shall not exceed 10 per cent of the amount of the interest.

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Article 13
Capital Gains

(1) Gains from the alienation of immovable property, as defined in paragraph (2) of Article 6, may be taxed in the Contracting State in which such property is situated.

(2) Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing professional services, including such gains from the alienation of such a permanent establishment (alone or together with the whole enterprise) or of such a fixed base, may be taxed in the other State.

(3) Notwithstanding paragraph (2) of this Article, gains from the alienation of ships and aircraft operated in international traffic and movable property pertaining to the operation of such ships and aircraft shall be taxable only in the Contracting State of which the alienator is a resident.

(4) Gains from the alienation of any property other than those mentioned in paragraphs (1) and (2), shall be taxable only in the Contracting State of which the alienator is a resident.