The Chartered Institute of Taxation

Advanced Technical

Domestic Indirect Taxation

May 2026

Suggested answers

Answer 1

Broadhurst Performing Arts

Second Theatre acquisition

The purchase of the theatre by Broadhurst Performing Arts ('BPA') or Bform26 Ltd ('Bform26') would not qualify as a TOGC as the property has been disused for several years. VAT will be charged at the standard rate as the property has been opted to tax. This option will not be disapplied as the theatre will be used for business purposes.

Refurbishment costs will also attract standard rate VAT.

BPA acquires the second theatre

Should BPA acquire the second theatre, ticket income will be exempt for VAT purposes (Group 13, Schedule 9, VATA 1994). This is because BPA qualifies as an eligible body due to its charitable status, surpluses received are reinvested, and the charity is managed / administered on a voluntary basis.

Under a proposed revenue share agreement, BPA would qualify as a disclosed agent on the basis that it is clear to the end customer enjoying the performance which entity is putting on the performance. BPA should account for VAT at the standard rate on the commission amounts as it is consideration for a supply of agency services.

The provision of educational courses by BPA – an eligible body – would qualify as exempt vocational training where the nature of the courses meets HMRC's definition of the term 'vocational training. This covers training or retraining for paid employment / voluntary employment in areas beneficial to the community and should comprise of workshops / lectures / seminars or similar.

Through the café, BPA would be providing standard rated catering. The determining factor in whether the services are catering is that the food and drink will be served for consumption on-site, rather than as takeaway. On-site also includes scenarios where theatre goers take the food away from the cafe for consumption at seats but remain within the theatre [Barry Herbert Cope [*1981] STC 532*].

BPA would be partially exempt and will be required to register for VAT if either the future or historic test is met. It should also consider a Partial Exemption Special Method ("PESM") – see below.

BPA could also voluntarily register, and this would be beneficial as it has already incurred VAT on legal and surveyor costs. Acquisition and refurbishment costs would be treated as residual under the partial exemption standard method, and recoverable subject to BPA's recovery percentage. BPA should maximise VAT recovery on these costs by registering as soon as possible, as VAT incurred on the legal and surveyor services will be irrecoverable where the tax point is more than 6 months before the effective date of registration. It could also explore backdating its voluntary registration provided it can evidence its entitlement to register.

If BPA voluntarily registers for VAT, it would also be required to charge VAT on its catering sales to individuals, making these services more expensive.

Bform26 acquires the second theatre

Unlike BPA, Bform26 should charge VAT at the standard rate on its ticketing and vocational training charges as it would not qualify as an eligible body. This will increase the cost to customers as the individuals and charities may not be entitled to input tax recovery.

Under the revenue share arrangement, Bform26 should also account for VAT on the commission amounts. Bform26 would also be treated as providing standard rated catering.

VAT incurred by Bform26 on the theatre acquisition and subsequent refurbishment would be recovered in full as it will be fully taxable, making the cost of the acquisition and refurbishment costs lower for the group. BPA's ongoing recharges would constitute a taxable supply. Accordingly, it could be required to register for VAT if the quantum exceeds the VAT registration threshold. Bform26 could subsequently recover this VAT in full.

<u>VAT grouping</u>

Bform26 could form a VAT group with BPA as the control conditions are met. The group would constitute a single taxpayer and would be partially exempt as BPA would continue to make exempt supplies. By default, the partial exemption standard method would apply. This considers the group's exempt income as a proportion of total income.

VAT grouping could be beneficial as it is likely that more VAT could be partially recovered on BPA overheads. Recharges from BPA to Bform26 would fall outside the scope of VAT, representing a cash flow benefit.

However, it is also likely that less VAT will be recoverable on any overhead costs incurred by Bform26. The VAT recovery position for legal and surveyor costs could also be restricted. As the recharge will fall outside the scope of VAT, the VAT incurred on these costs would instead qualify as a residual cost and subject to the VAT group's partial exemption position, noting HMRC guidance regarding stewardship costs.

If the standard method of the VAT group (or BPA's standalone registration) does not fairly reflect the use of input tax, HMRC may apply a standard method override.

