

Institution **CIOT - CTA**
Course **Adv Tech Domestic Indirect Tax**

Event **NA**

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Exam ID

Answer-to-Question-_1_

Yeldon Ltd (Yeldon) Vat Liability of Services

Travel vaccinations that are administered by registered nurses are exempt of VAT. as per HMRC's recent policy.

Yeldon's take away drugs, as they are perscribed by a registered paharmacist, this supply of drugs will be zero-rated providing these are administered by the patient in not in the hospital or at a care home(administered by a registered nurse)

due to the mixture of exempt services and zero-rated services, this will make Yeldon a partial exemption company. a special method maybe preferable to a standard-method partial exemption.

Yeldon and Consitest Ltd (Consitest) VAT Liabiliies

VAT exemption for healthcare is quite strict and must be carried out by a registered healthcare professional for the care, protection or maintenance of the individual, or services closely related to it.

The supply of the swabing is exempt of VAT aas HMRC policy states that where the persons administering the testing is supervised by a registered medical professional including a nurse.

Where Consitest is supplying these tests to individual to "self-test" and the testing is carried out by Consitest ltd in order for this supply to Yeldon Ltd to be exempt of VAT Consitest must provide a report regarding the individual of a medical analysis of the testing and then provide the results and this report to Yeldon,

However, where the service for review is with Yeldon it is unlikely that the testing services will be exempt and will be standard-rated in the event that Consitest.

unfortunatly as these services are standard-rated Yeldon will not be able to recover the VAT as it is directly and immediately linked with the onward supply of exempt medical swabing services.

further on the supply of self testing kits, as these are not administered by a medical professional the £7.50 is liable to VAT at the standard-rated

Regarding the other larger laboratory. it is likely that they are charging VAT correctly as the testing is not carried out by a medical professional and no medical reports are provided with the test results concerning a diagnosis or similar.

Pathology services must be made by state regulated entity, if this is the case, then VAT exemption may apply here. however, as this is a limited company it is unlikely to satisfy this requirement. but must be investigated as if this correct the services provided by Consitest Ltd will be exempt in line with HMRC policies.

BioMedical scientists are not to my knowledge under any of the registered listed under the VAT exemption VATA 1994 Group 7 Schedule 9 Item 1

Input Tax Recovery

Input tax recovery can only be allowed where the cost is directly and immediately linked to a taxable supply. where Yeldon will incur VAT on the supplies made to it for the supplies of the swab samples at the clinic, VAT cannot be recovered as these services are exempt.

where the costs are incurred for the online test kits, this will be eligible for VAT recovery.

Partial Exemption

It is recommended that where Yeldon is now taking on new business endeavours it is likely that a Partial exemption special method should be in place, likely a securitised method on a cost centre basis or similar to isolate costs to their specific sectors and the residual costs are dealt with in a more tax efficient manner compared with a standard-method.

IPT Liability

a guarantee is not generally seen as an insurance contract. an insurance contract is not defined in legislation by from a recent case it is an insurance contract where;

- 1) the insured has an a risk that can be covered,
- 2) the insurance is made in good faith
- 3) a premium is paid for the indemnity against the risk

therefore as the Guarantee does not satisfy the above, this will not be considered insurance for IPT purposes.

additionally, Guarantees are liable to VAT at the standard-rate.

-----ANSWER-1-ABOVE-----

-----ANSWER-2-BELOW-----

Answer-to-Question-_2_

MarkDeen Ltd are a non-profit organisation that providing the profit it makes from the education itself are ring-fenced and only used to further develop that education, the education provided will be exempt of VAT.

where a subsidiary is wholly owned by Markdeen to deal with its commerical activities, this will not impact the VAT liability of the exempt educational supplies made by Markdeen Ltd.

The sales from Markdeen Ltd will be taxable and the 5% retention will be liable to output VAT as consideration for the management and administration for the shop. the remaining income passed back is outside the scope of VAT as no supply was given in return for that money.

Input TAX for Markdeen Ltd will not be recoverable as this relates to generating income specifically for exempt purposes, their exempt education.

Markdeen Trading and Lang4u

the peppercorn lease whether available or not, will be outside the scope of VAT. therefore no supply would have been deemed to take place here. the management charges or back office service will likely be taxable services supply to Markdeen Trading Ltd, rather than a supply of land and where there is no lease agreement this will be not be exempt as Markdeen Ltd owns the land.

