

THE CHARTERED INSTITUTE OF TAXATION

APPLICATION AND PROFESSIONAL SKILLS

VAT and Other Indirect Taxes

May 2021

TIME ALLOWED

3 HOURS 30 MINUTES

- 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 Jo Gupta, a tax manager at Sawyers LLP, a firm of Chartered Tax Advisers. You have received a letter from Pete Ording (**EXHIBIT A**), Managing Director of Sandsails Ltd. Your firm acts for both the company and Pete and his family. Sandsails Ltd carries on a sand sailing business at a site on the exclusive Chington Peninsular. Part of its business involves the operation of a sand sailing club called “Chington Zephyrs”.

An opportunity has arisen to purchase two properties also situated on the Peninsular. One property comprises land and buildings currently used by Chington Links Golf Club Ltd and in addition to this Pete is considering acquiring the undertaking of Chington Links Golf Club Ltd as part of Sandsails Ltd’s business. The other property is a nearby country house called “The Larches”, which he is also interested in acquiring as his family home.

A valuation of the two properties has been obtained by Pete and before making an offer, he would like your advice on how best to structure the proposed acquisitions having regard to any tax implications.

The following exhibits are provided to assist you:

EXHIBIT A: Letter from Pete Ording of Sandsails Ltd

EXHIBIT B: Valuation Report by Terraspec LLP

EXHIBIT C: Letter from Colonel Penfold to Pete Ording

EXHIBIT D: Memorandum of Association of Chington Links Golf Club Ltd

EXHIBIT E: Pre-seen information

Requirement:

Write a letter to Pete recommending how best to structure the proposed acquisitions.

Continued

Continuation

EXHIBIT A

Letter from Pete Ording of Sandsails Ltd

Jo Gupta
Sawyers LLP
99 The Esplanade
Wilminster
Winshire
WM1 2PL

Sandsails Ltd
110 Beach Road
Chington
Winshire
WM8 1SW

3 May 2021

Dear Jo

Business opportunity

As you know, Sandsails Ltd has had an excellent year. Our purchase of those new Class 3 yachts is certainly paying off! The company has also benefitted from the popularity of Chington Zephyrs, with membership up to 120. We have recently improved benefits for Club members by introducing a discount card for use in local shops - and all for £600 a year!

An exciting business opportunity has now arisen and I would welcome your advice.

You will know of Max Slazenger, the famous golfer, who retired to Chington some years ago. Max lives at "The Larches", the big house on the east coast of the Peninsular. He also owns the adjacent land (known locally as Chington Links) which he made into a golf course. Having recently lost his wife, Max is selling up and moving to The Bahamas. I have had some initial discussions, but nothing is agreed as yet. I got Terraspec LLP to provide a valuation and enclose their report which gives details of the two properties.

As you will be aware, Sandsails Ltd has long-term plans for development of the Chington Peninsular as an exclusive leisure resort. It would therefore be very attractive to us to acquire the golf course and integrate the golf club undertaking into Chington Zephyrs, so members could enjoy both types of sporting activities. We believe this could greatly increase membership numbers. Sandsails Ltd has surplus cash and this would seem a good investment. If we can acquire more land in the future, we plan to add tennis, squash, croquet and bowls, too!

The golf course is currently used by Chington Links Golf Club Ltd, of which Max was one of the Founders. I believe some influential local people are also members, including a number of councillors and the Chairman of the Planning Committee! Arrangements there, I have to say, seem rather informal. I managed to get hold of the Memorandum of Association and some financials from Colonel Penfold, the Club Treasurer. I enclose his letter dated 18 April 2021. I am still waiting for a Balance Sheet! Subsequently, in a phone conversation, he let slip that the Club regards itself as a private concern and has never registered for VAT or filed any form of tax return. Max told me he has great affection for the Club. He hopes any purchaser would keep it going, so he can return and play a round occasionally with his friends.

My current thinking is for Sandsails Ltd to buy the golf course property. In the short term we will probably seek to retain existing staff, including Tom, the Groundsman, who lives on site. If possible, we want to merge the club undertaking with Chington Zephyrs and integrate the two sporting activities. I am looking to you for suggestions how this might be done.

One point occurred to me: we charge VAT on Chington Zephyrs' subscriptions, but I read somewhere that sports clubs are VAT-exempt, so I'm wondering if we've been paying too much VAT all these years? Are we due a refund?