<u>CGS</u>

The theatre and refurbishment will fall within the CGS. Where a VAT group is set up, or BPA owns the theatre, the VAT incurred on the building acquisition and refurbishment costs should be recovered in line with the relevant partial exemption position and must be monitored over the course of 10 years to reflect any change in use.

<u>PESM</u>

Where the operating entity is partially exempt, or if a VAT group is formed, the merits of a PESM should be explored. The PESM could be sectorised, with each theatre and corresponding activities constituting a sector. The acquisition and refurbishment costs would be allocated to the new theatre sector. This would ensure that VAT on acquisition related costs and refurbishment costs would be fully recoverable as Bform26 would be using the theatre for fully taxable activities. Under this method, Bform26 overheads could also be allocated to the new theatre sector, and recoverable in full.

Any PESM would need prior approval from HMRC.

<u>Recommendation</u>

Bform26 should be incorporated to run the second theatre. A VAT group should be formed with BPA for cash flow benefits, and a sectorised PESM agreed with HMRC to maximise VAT recovery on the CGS items and Bform26 overheads.

MARKING GUIDE

TOPIC	MARKS
The theatre acquisition would not count as a TOGC and VAT would be due on the charge	0.5
Refurbishment costs would be standard rated	0.5
BPA ticketing income from the new theatre would be exempt as the conditions for exemption will still be met	1
Bform26 ticketing income would be standard rated	0.5
BPA/Bform26 is a disclosed agent on the basis that it is disclosed to end customers	1
Commission income received by BPA/Bform26 would be standard rated	0.5
Educational courses income received by BPA would be exempt as vocational training	1
Educational courses income would be standard rated where received by Bform26	0.5
Catering services will be provided as the food and drink will be served for consumption on-site (in the theatre). At seats would include on-site in this context per case law	1
BPA/Bform26 should charge VAT at the standard rate on catering services	0.5
BPA would be partially exempt for VAT purposes, receiving both taxable and exempt income	0.5
BPA may be required to register if the historic or future tests are met	0.5
BPA could voluntarily register, and this could be beneficial to partially recover VAT on acquisition costs	0.5
As BPA has already incurred VAT, it could voluntarily register imminently, or backdate its registration, to maximise VAT recovery on legal and surveyor costs which have already been invoiced	1
If BPA voluntarily registers, catering and commission charges will be more expensive for customers who are not entitled to VAT recovery	1
Bform26 will be fully taxable	0.5
BPA could trigger a requirement to register for VAT depending on the quantum of recharges if Bform26 is incorporated	1.0
If registered, Bform26 would be able to recover VAT incurred on BPA recharges and other costs relating to its theatre activities in full.	0.5
Bform26 would also be able to recover VAT on the theatre acquisition and refurbishment costs in full, making it cheaper for the group.	1.0
Bform26 and BPA could form a VAT group	0.5
The VAT group would be partially exempt, and the standard method would apply in the absence of a PESM	0.5
VAT grouping would allow the group to recover more VAT on BPA overheads and BPA recharges would fall outside the scope of VAT leading to a cashflow benefit	1.0
In the absence of a PESM, less VAT would be recoverable on Bform26 overheads, and less VAT would be recoverable on acquisition and refurbishment related costs due to stewardship cost rules	1.0
The theatre and refurbishment will separately fall within the CGS	0.5
If a VAT group is formed, the group should explore a PESM with HMRC	0.5
A sectorised PESM method would be beneficial, with both the old and new theatres operating as separate sectors	1.0
This PESM could ensure VAT on acquisition costs and refurbishment costs is fully recoverable where operated by Bform26, as well as ensure VAT is recoverable in full on Bform26 overhead costs.	1.0
Appropriate recommendation	0.5
TOTAL	**20**

Answer 2

Grimsby Publishing Ltd

GPL Learning

Grimsby Publishing Ltd ('GPL') has correctly treated sales of GPL Learning as a single, zero-rated supply for VAT purposes. Subscribers pay to receive access to a catalogue of e-books falling within VATA 1994, Schedule 8, Group 3. The AI tool represents a component of the core product, but is ancillary – it is a means of better enjoying the e-book content.

