

# THE CHARTERED INSTITUTE OF TAXATION

## APPLICATION AND PROFESSIONAL SKILLS

### Taxation of Individuals

**November 2024**

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TIME ALLOWED

3 HOURS 30 MINUTES

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- In order to secure a pass in this exam, you will be required to demonstrate competence in each of three skills.

You will be assessed across your answer as a whole for Structure. A pass or fail grade will be awarded.

You will be assessed for competence in a number of broad topics for the following skills:

- Identification and Application
- Relevant Advice and Substantiated Conclusions

For each topic for each of these two skills, a grade will be awarded. The grades for those topics will be weighted and averaged to produce a final grade for each skill of 0, 1, 2, 3 or 4. A grade of 3 or 4 is required to demonstrate competence.

- All workings should be shown and made to the nearest month and pound unless the question specifies otherwise.
- Candidates who answer any law elements in this paper in accordance with Scots law or Northern Ireland law should indicate this where relevant.
- Scots law candidates may provide answers referring to Land and Buildings Transaction Tax rather than Stamp Duty Land Tax.
- Unless otherwise indicated by the provision of additional information in the question, you may assume that 2023/24 legislation (including rates and allowances) continues to apply for 2024/25 and future years. Candidates answering by reference to more recently enacted legislation or tax cases will not be penalised.
- You must type your answer in the space on the screen as indicated by the Exam4 guidance.

You are a tax manager in CTA Ltd, a firm of Chartered Tax Advisers. You report to the Tax Partner, Mandy Price.

Miguel Sousa is a new client of the firm who has previously provided background information (**EXHIBIT D**). Client take-on procedures have been completed and Mandy has had a video call with Miguel (**EXHIBIT A**), who has asked for tax advice regarding an employment offer from Camil Ltd and on estate planning, given a recent medical diagnosis.

The following exhibits are provided to assist you:

**EXHIBIT A:** Notes of meeting between Mandy Price and Miguel Sousa

**EXHIBIT B:** Details of remuneration package offered by Camil Ltd

**EXHIBIT C:** Ownership structure and financial information for Camil Ltd

**EXHIBIT D:** Pre-seen information

**Requirement:**

**Draft a letter to Miguel advising and making recommendations on UK tax in respect of his employment offer and proposed investments and how he might plan his estate.**

Continued

## **EXHIBIT A**

### Notes of meeting between Mandy Price and Miguel Sousa

Between: Mandy Price, CTA Ltd  
Miguel Sousa

Date: 1 November 2024

Re: UK Employment Offer and Estate Planning

Miguel provided a short summary about himself prior to the meeting (**EXHIBIT D**).

### Additional Background

Miguel is a Portuguese national, although he was born in the UK. His father was British and UK domiciled. He passed away when Miguel was six. His mother is Portuguese, although she was living in the UK when she met and married his father. She returned to live in Portugal with Miguel and his brother after his father's death.

He and his younger brother, Paolo, created a piece of software that will radically change the way prosthetic limbs can be controlled by the human brain. A medical device company, Camil Ltd, has just purchased the exclusive rights to use the software in their devices from the two brothers, paying them a one-off amount of £1 million (£500,000 each).

They also wish to employ the brothers to help develop the software further. The employment would start in early January 2025. Camil Ltd is based in Nottingham, near the Queen's Medical Hospital. The development will take place in Nottingham in conjunction with the Hospital and Miguel and Paolo will be required to move to Nottingham in time to start in January. Miguel visited the UK for one week in September to meet with Camil Ltd.

Miguel has very recently been diagnosed with a neurological disease. The prognosis is a steady loss of physical capability, although his mental capability will be unaffected. He is expecting to only live another two to three years.

### Miguel's Priorities and Drivers

Miguel has a young daughter, Sara, who lives with his ex-wife in Portugal. He is paying £700 a month in child maintenance. He wants to ensure that his daughter is provided for after his death and will benefit in the long term from his invention. He is extremely keen that there are funds for her education at least to the end of university and that she does not have to worry about paying for fees or her living costs. He would therefore like to set up a trust for her benefit to last until she is 22 years old. It would be managed by his brother and ex-wife after his death in the best interests of his daughter.

Miguel wants any recommendations we can give to help him achieve his aims.

### Offer of Employment

Miguel would like to take up the employment offer from Camil Ltd. He has been unemployed since August and is not enjoying "being idle" (his words). He fears that with the medical diagnosis, this will be his only chance of getting back to work. Besides which, he does believe that with Camil Ltd's resources and experience, the software can be developed into some ground-breaking equipment.

In addition, if he does not earn a salary over the next couple of years, then he will have to use proceeds from the sale of the software to live on and there will be less to invest for his daughter.

Continued

Given the nature of Camil Ltd's trade, they are also able to offer him a lot of support that would be otherwise unavailable to Miguel. In due course, Miguel will require a type of electric wheelchair, which Camil Ltd manufactures. It costs £12,000 to manufacture and retails at about £28,000. They are happy to provide one to him for free. There are other devices, which they make, that could be of use to Miguel. His own software may lead to new equipment, which would benefit Miguel and they may ask him to test future devices for them.

Camil Ltd's relationship with the Queen's Medical Hospital will give him access to better doctors and medical care than Miguel would get in Portugal.

Camil Ltd made the same offer to both brothers a few weeks ago before Miguel's diagnosis. His brother has already accepted his offer and Miguel is keen to work with them too. However, he has some concerns over the package offered given his change in circumstances and so has not yet formally accepted the offer. Details of the remuneration package are attached (**EXHIBIT B**).