Continued

Continuation

“The Larches” is very spacious. As our bungalow is now too small, I plan to sell it and purchase “The Larches” to use as our family home. As an alternative to my buying it, I thought that it could make sense for Sandsails Ltd to buy “The Larches” and lease it to me on favourable terms, rather than me buying the house in my own name. In either case, borrowing of around £250,000 would be needed, but Sandsails Ltd may be able to get a better interest rate from a lender.

I guess the various options will give rise to all kinds of tax issues. Before agreeing a price with Max, I need your advice on these proposals and your recommendations on the best way forward.

I look forward to hearing from you.

Yours sincerely

Pete

Pete Ording
Managing Director

EXHIBIT B

Valuation Report by Terraspec LLP

Report on proposed purchase of Chington Links and “The Larches”, Chington, prepared for Sandsails Ltd

Further to your verbal instructions and our recent site visits, our estimated valuation, which is solely for the purposes of purchase negotiations, is as follows.

Chington Links Golf Course (Land Registry Title No. WIN21543)

This property, the freehold of which Mr Slazenger purchased in 2017, extends to around 29.2 hectares. Originally comprising grazing and heathland, the property includes a clubhouse, known as The Hideaway (see below) and Gorse Cottage (see below). In 2017, Mr Slazenger obtained planning permission to lay-out a 9-hole golf course for private use by himself and his friends. The works involved landscaping, construction of drainage culverts and footbridges, and laying a new road to Gorse Cottage. We are informed these works were completed in July 2018 at a total cost to Mr Slazenger of £190,400.

In October 2018, Mr Slazenger also constructed, at a cost of £66,500, a timber clubhouse (The Hideaway) at the north-west corner of the property. Subsequently, Chington Links Golf Club (of which he was one of the Founders) was formed, which now uses the Golf Course property. The Hideaway is of very basic design comprising kitchen, bar, locker room and small shop (which is also used by Mr Len Hickory, the Club’s Professional). There is no formal tenancy between Mr Slazenger and the Club. We understand he has been content to receive a nominal rental of £500 per month (payable from 30 April 2019) until such time as the Club shows a healthy surplus.

Gorse Cottage is a former shepherd’s cottage, situated on the south-east corner of the property. Currently, it is let rent-free to the golf club groundsman, Mr Tom Greensward. However, we understand vacant possession can be obtained on completion. Gorse Cottage forms part of the property but, if sold separately, we estimate the current value at no more than £120,000 as it is in need of renovation.

The Valuation Officer recently agreed a rateable value of £17,500 for the Golf Course. Gorse Cottage is separately assessed for Council Tax within Band A and has an annual value of £180.

Continued

Continuation

The market for golf courses is somewhat depressed at present. However, we estimate a value of £625,000 for the whole property (including The Hideaway and Gorse Cottage).

Since the boom of the 1990s, rents charged to many golf courses have risen substantially. This is a 9-hole course with only basic amenities. However, the rent paid by the Club is substantially below a market rate. For a new lease, under current market conditions, we estimate the annual rent to be around £25,000.

“The Larches” (Land Registry Title No. WIN12345)

The property is a detached house, dating from the nineteenth century, standing in mature grounds of approximately 0.45 hectares, and faces towards the sea. It is separated from Chington Links (see 1) above) by a substantial brick wall, access being through a lockable gate. The Hideaway cannot be seen from the house as it is screened from view by a belt of trees.

“The Larches” has been well-maintained by Mr Slazenger, the freehold owner since 2015 and the property is in good decorative order throughout. Subject to satisfactory structural survey, we estimate the value, on a sale by private treaty, to be £900,000. The sale price at auction is difficult to estimate but could be in the range £875,000 to £925,000 depending on the degree of interest generated by the sale.

We understand that, historically, the rateable value was £1,250 (annual value). The property is now within Council Tax Band G. Assuming the property were to be let on a residential lease, with the landlord responsible for repair and maintenance, we estimate the annual market rental to be around £30,000. The property is attractive, due to the amenity of the adjacent property (see 1) above).

Terraspec LLP
28 April 2021

Continued

Continuation

EXHIBIT C

Letter from Colonel Penfold to Pete Ording

Mr P Ording
Sandsails Ltd
110 Beach Road
Chington
WM8 1SW

Chington Links Golf Club Ltd
The Hideaway
The Links
Chington
WM8 2SE

18 April 2021

Dear Mr Ording

Max Slazenger, our Captain, asked me to provide you with certain particulars about our Club.

