

# THE CHARTERED INSTITUTE OF TAXATION

## APPLICATION AND PROFESSIONAL SKILLS

### VAT and Other Indirect Taxes

**November 2021**

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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.
- Except as set out below or indicated by additional information in the question, you may assume that 2020/21 legislation (including rates and allowances) continues to apply for 2021/22 and future years.

1) You MUST assume that the UK remains within the European Union.

2) You MUST ignore all temporary Covid related legislation including furlough, grants, loans and the reductions in VAT and SDLT rates.

Except in relation to points 1) and 2) above, 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 Alex Bruce, tax consultant in Laidlaw Wallace LLP, a firm of Chartered Tax Advisers. You have received a letter (**EXHIBIT A**) from Rory Wiltshire, the Finance Director of an existing client, the Cerebri Cura Trust. He is seeking your advice on the options under consideration to complete the construction of the Trust's new Head Office.

The following exhibits are provided to assist you:

**EXHIBIT A:** Letter from Rory Wiltshire

**EXHIBIT B:** Summary of Terms agreed with RG Assurance plc

**EXHIBIT C:** Proposed occupancy by staff of the new Head Office building

**EXHIBIT D:** Summary of projected income 2022/23 and VAT status of the income streams

**EXHIBIT E:** Pre-seen information

**Requirement:**

**Write a report addressed to the Board explaining the tax implications and your recommendations in relation to the construction of the Trust's Head Office.**

Continued

**EXHIBIT A**

Letter from Rory Wiltshire

A Bruce  
Laidlaw Wallace LLP  
100 Eastbank  
Bath  
BA1 4TT

Cerebri Cura Trust  
Wellesley House  
1 Wellington Street  
Bristol  
BT2 8RR

1 November 2021

Dear Alex

Construction of the new Head Office

I refer to our discussion yesterday. As agreed, I have summarised the options under consideration by the Board for the construction of our new Head Office, along with parking facilities.

Background

The suitability of our current Head Office is a vexed issue which has been the subject of ongoing discussions over very many years. It is now quite dilapidated and no longer fit for purpose. We decided in April 2017 to construct a new office and car park on surplus land alongside the existing office which will be demolished on completion of the new building. We acquired this surplus land in 1983 at a cost of £25,000 in anticipation of possible expansion.

The planning of the project has taken a considerable amount of time, with local objections to the height and size of the new building, but preliminary construction work finally commenced this August, with work now underway on construction of the foundations; the main contractor being XYZ Developments Ltd.

In the period April 2017 to July 2021, we incurred £400,000, plus VAT on advisory and planning fees. We recovered 33% of the VAT (£26,400) on the basis that the building will be used to provide both standard rated and VAT exempt services. On 31 August 2021 we opted to tax the site of the new building and car park to reclaim the balance of the VAT, but we have not yet claimed credit for this on our VAT returns.

Current Proposal – Lease and Leaseback

The current proposal is to construct a free-standing, three storied building and car park with funding provided by way of a lease and leaseback. I have enclosed a Summary of Terms (**EXHIBIT B**).

When the arrangements were agreed, it was expected that it would cost £9.2 million to complete the building and car park but we now expect the final cost will be £9.5 million, inclusive of professional fees of £1.25 million and all costs to be reimbursed by RG Assurance plc. All these sums are exclusive of VAT.

It was envisaged that the headlease would be granted to RG Assurance plc prior to commencement of the building works in August. Unfortunately, this never happened. The grant will now occur on 3 January 2022. RG Assurance plc will reimburse the Trust £550,000, representing the pre-July 2021 costs of £400,000 (net of VAT), plus £150,000 (net of VAT) on construction and professional services expected to be expended thereafter until 3 January 2022.

On completion of the works, the Trust will take an underlease on the building and car park. Originally the rent was going to be £604,000 but it has now been increased to reflect the increase in costs which RG Insurance plc will incur (3(b) of the Summary of Terms).

The Trust will occupy two floors of the building, with the third floor to be sublet at an annual rent of £200,000. This sublet will be preferably to another charity, so we are not intending to charge VAT on the rent.

The heads of terms require the Trust to register and comply with the Construction Industry Scheme. I don't understand the need for this given that the Trust is a charity and there will be no mark-up on the services supplied to RG Assurance plc in our capacity as the developer. Also, we consider that the grant of the headlease will not represent a trading activity chargeable to tax.