Miguel would like to understand how he will be taxed in the UK and his likely net income. He wants to ensure he can continue to pay the child maintenance and, if possible, have money left over to save as much as he can for Sara's future. He is worried that the benefits will cost him more than they are worth. He will be unable to drive soon as he loses physical mobility and he doesn't therefore want a car. He will not require a pension and Camil Ltd has already confirmed with its insurer that it will not offer him the associated life insurance and critical illness cover, which come with the pension plan. He understands that, although the pension is a mandatory offer, he can opt out.

#### Assets and Property

Miguel has approximately £60,000 in savings in a Portuguese bank. This is what's left from a lump sum termination payment he received in August from his former employer.

He wants to invest the software proceeds to provide for his daughter. The £500,000 payment will be charged to Portuguese tax. The tax is estimated to be £140,000, leaving him £360,000.

He is considering the following options:

#### Option 1: A villa in Portugal

Buying an investment property in Portugal. He has identified a villa there. It is on the market for £400,000. He will use the software proceeds and some of his savings to buy it. He will also need the remainder of his Portuguese savings to renovate it. It would then be rented through an agent to holiday makers. He believes it could bring in a profit before tax of £9,000 per year. He is also thinking that, if ever needed, his daughter could live there.

#### Option 2: A house in the UK and shares in Camil Ltd

There is a bungalow in Nottingham near to Camil Ltd's site. The previous owner has already installed many adaptations for people with reduced mobility, so it would be ideal for Miguel to live in. The owner has offered to rent it to Miguel for £750 a month or will sell it for £155,000. Miguel is undecided if he should buy it or rent it. He thinks property generally is a good investment but cannot afford both the Portuguese property and the UK one.

Camil Ltd has suggested that Miguel and Paolo could buy into the Company. They have been offered 13,000 shares each at £15 per share. Details of the offer, together with some financial information on Camil Ltd has been provided to Miguel (**EXHIBIT C**). Miguel can afford to buy the UK property and also the shares. He thinks the shares will do well as a result of the developments he and his brother will make.

Since Option 2 will not use up all of his money he has arranged a meeting with an Independent Financial Adviser to discuss where he may invest the remainder and where to set up a savings account into which he can put any residue from his salary each month.

Continued

Portugal

Miguel has been advised, that as he has already spent over 183 days in Portugal in the last 12 months, he will be tax resident there for all of 2024. (Portugal has a calendar fiscal year.) If he leaves Portugal in January 2025, he will cease to be tax resident there from the date of his departure, unless he maintains his home there. He will not keep any home there so he should cease tax residence.

He has been advised that, as a non-resident, he is only liable to Portuguese tax on Portuguese income sources and gains on Portuguese-sited assets. The only income source would be rent from the Portuguese villa, if he buys it. The Portuguese tax on £9,000 of rental profit would be in the region of £2,520.

He will spend his annual leave in Portugal initially. However, once it becomes too difficult for him to travel, he will remain in the UK. He does not think it will be practical to return to Portugal for his final days. He will make arrangements for a cremation in the UK and his ashes to be interred in the family plot in Portugal.

Continued

**EXHIBIT B**

Details of remuneration package offered by Camil Ltd

Employment start date

6 January 2025

Place of work

Camil Ltd's manufacturing site, Nottingham. The possibility of remote working is not envisaged for this role.

Remuneration Offer

- 1) Full-time permanent contract of employment.
- 2) Member of board of directors.
- 3) Salary of £70,000 per year.
- 4) Defined contribution pension plan.
  - (a) Employer contribution at 10% of salary
  - (b) Employee contribution at 5% of salary
- 5) Company car:
  - (a) Provided for a three-year term
  - (b) Polestar 2
  - (c) Price £53,250
  - (d) Fully electric
  - (e) Automatic gearbox
  - (f) 0 CO<sub>2</sub> g/km
  - (g) Free charging station provided at Camil Ltd's offices

Continued

## EXHIBIT C

### Ownership structure and financial information for Camil Ltd

The company was founded in 2010 by cousins Gayle and Russell Littlejohn.

#### Shareholdings

1p ordinary shares

Gayle Littlejohn	47,000 (47%)
Russell Littlejohn	47,000 (47%)
Mara Harmett	<u>6,000</u> (6%)
	100,000

Mara is a non-executive director, who was brought in by Gayle and Russell in 2017 to help manage the business. She is paid annual fees of £6,000.

Gayle and Russell recently received an offer for their shares from a larger, multi-national competitor. The offer valued Camil Ltd at £1.5 million. However, they refused the offer as they felt they could make significant increases in value from developing the brothers' software. They expect to take between three and six years to develop the new products and then they would look to sell at that time, when hopefully the company is worth considerably more because of these new products.

#### Share Offer to Miguel/Paolo

Camil Ltd wants to allow the brothers to benefit from the future growth in the share price as a result of the software developments they will make. Camil Ltd has invited Miguel and Paolo to buy into the company at this point in time. The invite is only open therefore until 31 January 2025.

Camil Ltd will issue 13,000 new £15 ordinary shares. Miguel can buy these shares for the full market value of £15 for each share. He must buy all 13,000 shares. The same offer has been made to Paolo.

The new shares will not pay dividends but will have voting rights.

On the understanding that Miguel is likely to have passed away before any sale of Camil Ltd, the current shareholders have agreed that his shares can be held in trust for the benefit of his daughter.

Continued

**EXHIBIT D**

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.

Continued

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.