The Club is a company limited by guarantee formed on 1 February 2019. Enclosed with this letter, as you requested, is a copy of the Memorandum of Association (**EXHIBIT D**). I have not copied the Articles of Association, which are in standard form and give full power to the Executive Committee to make Club Rules for the conduct of Playing Members.

We currently have 95 Playing Members. The full rate of subscription for 2020/21 was £600. This also applies for 2021/22.

Here are our figures since our foundation.

<u>Income</u>	<u>1 April 2020 to 31 March 2021</u>	<u>1 February 2019 to 31 March 2020 (14 months)</u>	<u>Notes</u>
	£	£	
Subscriptions	52,500	46,500	
Bar Takings	35,000	29,750	1
Shop	15,500	10,900	2
Commission on Golf Lessons	2,000	760	3
Bank Interest	500	90	
Total	105,500	88,000	
Less expenses	(62,500)	(73,750)	4
Less capital purchases	(36,000)	0	5
Surplus	7,000	14,250	

Notes

- 1) Only members may buy drinks.
- 2) Shop takings are from Golf equipment sold to members and their guests.
- 3) Len Hickory, the visiting Pro, collects his own fees for lessons and pays the Club 10% commission.
- 4) Expenses include rent and wages. Wages are paid "cash in hand" to:
 - (a) Club Manageress, Rita Carney (£250 per week).
 - (b) Groundsman, Tom Greensward (£275 per week), who also lives rent-free in Gorse Cottage, as he is required to live on site for security.
- 5) New grass-cutting machinery purchased on 2 May 2020.

Currently, we pay Max Slazenger £500 at the end of each month to occupy the premises.

Yours sincerely

Colonel Thomas A. Penfold, TD (Retired) Hon. Treasurer

Continued

Continuation

EXHIBIT D

Memorandum of Association of Chington Links Golf Club Ltd

COMPANY LIMITED BY GUARANTEE AND NOT HAVING A SHARE CAPITAL

MEMORANDUM OF ASSOCIATION OF CHINGTON LINKS GOLF CLUB LIMITED

1) Name

The name of the Company is Chington Links Golf Club Ltd.

2) Residence

The Registered Office of the Company is to be situated in England and Wales.

3) Objectives

The Objects for which the Company is established are:

- (a) the carrying on of a club for the purpose of playing the sport of golf on land known as Chington Links, Chington, in the County of Winshire and for socialising at the clubhouse known as The Hideaway;
- (b) to admit such persons (known as "Playing Members") as are elected by the Executive Committee pursuant to the Articles of Association on such terms or conditions as may from time to time be laid down in Rules made and promulgated by the Executive Committee ("Club Rules");
- (c) all such other things as shall be conducive to the benefit of the Members.

4) Powers

In furtherance of its Objects, the Company shall have the following powers:

- (a) to own, lease, or hire, any real or personal property for the better performance of these Objects and to make investments;
- (b) to employ and remunerate such staff as are necessary for the Company to fulfil its Objects and to engage appropriate consultants and contractors to assist in fulfilling its Objects;
- (c) to accept subscriptions, grants, donations, gifts, legacies and endowments of all kinds, either absolutely or conditionally or in trust for any of the Objects of the Company;
- (d) to borrow money for the purposes of the Company.

Continued

Continuation

5) Membership

The Members are those persons who have subscribed to this Memorandum

The Members shall, in addition, enjoy all the rights of Playing Members.

6) Liability of Members

The liability of the Members is limited.

7) Guarantee

Every Member of the Company undertakes to contribute such amount as may be required but not to exceed TEN POUNDS (£10) STERLING to the assets of the Company if it should be wound-up while they are a Member or within one year after they cease to be a Member, for payment of the debts and liabilities of the Company contracted before they cease to be a Member, and of the costs, charges and expenses of winding-up and for the adjustment of rights of the contributions amongst themselves.

8) Winding-up

A resolution to wind-up or dissolve the Company may only be passed by a majority of Members at a special meeting convened for the purpose.

9) If upon the winding-up or dissolution of the Company there remains after the satisfaction of all its debts and liabilities any property of the Company, it shall be divided between the Members.

Each subscriber to this Memorandum wishes to form a Company under the Companies Act 2006 and agrees to become a Member of the Company.