Therefore as Markdeen Ltd has neever granted Markdeen Trading the

licence to occupy or lease of the property, the supply from Markdeen Trading Ltd will be standard-rated to Lang4u Ltd as Markdeen Trading never had the grant to own that property.

Carboot

A recent case saw to to make clear the difference between a licence to occupy (exempt of VAT if not opted to tax) and and a supply of facilities (standard-rated.

the offering for £5,000 and the use of the grounds and facilities, providing these are limited facilities made available for use such as toilets use, seating ect, if Markdeen Ltd provides complete use of that land to occupy that land as a they wished, in this case a car boot sale this would be considered a licence to occupy - such cases as Sinclair provided precedence for this. this will likely be seen as a supply of land.

where Markdeen Trading Ltd is offering to run a service such as operating the car boot sale, this will extend further than a supply of land and will be supplying specific services and likely issue tickets to the customers for entrance into the grounds, the facilities are provided to the customers by Markdeen Trading rather than allowing the persons free reign to use the land as they wish.

-----ANSWER-2-ABOVE-----

-----ANSWER-3-BELOW-----

Answer-to-Question-_3_

Overview:

It appears that HWE Ltd is not an eligible body for the supply of education and online supplies of study material can be exempt where live tutoring is available, however as HWE Ltd are not an eligible body the supplies must be standard-rated.

An eligible body is a body that is precluded from distributing its profits and any profits made must be injected back into the educational services provided. This does not appear to be the case here.

Single Vs Mixed Supply

The approach suggested to HWE Ltd (HWE) is to split out each element of the supply to each individual element so they are liable to their own VAT rate.

Considering this it would mean that the online course material could be zero-rated, whilst the remaining services will be standard-rated for VAT.

The advisors may also be suggesting that the examination services as they are closely related to education could be exempt, however as HWE Ltd is not an eligible body it cannot be exempt unless provided as a disclosed agent of the examination body.

Having said that, as per Leob case artificially splitting a single supply for VAT purposes is not allowed.

further from this the card protection plan set down principles in order to help ascertain if a mixed supply is made or a single supply is made.

Briefly, a single supply is a supply where there is a prominent supply known as the principle supply and other elements of the supply are merely embellishing the principle supply i.e enhancing the principle supply.

A mixed supply is a supply where all elements of the supply even if under one single price are principle supplies in their own right, and are not intended nor do they enhance a principle supply.

it must be noted that the supply under one price is not indicative of a single supply but is more evident towards one.

another case such as the weight watchers case, saw that the customer's perception played a large part, in this case, where the customer was looking to purchase a weight loss programme and the leaflet (zero-rated in its own right) was supplied once signed up. The courts showed that the customer was not looking to obtain the leaflet the main supply in their eyes was the weight loss programme, the leaflet merely enhanced that experience. therefore the supply was standard-rated.

Looking at HWE Ltd offer, where there is no option to purchase these supplies separately, nor have an option to reduce the price if certain options are not taken up is further evidence that this supply is single and not mixed. it is likely from the customer's perspective much like the weight watchers case that the customer is expecting to receive a tuition package which is enhanced by these materials and mock examinations.

as within the CPP case it showed that where there is not an

option to remove elements, it suggested that those elements further enhanced the main supply.

applying the principles above, I would therefore conclude that the it is unlikely that HMRC would accept this supply to be a mixed supply in its own right and allow zero-rating of the online course material, this would be a high risk approach to do so.

HMRC are likely under the Halifax case (although an EU case this was written into UK Law)

Where both of the conditions are satisfied HMRC can redefine a transaction to its "proper" VAT treatment.

conditions

- 1) The transaction's VAT treatment is treated different to the way VAT law intended
- 2) The primary purpose was to achieve a tax advantage.

the input tax on the contingent fee from the tax advisors will be recoverable as a residual cost.

DOTAS

It is clear that this VAT planning would create a tax advantage, therefore the tax advisors will need to disclose this as promoters of the scheme to HMRC.

The tax advisors will then be given a unique code for the scheme that they must pass to HMRC, failure to do so will result in penalties of £600 a day up to 1 million.

HMRC if utilising this scheme will need to provide this code to HMRC on every VAT return which is submitted using this mitigation.

failure to do so will also result in penalties.

-----ANSWER-3-ABOVE-----

-----ANSWER-4-BELOW-----

Answer-to-Question-_4_

Unit A

Unit A is opt to tax therefore input VAT is recoverable on the purchases as the intended use and actual use at the time was to be leased to a photography studio. therefore the lease will be subject to VAT at 20%.