E-reader and audio-visual bolt-ons

Per *Card Protection Plan* '(CPP') Ltd, ECJ Case C-349/96, the provision of GPL Learning alongside one or both bolt-ons represents multiple supplies. This is on the basis that both bolt-ons could be sold and marketed separately. Additionally, whilst both the e-reader hardware and audio-visual material are partially linked to the GPL Learning content, both can be used and enjoyed in isolation.

Whilst GPL charges a single combined price on the invoice, this is not, by itself, determinative when considering if a package constitutes a single supply. The motivations of the subscribers themselves also need to be considered. Subscribers opting for one or both bolt-ons have made a choice to receive additional functionality for an additional cost.

E-reader income has been treated incorrectly as zero-rated and should have been standard rated. This notwithstanding, the provision of e-book readers to disabled students would qualify as a zero-rated sale of an assistive technology system (Item 2, Group 12, Schedule 8, UK VATA 1994). This is because GPL pre-installs specialist software which is specifically required by the individual.

Audio-visual bolt-on income has also been incorrectly treated as zero-rated. This income constitutes consideration for an electronically supplied service and should have been standard rated.

Advertising Income

VAT should also have been charged on the advertising income from Project Nature. The zero-rating relief covering supplies of advertising services to charities under Item 8, Group 15, Schedule 8, UK VATA 1994 does not include targeted advertising on subscriber-only websites such as GPL Learning.

Error correction

As the error is not deliberate, underpaid output tax prior to May 2022 does not need to be disclosed - assessments will not cover a period greater than 4 years (s 77 Value Added Tax Act 1994).

The total error is **£34,076.67**.

1. E-reader bolt-on: **£8,910**

Year	**E-reader sales**	**Excl. sales to disabled (*0.9)**	**VAT amount (1/6)**
2021	£11,000	£9,900	£1,650
2022	£13,200	£11,880	£1,980
2023	£13,200	£11,880	£1,980
2024	£14,300	£12,870	£2,145
2025	£16,500	£14,850	£2,475
2026	£6,600	£5,940	£990
Total			**£11,220**

£11,220 - £1,650 (2021 figures) - £660 (4/12 of 2022 figures) = **£8,910**

2. Audio-visual bolt-on: **£18,500**

Year	Audio-visual sales	VAT amount (1/6)
2021	£10,000	£1,666.67
2022	£18,000	£3,000
2023	£25,000	£4,166.67
2024	£29,000	£4,833.33
2025	£30,000	£5,000
2026	£15,000	£2,500
Total		**£21,166.67**

£21,166.67 – £1,666.67 (2021 figures) - £1,000 (4/12 of 2022 figures) = **£18,500**

3. Charity contract: **£6,666.67** (£40,000/6)

GPL could voluntarily disclose the error to HMRC. If GPL proceeds with this option, the disclosure should be made immediately on discovery of the error. Alternatively, as the error is under £50,000, it can also be disclosed via the next VAT return (subject to whether the total error is less than 1% of the return's Box 6 figure).

Correcting via the next return is simpler and avoids a formal disclosure to HMRC which would trigger penalty procedures. The business could also avoid being charged interest by HMRC. However, it is likely that the error is careless as there is no evidence that GPL has exercised reasonable care. Therefore, if HMRC were to subsequently discover the corrected error, GPL would still be exposed to interest.

Correcting via the VAT return also would not qualify as a unprompted disclosure, and therefore GPL would be exposed to a minimum penalty of 15% (£34,076.67 * 0.15 = £5,111.50) and a maximum penalty of 30% (£34,076.67 * 0.3 = £10,223).

By submitting a voluntary disclosure, the error would be unprompted and could benefit from full penalty mitigation, although interest would be applied (see below). By "telling" HMRC, "helping" with a clear explanation and submission of relevant sales documentation, and "giving access" to the company's records, HMRC can mitigate the penalty in full.

Commercial restitution interest will apply to GPL's disclosed error. Simple interest is applied which is calculated only on the original shortfall, not on any accrued interest. Interest will only be charged for a maximum of three years prior to the date of calculation shown on the Notice of Assessment.

Noting the penalty exposure due to the nature of the error, GPL should voluntarily disclose the error.