Continued

Alternative Proposal – Self Funded

Whilst it was anticipated that in the longer term we would require all three floors, as a result of increased homeworking we are now reconsidering whether a three-storied building is needed. Although planning permission has been granted for the current proposal, objections raised during the consultation process suggest that it would be easy to get a revised permission for a smaller building. This would be a two-storied building with the same footprint as that currently in progress and would be for the sole use of the Trust.

A smaller building will alleviate the need to find a tenant; ameliorate some of the local residents' concerns and allow for consideration of an alternative funding option. Also, concern has been expressed as to the suitability of RG Assurance plc as a funding partner due to its overseas investment policies.

It is estimated that the redesigned building will cost £6.75 million, excluding VAT, but inclusive of professional fees of £880,000 and the costs identified above of up to £550,000.

The cost of such a building (including non-recoverable VAT) will be financed by the Trust from fixed interest external loans. Based on the initial estimate of a total borrowing requirement of £6.75 million plus VAT, we believe the repayments over 30 years will be £492,500 per annum.

In relation to this proposal, you may proceed on the basis that 33% of VAT incurred on the works will be recovered as attributable to the Trust's taxable supplies.

I enclose projections firstly, of the usage of the new office by staff (**EXHIBIT C**) and secondly, a summary of projected income for the financial year 2022/23, together with the VAT status of the income streams ordinarily applied by the Trust (**EXHIBIT D**).

Can you let me have your thoughts please on which of the two options might be best? I look forward to hearing from you as soon as possible.

Kind regards

Rory Wiltshire  
Finance Director

Continued

**EXHIBIT B**

Summary of Terms agreed with RG Assurance plc

31 July 2021 - Subject to Contract

- 1) The Trust shall grant to RG Assurance plc a 150-year lease to the land on which the office and car park are to be constructed (“the headlease”) for a premium of £500,000, representing the site’s market value in April 2017.
- 2) Under a separate funding and development agreement, as the “developer”, the Trust shall complete the construction of the office and car park, retaining as a sub-contractor the services of XYZ Developments Ltd, along with the professional consultants currently employed by the Trust.

The Trust shall invoice RG Assurance plc for the construction services supplied by it as developer at cost, plus VAT where applicable.

As developer, the Trust shall not be RG Assurance plc’s agent. The Trust shall register for and comply with the terms of the Construction Industry Scheme.

In the event of substantial non-performance of the funding and development agreement, at the option of RG Assurance plc alone, the Trust shall acquire RG Assurance plc’s interest in the land and works thereon at market value.

The works shall be completed by 31 October 2022.

- 3) On occupation of the office on 1 January 2023, the Trust shall take a 30-year tenant repairing and insuring lease (“the underlease”) to the building and car park. The Initial Annual Rent on the grant of the underlease shall be:

(a) the Basic Rent - £604,000, plus

(b) the Cost Related Rent, computed by reference to the formula  $(A+B+C+D-E)/F$  where:

A = the value of construction and associated services invoiced by the Trust as developer under the funding and development agreement, excluding VAT.

B = the value of building and associated costs incurred before the grant of the headlease, excluding VAT (projected at £550,000).

C = SDLT payable by RG Assurance plc on the grant of the headlease.

D = irrecoverable VAT borne by RG Assurance plc on the construction costs met by it, represented by A and B.

E = Base Cost - £9.2 million

F = Term – 30

The Initial Annual Rent shall be subject to uplift only at the rent review dates.

RG Assurance plc will not opt to tax the building nor make a real estate election while the Trust is in occupation.

The Trust may sublet part of the building with the landlord’s consent.

- 4) Capital allowances or any other tax allowances available in respect of the works are to be claimed by RG Assurance plc alone.