As the purchase is over £250,000 (Net) this purchase will be subject to the capital goods scheme and the use of the property must be monitored for 10-years from the purchase of the property, however as this was 10-years ago, this is no longer applicable as this was purchased over 10-years ago in 2005. therefore a sale made when an option to tax is revoked (see below) would have no impact on the input VAT recovered on the building in 2005.

Arts helps Hand (AHH) it is unlikely due to its business supplies that AHH could disapply the option to tax, as the AHH would need to use this property for sole charitable purposes, this appears not to be the case.

However, as unit A was purchased 18-years ago (as of 1st March 2023) Rupert will be able to revoke the option to tax for AHH when the option has been in place for 20-years. this will not have a retrospective effect for Rupert but on going it could not recover it will put Rupert into a partial exempt business if continued to let, which may restrict overhead costs for Rupert and any supplies directly and immediately relating to the rent (now exempt) would be blocked from VAT. However as Rupert is intending to sell, this is not an issue.

AHH Refurbishment will be blocked from VAT recovery if AHH does not opt-to-tax the property.

revoking an option maybe prevented if, a large pre-payment was made for taxable leases before the option typically periods covering over 12 months.

revoking the option is not automatic and a form needs to be sent to HMRC with the effective date of the revokation of the option.

Unit B

Unit B fixtures and fittings will not be subject to the capital goods scheme as these costs under 250,000. and the unit itself was not subject to any VAT.

where input VAT has been recovered on the fixtures and fittings under the intention for taxable supplies, where this has not yet been fullied any revokation of the option and subsequent exempt sale of the property would put Rupert in a position to repay the input VAT incurred for the fixtures and fittings under the 1995/2518 reg 108 or 109 claw back.

Rupurt maybe able to revoke the option to takes if the option is revoke within 6-months (the cooldown period) providing that not output tax has been charged, as there has been no lease i cannot see any evidence of output tax being charged, therefore this can be revoked.

the VAT on the the fixtures and fittings being £30,000 and the VAT saving for AHH being £120,000. this would be beneficial to AHH with a small loss to Rupert, but as AHH are not connected, a small increase in price of the Unit B could cover the loss of the £30,000 for rupert.

Alternative Unit B

AHH is a charity, and where a charity purchases an opted building it can issue a certificate stating use of the building, prior to the fixed price being agreed to the seller, to not charge VAT as the option will become disappplied, creating an exempt Sale of the Unit from Rupert.

This is dependent on the charity using the head office for soley charitable purpose, this will be if the headquarters was used for the chairties non-business purposes at least 95% of the time for non-business or 95% of the floor plan.

having said that if discrete parts of the building are used soley for charitable purpose then this part of the building would be exempt of VAT.

This would need to be explored or a certificate must be issued by AHH to enable Rupert to do this before the price is fixed.

if the price is fixed and the certificate is produced after, it is at Ruperts discretion to accept the certificate.

If AHH has miss declared the certificate and Rupert is not privy to the details being that AHH never intended to use the proeprty solely for charitable purposes, HMRC will come after AHH for the underpaid output Tax and not Rupert.

Unit C

where a business assest is subsequently used for private use, this will be liable to a self-supply charge. I am assuming that the fixtures and fittings are loose (not incorporated), in this case output tax would be payable by Rupert under the Lenartz accounting, over the usefull life of the assest usually 10-years or 5-years, periodic output tax payments must be due to account for private use.

However if the fixtures and fittings were incorporated, the self supply charge will be in whole, and will be an output tax charge of £30,000 that Rupert will have to pay on the VAT return the self-supply was made. This is because the Lenart method is not available to buildings.

-----ANSWER-4-ABOVE-----

-----ANSWER-5-BELOW-----

Answer-to-Question-_5_

Termination payments

The recent Vodaphone case, changed the long standing rule being that compensation for the early termination of a contract being outside the scope of VAT to following the main liability of the contract, this being standard-rated.

this is because the supply of energy to non-residential are liable to the standard-rate.

due to this change, the 25% "compensation fees" charged by Cellman Ltd will be taxable at the standard-rate.

this will include the addition 20% charge on the contract with more than 6 months left on the contract.

Purchase of Smaller Providers

The purchase of the smaller providers will enable entitlement to any bad debt relief providing that the purchase of the smaller business was either a Transfer of going concern or if not had transferred over the VAT registration number via the VAT68 form.

where this has happened, the bad debt relief will be available to Cellman Ltd from when the previous company wrote off the debt and 6 months as elapsed from the due date of the supply.

it is advised that the detail of the written off amounts and the invoices are retained as evidence of the supply.