MARKING GUIDE

TOPIC	MARKS
GPL learning is a single supply of zero-rated e-books	0.5
The AI tool component is ancillary and is a means of better enjoying the core content	0.5
Relevant application of established single / multiple supplies principles to both bolt-ons	2
Conclusion that both bolt-ons are multiple supplies components	0.5
E-reader sales should have been subject to VAT at 20%	0.5
E-readers sold to disabled students qualify as assistive technology systems	1
Audio-visual bolt-on should also have been subject to the standard rate of VAT	0.5
Income from Project Nature UK does not qualify as a zero-rated supply of advertising services to a charity as the adverts are targeted	1
Application of Section 77 of the Value Added Tax Act 1994 in the error calculation	1
Correct apportionment of sales of e-readers to disabled students	0.5
Correct calculation of the total underpayment of VAT (half mark for each income stream)	1.5
The error can be corrected via the company's next return subject to the Box 6 figure	0.5
Appropriate discussion of the benefits of each option, including discussion of penalty mitigation vs interest implications	2
The error is careless	0.5
Correct penalty calculation for a careless, unprompted error	1
Discussion around how to mitigate this in full via a disclosure	0.5
Gives an appropriate recommendation based on discussion	1
TOTAL	**15**

Answer 3

Car-lease

The purchase of a car lease by a business is subject to a 50% input tax block where the car is made available for private and personal use. However, this treatment is affected by the fact that Schubert Tague LLP ('STL') is recharging the lease to its employees via salary sacrifice. Salary deductions made in return for the provision of goods or services constitutes consideration for VAT purposes, in line with the findings in *AstraZeneca* (Case C-40/09),

Several options are available to STL:

1. Taxable salary sacrifice

   Firstly, the firm could treat salary sacrifice deductions as subject to VAT. Under this option, the firm would be required to declare £200 output tax for each monthly charge to its employees. However, the VAT the firm incurs on lease costs from Schumacher Cars would also be recoverable in full as this would relate to the deemed taxable supply of the lease.

2. Partially block VAT on lease costs

   STL could alternatively partially block the VAT incurred on lease costs. Noting STL's partial exemption position, using the example of a £1,200 lease, it would be able to recover £75 ((£200*0.5) *0.75) as input tax. ST LLP could then reduce the salary deductions to recoup £1,125 (£1,200-75). This would fall outside the scope of VAT as the input tax block has been applied. This option could be preferable as employees will be charged less via salary sacrifice.

EV-charging

Per *Primback* (Case C-34/99), the provision of an interest free loan would fall outside the scope of VAT. There will be no additional VAT implications under current proposals where the firm is not involved in the arrangement between the EV charging hub supplier and employee.

Where the firm engages directly with the installation provider, it will also incur VAT at the standard rate on the installation costs. Per *Redrow Group Plc* ([1999] 2 All ER 1), STL could argue that the installation services benefit its business (e.g., by supporting employee productivity or sustainability goals) and therefore the VAT on installer costs is therefore eligible for input tax recovery. This would make the net cost of the initiative cheaper if the VAT charged becomes partially recoverable as input tax subject to the firm's partial exemption position.

Vans

The vans provided to IT employees will be used for a mixture of private and business purposes. However, the input tax block does not apply to van lease costs. Therefore, STL will be able to recover VAT it incurs on van lease costs as input tax. Whilst some of the IT staff may be involved in taxable secondments periodically, it is likely that the costs will qualify as residual and be subject to 75% recovery currently.

Recruitment

STL will be able to recover VAT on costs which are specifically linked to the solicitor's relocation, including the removal firm charges. STL will also be able to recover any VAT charged on the maintenance costs of the solicitor's old home if the house is currently up for sale. This is because HMRC treat such expenses as linked to the solicitor's relocation (see VIT43920).

STL will not be able to recover any VAT relating to the ongoing cleaning costs for the new home as input tax. This is because the expenditure is not linked specifically to the relocation and forms part of the solicitor's ongoing living expenses.

It is likely that the VAT incurred by STL will constitute residual input tax for partial exemption purposes. However, if the new solicitor will only be involved in the provision of taxable services, the firm could recover the VAT in full on the basis that the costs directly relate to these taxable services.