Continued

**EXHIBIT C**

Proposed occupancy by staff of the new Head Office building

Projected usable office space 1,250m<sup>2</sup>

| <u>Use</u>   | <u>m<sup>2</sup></u> |
|--|----------------------|
| Office – Chief Executive   | 20                   |
| Offices – other directors  | 60                   |
| Offices – HR manager and Finance manager   | 30                   |
| Conference room  | 60                   |
| Staff open plan areas dedicated to the delivery of following services:               |                      |
| Care and support services supplied by the Trust                                      | 280                  |
| Contract care services supplied by CCT Care Services Ltd                             | 100                  |
| Fund raising - gift aid donations and legacies                                       | 300                  |
| Fund raising events support  | 30                   |
| Membership services – Friends of the Cerebri Cura Trust                              | 35                   |
| Research and information services  | 15                   |
| Commercial activities  | 40                   |
| Open plan staff areas to be occupied by support staff - finance, IT, reception, etc. | <u>280</u>           |
|  | <u>1,250</u>         |

Under the Lease and Leaseback proposal, there would be a further 625m<sup>2</sup> of space, which would be sublet.

Continued

**EXHIBIT D**Summary of projected income 2022/23 and VAT status of the income streams

|   | <u>VAT status</u> |               |                |                          |
|---|-------------------|---------------|----------------|--------------------------|
|   | <u>Total</u>      | <u>Exempt</u> | <u>Taxable</u> | <u>Outside<br/>scope</u> |
|   | £(000)            | £(000)        | £(000)         | £(000)                   |
| Care and rehabilitation services:   |                   |               |                |                          |
| Contributions received by the Trust in support of care and support services (Note 1)                  | 300               | 300           |                |                          |
| Contract care services supplied by CCT Care Services Ltd to local authorities and NHS Trusts (Note 2) | 1,750             | 1,380         | 370            |                          |
| Membership services   | 200               |               | 200            |                          |
| Fund raising activities in support of Trust   | 600               | 600           |                |                          |
| Charity shops   | 550               |               | 550            |                          |
| Donations & legacies  | 900               |               |                | 900                      |
| Investment income (including dividends received – Note 3)   | 650               |               |                | 650                      |
| Interest received   | 60                |               |                | 60                       |
| Other income  | 50                | 40            | 10             |                          |
| <b>Total income</b>   | <u>£5,060</u>     | <u>£2,320</u> | <u>£1,130</u>  | <u>£1,610</u>            |

Notes

- 1) The Trust aims to secure contributions directly or indirectly from those in receipt of respite care, treatment and rehabilitation services and support and counselling services provided to families and carers of those receiving care. The contributions are based upon a person's ability to contribute, capped at 30% of cost. The costs associated with the delivery of this service in 2022/23 are expected to be £2 million.
- 2) In the case of contract care services supplied by CCT Care Services Ltd, charges are based upon the direct cost of the service, plus 2.5% to cover overhead costs. Standard rated supplies encompass catering and accommodation outside the scope of the exemption, as well as those services that are not "welfare services"
- 3) Investment income. The Trust's investments in securities and other financial instruments are managed by external investment managers and it does not actively trade in such instruments.

Continued

**EXHIBIT E**

Pre-seen information

Client

Cerebri Cura Trust Ltd

Legal status

Company limited by guarantee not having share capital

Date of incorporation

1 April 1971

Company number

0192837

Board of Directors

A Rossetti – Chief Executive  
Dr Michael James CBE – Director of Clinical Services  
R Wiltshire – Director, Finance & Treasury Operations  
M Billington – Director, Human Resources  
P McGurk – Director, Income Generation and Communications

Registered Office

Wellesley House  
1 Wellington Street  
Bristol  
BT2 8RR

Secretary

A Walker

Principal activities

- 1) The provision of respite care, treatment and rehabilitation for young adults aged 18 – 35 years with physical and learning disabilities and complex medical needs, including life limiting or life-threatening conditions on account of neurological damage.
- 2) To support and provide relief to the families and carers of such disabled persons.
- 3) To undertake research and disseminate free of charge information relating to such conditions to the public.

Wholly owned subsidiary

CCT Care Services Ltd.

Principal activities: The provision of care and support to persons afflicted by neurological conditions to enable them to live independently. These services are generally supplied to and funded by Local Authorities. The company is subject to regulation by the Care Quality Commission.

Continued



Taxation

The Trust is a charity within the meaning of s.478 Corporation Tax Act 2010 and is not subject to Corporation Tax in respect of its charitable activities. The trading activities of its subsidiary, CCT Care Services Ltd are subject to Corporation Tax; however, profits subject to tax are gifted to the Trust resulting in £nil tax payable.