In the event where shares are simply purchased but no VAT registration has been transferred, BDR is not eligible on the services/goods sold prior to the transfer as the VAT does not belong to the new VAT registration number and is retained with the old.

if any BDR is sold absolutely in factoring, then no BDR is eligible for relief.

any payments received for BDR must be allocated to the earlier invoices that have not been paid. any that are received for a specific invoice in full can be allocated directly to that invoice.

Certification of use

Supplies to a charity for the use of domestic accommodation i.e student accommodation will be reduced rated. whilst providing to the restaurant, shop and barbers will not be eligible for this reduction in VAT and will be standard-rated.

For energy supplies, providing they are used for either domestic use or wholly for charitable purposes the supply of energy will be reduced-rated of VAT. where there is a mixed supply of non-domestic use such as shops and the restaurant there is a provision that allows the whole of the supply to be reduced rated if the use of the fuel was at least 60% of the overall supply. however as the student accommodation (allowable as domestic) is under 60% it does not satisfy this rule.

therefore a fair and reasonable apportionment must be made between the student accommodation (Reduced rated) and the shop and restaurant and lease (standard-rated).

-----ANSWER-5-ABOVE-----



-----ANSWER-6-BELOW-----

Answer-to-Question-_6_

Home Purchase

Sally whilst not resident in the UK would likely suffer a 2% on the residential stamp duty Land Tax (SDLT) rates. this will be the case even if Sally has been resident in the UK for 3 months. habitual residency needs to be satisfied which would be, 183 days in the UK uninterrupted in a two year period, this must be satisfied.

at this time Sally is classed as overseas and will need to pay the addition SDLT 2% therefore the SDLT will be (W1)£60,750 and based on the offer made. this will be due 14 days with a SDLT return after the transfer.

Having said the above if Sally satisfies the habitual residency test, the 2% can be reinstated to her.

Commercial Property

Where further works are carried out on teh property it must be carefully considered whether or not those works would be liable to SDLT.

if the following conditions are met the works carried out by Sally would not be included in the consideration liable to SDLT

Conditions are:

1) The works are carried out after the effective date of the

transaction

2) The works are carried out on the land acquired or to be acquired in the transaction (or with a persons connected)

3) The it is not a condition of the transaction that the works are carried out by the vender or a person connected with him.

following the conditions above, the effective date of the transaction is when the transfer is complete or it is substantially performed, normally meaning when the purchaser has use of the property.

The effective date in this transaction is the date which Sally obtains exclusive rights to the occupation and thats while the works are carried out therefore likely to be before the works started therefore condition 1 is obtained.

Condition 2 is satsified as this is on the building purchased from teh vender

Condtion 3 is also satsified as it is not a condition of the transaction that the vendor will carry out the works.

therefore the SDLT will only be due on the £400,000 at residential rates at £9,500, this will be due 14-days (including the return)on the date that Sally gain full an and exlusive rights to the occupation.

the deposit does not matter, it is the consideration of the proeprty at the time of transfer that is the consideration due for SDLT.

the reason why this is residential rates is due to the fact that this is a mixed-use property.

If the property was purchased at £500,000 it will be liable to SDLT at 9,500 plus £5,000 (100,000 x 5%).

Contingent Lease

It is noted that Sally will pay over 50,000 when a tenant is found, if this is likely to be before 6 months, SDLT will be due on the fully amount as stated above. however if this tenant is likely to be found over 6 months, SDLT can be deferred.

A deferral will allow the SDLT on the 50,000 being (50,000 x 5%)£2,500 until the tenant this contingent consideration is crystallised. however, it must be noted that interest will accure if this tennant is found and the £2,500 is deferred from the date it should have been paid till payment.

However, if no deferral is taken and a tenant is never found and the extra consideration is cancelled the deferred amount will be eligible for reclaim inclusive of interest.

Working 2 (W2)

thresho ld	SDLT Charge %	SDLT Due				
0-150,0 00	0%	nil				
250,000 -150,00 1	2%	2,000				
400,000 -250,00 1	5%	7,500				
Total		9,500				

Working 1 (W1)

Thresho ld (£)	SDLT Charge %	SDLT Due (£)				
0-125,0 00	2%	2,500				
125,001 -250,00 0	5%	6,250				
250,001 -900,00 0	8%	52,000				
Total		60,750				