<u>Gym membership</u>

Per HMRC guidance (see VIT43700), where gym memberships are made available to all employees, whether for a charge or not, the VAT incurred on the cost of providing the membership is recoverable input tax. This VAT would be recoverable subject to the firm's partial exemption position, and no output tax charge will be due.

However, there is an onward supply under the Supplies of Services Order where membership of a golf club, health club or similar organisation is provided as a perk to specific employees (see VIT25000). Therefore, where the firm implements the more exclusive incentive scheme, STL would be required to account for output tax on the cost of the membership charges it covers. This increases the net cost per membership provided if the firm decides not to pass the cost of the membership onto the relevant employees.

MARKING GUIDE

TOPIC	MARKS
Mention of the 50% block	0.5
Mention of AstraZeneca case principles (*name not needed for mark*)	0.5
Outline option 1 – treat the lease deduction as subject to VAT with corresponding full input tax recovery.	1
Option 1 supporting calculations	0.5
Outline option 2 – partially block the VAT incurred and its application to a partially exempt business	1
Option 2 supporting calculations	0.5
Appropriate recommendation of which VAT treatment to apply	0.5
Conclude the interest free loan falls outside the scope of VAT	1
Application of *Redrow* to alternative EV charging hub incentive structure	2
Outline of practical steps and the basis for which the firm could recover the VAT on EV hub installation costs	0.5
Confirmation that the vans will be subject to private use, but that van lease costs are not subject to a 50% input tax block	1
Discussion around whether the lease costs would be considered residual for partial exemption purposes	1
The VAT on costs directly relating to the solicitor's relocation would be recoverable. VAT on cleaning costs therefore not recoverable.	0.5
VAT on removal firm charges will be at least partially recoverable	0.5
VAT on maintenance costs could be recoverable if the house is up for sale	1
Discussion around whether this would be residual input tax or VAT directly related to taxable services	1
Confirmation that VAT on gym membership provided to all employees is recoverable at input tax. Likely residual input tax for partial exemption purposes	1
Mention of onward supply under Supplies of Services Order for the more exclusive health club and gym incentive scheme, and a comment that this will make the perk more expensive on a per membership basis	1
TOTAL	**15**

Answer 4

Ensure Insurance Ltd ("EIL") will be liable to account for IPT on premiums for the insurance contracts it provides where the insurance of risks is in the UK.

Supplies of travel insurance for UK risks are liable to the higher rate of IPT of 20%. IPT cannot be recovered.

The place of risk for travel insurance depends on the length of the travel insurance contract. Where the insurance of the risk is outside the UK, the contract is exempt from IPT.

The length of the travel insurance contract is important in determining where the place of risk is. If the travel insurance contract has a duration of four months or less, it will constitute a UK risk if it was entered into in the UK. The four month period is the period from the start of the policy to the end of the insured period and not the holiday length itself.

Summer Policy

The summer policy is less than four months and cannot be booked more than two weeks before being entered into so it will only be subject to IPT if it is taken out by students and staff that are in the UK at the time of entering into the contract. The contracts of overseas students which enter into the summer policy contract before travel to the UK should be exempt from IPT.

Annual Policy

For the annual policy, it is the habitual residence of the person that determines whether it is a UK risk. Habitual residence is generally residence of one year however this is on a case-by-case basis and HMRC can take different views depending on circumstances. If the student or staff habitually resides in the UK when the contract is entered into, then it is a UK risk and will be liable to IPT. The actual physical location of the person when they take out the contract is not relevant for the purposes of determining the habitual residence of that person. So where for example a UK student travels to France for a holiday and books an annual policy whilst they are in France, as they will habitually reside in the UK, it remains a UK risk.

With respect to the overseas students who have yet to travel to the UK, if they book the annual insurance before arriving, these contracts will be exempt from IPT as they do not reside in the UK. If the student renews the policy after being in the UK for a year, the renewal will be subject to IPT as it will cover a UK risk.

Tutor Insurance Ltd ("TIL")

Where TIL is a taxable intermediary for IPT purposes, it will be liable to register and account for IPT on the fee it charges to students.

TIL will be considered a taxable intermediary if the following conditions are met:

1) The insurance is taxable
2) It is liable to the higher rate; and
3) TIL charges the fee separately

For overseas risks, then the insurance is exempt and TIL will not have an obligation to account for IPT on these contracts.