VAT

Representative member of VAT group: Cerebri Cura Trust Ltd with the other member being CCT Care Services Ltd.

VAT number: 887 4532 11

VAT registration effective from 1 March 1978

VAT status: The group is a partly exempt body. It operates the standard method set out in the VAT regulations. VAT incurred attributable to the Trust's non-business activities is disallowed at the outset. Taking account of disallowed VAT attributable to non-business activities, 33% per annum of the Trust's non-attributable input tax is deductible. The Group's VAT accounting periods end on 30 April, 31 July, 31 October and 31 January, with its tax year being the 12 months to 30 April.

Option to tax

On 31 August 2021, the Trust exercised an option to tax on the freehold land and buildings owned by it at 1 Wellington Street, Bristol.

Continued

Summarised Consolidated Income Statement for year ended 30 April 2020

|  | <u>Total</u><br><u>2020</u><br>£'000 | <u>Total</u><br><u>2019</u><br>£'000 |
|--|--------------------------------------|--------------------------------------|
| <u>Income</u>                                    |                                      |                                      |
| <u>Income from charitable activities:</u>        |                                      |                                      |
| Care and rehabilitation services                 | 293                                  | 264                                  |
| Other charitable income - fundraising events     | 452                                  | 561                                  |
| <u>Donations &amp; legacies</u>                  | 977                                  | 954                                  |
| <u>Income from trading activities:</u>           |                                      |                                      |
| Charity shops                                    | 521                                  | 476                                  |
| Contract care services                           | 1,625                                | 1,610                                |
| <u>Investment income:</u>                        |                                      |                                      |
| Investment income (including dividends received) | 615                                  | 605                                  |
| Interest received                                | 55                                   | 49                                   |
| <u>Other income</u>                              | 35                                   | 32                                   |
| <u>Total income</u>                              | <u>4,573</u>                         | <u>4,551</u>                         |
| <u>Expenditure:</u>                              |                                      |                                      |
| Care and rehabilitation services                 | (1,447)                              | (1,357)                              |
| Events   | (338)                                | (521)                                |
| Fund raising                                     | (486)                                | (542)                                |
| Research and information services                | (86)                                 | (82)                                 |
| <u>Trading expenditure:</u>                      |                                      |                                      |
| Charity shops                                    | (490)                                | (478)                                |
| Contract care services                           | <u>(1,560)</u>                       | <u>(1,545)</u>                       |
| <u>Total expenditure</u>                         | <u>(4,407)</u>                       | <u>(4,525)</u>                       |
| <u>Net income before gains</u>                   | 166                                  | 26                                   |
| Net unrealised gain on investments               | 157                                  |                                      |
| Net gain on disposals of investments             | 89                                   |                                      |
| Funds brought forward                            | 11,730                               | 11,704                               |
| <u>Funds carried forward</u>                     | <u>12,142</u>                        | <u>11,730</u>                        |

Continued

Summarised consolidated balance sheet at 30 April 2020

|                                     | <u>2020</u><br>£'000 | <u>2019</u><br>£'000 |
|-------------------------------------|----------------------|----------------------|
| <u>Fixed assets</u>                 |                      |                      |
| Freehold land and buildings         | 125                  | 127                  |
| Plant and machinery                 | <u>110</u>           | <u>118</u>           |
| Total fixed assets                  | 235                  | 245                  |
| <u>Investments</u>                  | <u>11,082</u>        | <u>10,925</u>        |
|                                     | 11,317               | 11,170               |
| <u>Current assets:</u>              |                      |                      |
| Stocks                              | 15                   | 12                   |
| Debtors                             | 198                  | 310                  |
| Short term deposits                 | 387                  | 265                  |
| Cash                                | <u>45</u>            | <u>85</u>            |
|                                     | 11,962               | 11,842               |
| <u>Current liabilities:</u>         |                      |                      |
| Amounts falling due within one year | <u>(66)</u>          | <u>(112)</u>         |
| <u>Net assets</u>                   | <u>11,896</u>        | <u>11,730</u>        |
| Unrestricted funds - general funds  | 584                  | 487                  |
| Restricted funds                    | 124                  | 55                   |
| Endowment funds                     | <u>11,188</u>        | <u>11,188</u>        |
| Total funds                         | <u>11,896</u>        | <u>11,730</u>        |