<u>Name of Member</u>	<u>Signed</u>
Donald Stephen Duval)
William Arthur Jukes)
Daisey Winifred Jukes)
Carmen Mary Lopez)
Nicholas Lee Jackson)
Audrey Helena Jackson)
Thomas Arbuthnot Penfold)
Donald Snead Sampson)
Max Valentine Slazenger)
Li Cheung Yang)

Dated this 1st day of February 2019

Continued

Continuation

EXHIBIT E

Pre-seen information

Client Name

Sandsails Ltd

Client Background

Incorporated in the UK on 1 June 2010.

Company Registration Number: SA123410.

Its principal place of business is at:

110 Beach Road

Chington

Winshire

WM8 1SW

Shareholding

The capital of Sandsails Ltd is divided into 100 ordinary shares of £1 each owned as follows:

Peter Henry Ording (Managing Director): 90 shares

Marina Anne Ording (Company Secretary): five shares

Rudolf David Ording: five shares.

Peter ('Pete') and Marina are husband and wife.

Rudolf ("Rudy"), aged 21, is their son.

The Companies Act 2006 Model Articles are used.

Business

The sale and hire of equipment and facilities to customers for sand sailing on its own land (Furlong Field) and on Chington Sands (licensed from the Crown Estate at an annual fee of £10,000); supply of training sessions; sales from shop and kiosk.

Sandsails Ltd also owns and operates Chington Zephyrs, a club set up on 1 June 2015. A copy of the Club Constitution is here on file. Members enjoy a number of benefits, including priority booking of sailing sessions, discounts, free parking and use of the clubhouse.

Sandsails Ltd employs two qualified instructors (Rudy being one), four other staff and a part-time bookkeeper.

Corporation Tax

Liable to Corporation Tax on its profits.

Auditors:

Sawyers LLP

99 The Esplanade

Wilminster

Winshire

WM1 2PL

Continued

Continuation

VAT

VAT-registered, with effect from 1 June 2010.

Registration number GB 010 0878 66.

Approved by HMRC for annual accounting, with an accounting year ending on 31 December. Payments on account are due in April, July and October.

The Company operates a Point-of-Sale Scheme for the shop and kiosk, using electronic tills, to record standard rated and zero-rated sales.

On 1 July 2012, the Company waived VAT exemption over its offices at Beach Road and the other land and buildings at Furlong Field.

Extracts from the Financial Statements for the year to 31 December 2020:

<u>Income</u>	<u>2020</u>	<u>2019</u>
	<u>£000s</u>	<u>£000s</u>
Tickets and hiring	528	467
Sales of equipment	42	39
Instruction/training	52	47
Refreshments	37	29
Storage and parking	10	8
Club subscriptions	<u>71</u>	<u>69</u>
Total income	740	659
<u>Expenditure</u>		
Cost of sales	45	120
Staff costs	162	144
Operating expenses	81	77
Rent and rates	<u>22</u>	<u>21</u>
Total expenditure	310	362
Profit before Taxation	<u>430</u>	<u>297</u>

Summary of Annual VAT return for the period ended 31 December 2020

<u>Box</u>	<u>Description</u>	<u>£</u>
1)	VAT on sales and other outputs	145,000.00
2)	VAT on acquisitions from other EC member states	0.00
3)	Total output VAT	145,000.00
4)	VAT reclaimed on inputs and acquisitions	21,750.00
5)	Net VAT paid to HMRC	123,250.00
6)	Total value of outputs, net of VAT	740,000.00
7)	Total value of inputs, net of VAT	136,000.00
8)	Total value of supplies to other EC member states	0.00
9)	Total value of acquisitions from other EC member states	0.00

Continued

Continuation

Constitution of Chington Zephyrs

Dated 1 June 2015

Name

The name of the Club is Chington Zephyrs.

1) Definitions

“BFLSC” means the British Federation of Land Sailing Clubs;

“Club Premises” means the clubhouse located at Furlong Field, Chington, Winshire, WM8 1SW;

“Club Rules” means those bye-laws made or amended by the General Committee from time to time;

“Club Year” means the calendar year beginning on 1 January;

“General Committee” means the body constituted by Article 7;

“Proprietor” means Sandsails Ltd;

“Sand Sailing” means the sport of sand sailing (also known as land sailing, land yachting or sand yachting) or similar sport.