Option 1

As TIL will charge a separate fee and itemise it on the invoice, this will create an obligation to notify HMRC and register for IPT as soon as it forms the intention to raise the fee.

This notification should be made within 30 days from when the intention to receive premiums arises. Penalties for late notification which are careless can be up to 30%.

Option 2

Under option 2, TIL will not charge a separate fee and therefore it will not have a liability to register for IPT. The commission that TIL receive should be included by EIL as part of the premium it receives. Therefore, whilst IPT will still be due on the premium, it will be EIL's obligation to account for this, rather than TIL's.

Recommendation

Option 2 is the more favourable option for TIL as it will not trigger an obligation to register and account for IPT.

Interest

Students choosing to pay for the annual policy in instalments will be charged interest. Interest forms part of the premium for IPT purposes and therefore should be included within the IPT charge.

Gadget insurance

The gadget insurance element will qualify for IPT at the standard rate. Whilst this is generally an add-on, and so the value can be easily ascertained; if the premium is an inclusive total, an apportionment should be made using a 'just and reasonable' method. *(see IPT1 paras 9.5.1 and 13)*

MARKING GUIDE

TOPIC	MARKS
EIL	
Insurance contracts taxable for EIL if UK risk	0.5
Taxable travel insurance is subject to the higher rate	0.5
Taxable contract	
UK risk	0.5
Four month rule and overseas students	1.5
Application to summer policy	0.5
Period of policy and not holiday	0.5
Annual policy – habitual residence	1
Application to students and staff	1
Intermediary	
Three conditions	1.5
Option 1	
Separate fee charged by TIL so need to register for IPT	1
Timing of notification	1
Possible penalties for late notification	0.5
Option 2	
No separate fee charged so TIL does not need to register	1
EIL to account for IPT on full amount (including commission)	1
Recommendation	
Option 2 is preferable for TIL as no liability to register	1
Interest for payments in instalments	
Interest forms part of the premium so IPT due on any interest amounts	0.5
Gadget Insurance	
Rate for gadget insurance and apportionment	1.5
TOTAL	**15**

Answer 5

As Cycle for Good Ltd ("CFG") is a commercial operator, it will not qualify as an eligible body (Group 6 Schedule 9 VATA 1994). In addition, its supplies would not be considered private tuition as the lessons are not provided by individuals independently Therefore, the lessons have correctly been treated as standard rated.

<u>Retail store – adults</u>

Both the sale and hire of adults clothing and equipment will be standard rated with the exception of the sale of cycling helmets.

Protective helmets for wear by a person riding a pedal bicycle are zero rated (item 3 Group 16 Schedule 8 VATA 1994). However, to qualify for the zero-rate, they must be manufactured to the standards which satisfy the requirements of regulation 8(2) of the Personal Protective Equipment Regulations 2002 and show the mark of conformity required by that regulation.

<u>Retail store – children</u>

The sale and hire of most children's clothing, shoes and helmets are zero-rated however, the hire of a children's bicycle will remain standard rated.

Articles designed as clothing or footwear for young children are zero rated where they are not suitable for older persons (item 1 Group 16 Schedule 8 VATA 1994). HMRC apply strict rules with respect to the sizing of children's clothing and footwear. For footwear, HMRC accept that shoes are designed for young children for sizes up to and including size 6 and a half for boys and size 3 for girls. For clothing, HMRC outline specific measurements (chest and waist) for children's clothing but HMRC do allow larger sizes where it is clear the article has been designed and is held out for sale for children.

<u>Café</u>

The rent of £300 per month charged to the café operator should be exempt from VAT under item 1 Group 1 Schedule 9 VATA 1994, as the grant of a catering concession. Therefore, input tax that is attributable to the rental charge is not deductible, unless the option to tax is exercised. However, it is not known whether the café operator is VAT registered and could recover VAT incurred or if any input tax incurred by CFG falls within the deminimis limits and is recoverable without the need to opt.

<u>Exclusive hire - adult cycling club</u>

The supply of an interest in land is generally exempt from VAT (item 1 Group 1 Schedule 9 VATA 1994). However, within item 1(m), the grant of facilities for playing any sport or participation in any physical recreation is standard rated.

Under item 1(m), this supply to the adult cycling club to be standard rated as participation in physical recreation. The conditions in note 16 state that item 1(m) will not apply where there is a series of events of 10 or more periods, whether or not exceeding 24 hours in total where the interval between each period is not less than one day and is not more than 14 days. In this case, as the cycling club is only exclusively hiring the venue one Wednesday of every month, so the interval between each event is more than 14 days and therefore item 1(m) of note 16 does not apply.

Therefore, the exclusive hire for the adult cycling club has been correctly treated as standard rated.

<u>Exclusive hire – local school</u>

As with the adult cycling club hire, the starting position is that item 1(m) will apply and it will fall within the exception to the exemption and be treated as standard rated.

However Note 16(a) states that the standard rate will not apply where the grant of the facilities is for a continuous period of use exceeding 24 hours. However, as the school only hires the venue for 3 hours a day, this condition is not met.

Note 16(b) will apply as there are more than 10 series of exclusive use and less than 14 days between each series.

CFG has been incorrectly charging VAT on this supply to the local school and it should be treated as VAT exempt and input tax should be monitored in line with deminimis limits.

Trip to Scotland

The trip to Scotland will fall within the Tours Operator Margin Scheme ('TOMS'). TOMS is a simplification measure that aims to treat a bundle of travel (including accommodation and other associated services) made to the same person as a single supply within the UK. This is the case when it is supplied by a principal or undisclosed agent.

CFG will be packaging together travel to and from Scotland, accommodation, meals and tickets to a football match and supplying these in its own name making them margin scheme supplies. The implication of supplies falling within the scope of TOMS is that input tax cannot be recovered on costs of bought in margin scheme supplies. Instead, CFG will be required to account for output tax on the margin i.e., the difference between the amount received and the amount it paid. This will be applicable for the travel, meals and football tickets but a different rule will apply for the accommodation.

Whilst the accommodation is an in-house supply (as it is CFG's own hotel), if supplied on its own, it would not fall within the scope of TOMS but, as it is being packaged together with margin scheme supplies, it will fall within TOMS. The value of the accommodation will need to be calculated and included in the total margin scheme supplies.

As the cycle trip is all located within the UK, the VAT liability of the margin will be standard rated.

Adjustments for VAT

CFG has incorrectly been charging VAT on various children's clothing/equipment, the rent to the operator of the café and to the school cycling club. It should calculate the incorrectly charged VAT and this should be disclosed to HMRC if is it more than the greater of i) £10,000 or ii) 1% of box 1 (up to a maximum of £50,000). This disclosure can be made through a VAT652 form or a written letter to HMRC.

MARKING GUIDE

TOPIC	MARKS
Cycle lessons	
Discussion of eligible body	1
Consideration of private tuition	0.5
Conclude standard rated	0.5
Retail store - adults	
Standard rated	0.5
Helmets zero rated but only if proper standards	1.5
Retail store - children	
Zero rated – extends to helmets and footwear	1
Specific sizes for footwear and clothing	1
Bike hire excluded	1
Café	
Exempt as land supply	1
Input tax restriction subject to deminimis	1
Cycling club – exclusive hire	
Land exemption	1
Discussion of item 1(m) and Note 16	1
Application to facts of cycling club – should be taxable	1
School – exclusive hire	
Same land exemption	0.5
Different application of note 16 –more than 10 events so note 16 does apply – should be exempt	1.5
Input tax restrictions subject to deminimis	0.5
Trip to Scotland - TOMS	
Identification and application of TOMS	1
Application to Cycle for Good Ltd – making margin supplies, no input tax can be recovered, output tax due on margin	2
In-house supplies identified	1
As trip is in the UK, margin is at 20%	1
Adjustments for incorrectly charged VAT	
Calculation, method of adjustment	0.5
TOTAL	**20**

Answer 6

SDLT - general

The sale of the freehold of Yellowacre is a chargeable land interest and so will be subject to SDLT.

The chargeable consideration for a transaction is usually the consideration given for the land transaction in money or money's worth. Chargeable consideration includes VAT.