2) Objects

The objects of the Club are the promotion of Sand Sailing in a sociable environment with the other advantages and facilities of a club, including without limitation:

- 2.1 to enable its members to enjoy and participate in Sand Sailing;
- 2.2 to offer such benefits to members as the Proprietor shall from time to time decide;
- 2.3 to operate the Club Premises and other facilities of the Club;
- 2.4 to take and retain membership of the BFLSC and to comply with and uphold its Disciplinary Code as may be applicable from time to time;
- 2.5 to do all such other things as the General Committee (with the approval of the Proprietor) thinks fit to further the objects and interests of the Club.

3) Membership

3.1 The members are those persons who have been admitted to membership in accordance with this Article.

3.2 Junior membership is available provided that a junior member is proposed by an adult member.

3.3 Acceptance of members is at the discretion of the Proprietor.

3.4 Annual subscriptions are payable at such rate as the Proprietor shall determine and are payable on acceptance as a member and subsequently at the beginning of the Club Year.

3.5 A person shall become a member after he has paid his first annual subscription and shall be deemed to have agreed to be bound by this Constitution and the Club Rules.

Continued

Continuation

- 3.6 A member may resign his membership at any time by letter delivered to the Secretary.
 - 3.7 The Proprietor may, after consultation with the Chairman, expel or suspend from the Club any member whose conduct, in the opinion of the Proprietor, might be injurious to the interests of the Club provided such member if he so requests is given the opportunity to defend himself and justify or explain his behaviour.
 - 3.8 Any member who resigns or who is expelled immediately forfeits all the privileges of membership without claim for any refund of subscription.
- 4) Rights and liabilities of members
- Subject to this Constitution and the Club Rules, every member is entitled to enjoy and use, in common with other members, the Club Premises and things provided by the Proprietor for the use of the Club on such terms and conditions as to payment or otherwise as the Proprietor may from time to time stipulate.
- 5) Officers
- 5.1 The officers of the Club are the Chairman, the Secretary and the Treasurer.
 - 5.2 The officers of the Club are appointed by the Proprietor who may remove any officer from his office at any time.
 - 5.3 The Secretary must keep a register of members and conduct the correspondence of the Club.
 - 5.4 The Treasurer must keep an account of the receipts of the Club and how they are expended and must make available a statement of account at the annual general meeting.
- 6) General Committee
- 6.1 The General Committee consists of the officers and not more than three adult members elected at the annual general meeting of the Club ("the Elected Members") and shall meet at least once every month to arrange the affairs of the Club.
 - 6.2 The Elected Members shall retire at the end of each year but are eligible for re-election.
 - 6.3 Any three members of the General Committee form a quorum, provided such quorum includes at least two officers.
 - 6.4 The General Committee has all the administrative powers necessary to carry out the objects of the Club in accordance with the Constitution.
 - 6.5 The General Committee shall produce an annual budget which shall be subject to the approval of the Proprietor.
 - 6.6 The General Committee shall not incur liabilities and expenditure beyond the limits of the approved annual budget without the consent of the Proprietor.

Continued

Continuation

7) Club Rules

The General Committee may from time to time with the approval of the Proprietor make or amend rules (not inconsistent with this Constitution) for the regulation of the Club and conduct of members.

8) Annual and special general meetings

8.1 An annual general meeting shall be held at such time in every year as the General Committee shall determine for the election of Elected Members, to adopt the accounts and for any other permitted business.

8.2 Special general meetings may be convened by the Proprietor or by the General Committee on written request to the Secretary, signed by not less than one-fifth of the total membership.

8.3 Not less than 14 days' notice shall be given of an annual or special general meeting and shall specify the business to be transacted.

9) Constitution

9.1 The Club is a proprietary club belonging to the Proprietor.

9.2 The Proprietor is responsible for providing the Club with the Club Premises and all necessary facilities for carrying on the Club in accordance with its objects.

10) Dissolution

10.1 The Club may be dissolved by the Proprietor at any time.

10.2 On the dissolution of the Club by the Proprietor such property of the Club as belongs to members must be disposed of in a manner decided by the members in a general meeting.

11) Disputes

Any dispute which may arise as to the interpretation of this Constitution or the Club Rules must be determined by the Proprietor whose decision is final and binding on all members.

12) Interpretation

12.1 In this Constitution references to the masculine include the feminine and, where appropriate, the singular includes the plural.

12.2 Headings are for ease of reference only and do not affect interpretation.