In this case, the chargeable consideration includes the following:

- £3m land value
- Access road works
- 6% of future sales

Land value

The land value is subject to VAT as Oliver has an option to tax in place however, this option to tax is more than 20 years old so Oliver could revoke this. In any case, as Yellowacre is going to be converted into residential dwellings, Elite Home Builders can issue a certificate (VAT1614D) to Oliver and the option to tax will be disapplied. This must be issued to Oliver before the price is legally fixed, usually by exchange of contracts or signing of heads of agreement.

Access road works

These construction works performed by Oliver may form part of the chargeable consideration but if certain conditions are met, the reimbursement of costs will not be considered chargeable consideration. These conditions are:

1) The works are carried out after the effective date of the transaction
2) The works are carried out on land acquired under the transaction
3) It is not a condition of the transaction that the works are carried out by the vendor.

As the legal agreements are currently drafted that Oliver will complete the works, condition 3) is not met and therefore the £30,000 plus VAT will form part of the consideration. It should be possible to negotiate this point with Oliver and Elite Home Builders perform the works itself following the transaction. If successful, the access road consideration will not be subject to SDLT.

6% of sale proceeds on future apartment sales

At completion the value of these payments or when they will commence is not known, making this uncertain consideration for SDLT. Therefore, SDLT is payable at completion on a reasonable estimate of the uncertain consideration. Elite Home Builders may apply to defer the payment of SDLT until such a time that the consideration becomes known (or certain) as it will be paid more than six months after the effective date of the transaction.

SDLT Calculation for Elite Home Builders

Future sales proceeds have not been included within the SDLT calculation. it is also assumed the option to tax is disapplied.

	£
Yellowacre	3,000,000
Access road	36,000
TOTAL	£3,036,000

	%	£
£0 - £150,000	0%	0
£150,000 - £250,000	2%	2,000

£250,000+	5%	139,300
TOTAL		£141,300

The SDLT return and associated payment is due within 14 days of the effective date of the transaction, otherwise penalties and interest pay be applied. The effective date is usually the completion date.

Elite Home Builders CEO

For SDLT, David is considered non-resident in the UK as he has not spent 183 days in the UK within the last 12 months. Therefore, the 2% surcharge would apply to the SDLT residential rates. As this will be his first home in the UK (the second property is in Dubai), the 3% surcharge will not apply.

The residency tests for SDLT run from the year prior to the transaction through to the year following the completion date of the transaction. Therefore, it is likely David would be considered a resident as this will be his main residence. David must still account for SDLT based on his residency status at the time of the transaction but he will be entitled to a refund of the additional surcharge when the 183 day surcharge is satisfied the following year. The refund claim must be made within two years of the completion of the transaction.

VAT

The sale of the apartments by Elite Home Builders will be zero rated as the first grant of a major interest by a person converting the buildings designed as dwellings.

The majority of the conversion costs of Yellowacre will be reduced rated under Group 6 Schedule 7A and input tax incurred by Elite Home Builders in the course of the conversion should be recoverable as they will have a direct and immediate link to the taxable supply of zero-rated apartment sales.

Input tax recovery is blocked on carpets and light fittings as they are not ordinarily incorporated for the purposes of Note 22 Group 5 Schedule 8 VATA 1994. Input tax can also not be recovered on free-standing white goods.

MARKING GUIDE

TOPIC	**MARKS**
Acquisition of Property	
SDLT	
Chargeable interest	1
SDLT on VAT inclusive	0.5
VAT	
Possible for Oliver to revoke OTT	1
Certificate to get OTT disapplied, must be issued by price is legally fixed	1.5
Access road - SDLT	
Conditions to take this out of chargeable consideration	2
Renegotiate this with Oliver	0.5
VAT will be part of the consideration	0.5
Future sales - SDLT	
Treatment of uncertain consideration	1
Deferment possibility for uncertain consideration	1
SDLT - calculation	
Calculation	1
Compliance – return and payment deadline	0.5
CEO purchase of penthouse	
SDLT	
Residency test, 2% surcharge	1
Possible refund if 183 day test met	1
VAT	
Sale of dwelling zero rated	0.5
Construction costs reduced rated	1
Blocked items	1
TOTAL	**15**