

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

Event **NA**

Exam Mode **OPEN LAPTOP + NETWORK**

Count(s)	Word(s)	Char(s)	Char(s) (WS)
Section 1	326	1541	1859
Section 2	385	1784	2153
Section 3	482	2466	3314
Section 4	721	3255	3946
Section 5	364	1618	1968
Section 6	316	1486	1791
Total	2594	12150	15031

Answer-to-Question-_1_

VAT liability

Under sch 9 group 7 the supply of service of registered medical practitioner will be exempt from VAT.

Supply of medical consultation for the skin complaint will be exempt from VAT as long as it is provided by the person who is registered, which DR Walkerderm is.

IN d'Ambrumelin court case CJEU held that "medical Care" is a service of having a therapeutic nature and examination or other medical intervention of a preventative nature for a person not suffering from any disease or health disorder.

It looks as Dr Walkerderm will be providing that services.

The Botox injections, lip fillers will not be liable to exemption and standard rate of VAT should be applied. that had been established in the Skin Ltd court case, as they do not provide medical care.

If the Botox injections had been prescribed by the general practitioner to the patient, the service will be exempt, but strict records must be kept to whom the service was provided.

the supply of creams and other skin treatments will be liable to VAT at the standard rate.

The commission received from the pharmacy will be partially liable to VAT as Dr had provided exempt and taxable service. 68% ($75,000/(75,000+35000)$) will relate to the taxable supplies based on the turnover.

Dr Walkerderm will have to consider if Pharmamix will be

providing the supply of staff which will be liable to VAT or supply of pharmacists which will be exempt.

In the court case Medacy First tier Tribunal held that the company was supplying a medical service and not the staff.

The supply of single service will have to be analysed carefully as it could be liable to VAT, as Dr will be providing the taxable and exempt services the Card Protection Plan court case will have to be considered.

If the fees will be exempt the company will not be able to recover any input VAT its incurred on the business activities.

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

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

Answer-to-Question-_2_

Flat Rate Scheme eligibility

The trader is able to register for Flat Rate Scheme (FRS) as long as its turnover is not more than £150,000 in the last 12 months.

It will have to leave the scheme when the turnover reaches £230,000 at the end of VAT period containing anniversary if it is a quarterly return and if it is an annual - at the end of the months containing anniversary

The Farm's turnover currently is £160,000

Under the scheme the Farm is not able to recover any input VAT incurred except on the capital expenditure which is over £2,000

1) Extension to Jungle Barn

As mentioned above the input VAT is not recoverable if using FRS. Mr and Mrs Tulip will have to consider if the spend will be worth it if HMRC will disallow to recover input VAT

Refurbishment and the fit out cost- If Roombuild will invoice for the total design and construct, that can be viewed as a capital expenditure and can be recovered by the business. If the invoices are separate for the supply of goods and supply of service, the service will not be recoverable. Also if the goods value less than £2000 it will be advisable to ask Roombuild to amalgamate the invoices. so the input VAT can be recovered. There had b

2) marketing campaing

Marketing campaing is not a capital expenditure and Input VAT will not be recoverable.

Refurbishment of the building

The refurbishmetn will be part of the capital expenditure, as long as the invoice for the services are produced together with the goods. the input VAT also be recoverable on the specialisty equipment as it is value more than £2000

Conclusion

It will be benefical for the business to leave the late rate schem. WIth the additionl expenditure the business expect a higher turnover that will add up to £220,000
(£160,000+40,000+20,000)

Also if it leavce the scheme it will be able to recover input VAT on all the additional expenditure, as it has a direct and immediate link to the taxable supply.

The shhep sales will be zero rated if the business were to leave the scheme, as the result will will be more beneficial for the business to do so.

input VAT£:

Roombuild 20,000

Marketing campaing: 5,000

refurbishment 50,000

equipment 3600

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

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

Answer-to-Question-_3_

SDLT

Retirement

If Tariq were to retire and the property will be distributed to Abdulco. The company will be liable to SDLT on the share of the property at the market value, as the parties are connected.

Because those properties are residential Multiple Dwelling Relief (MDR) can be applied when calculating SDLT. Also because it is more than 6 residential properties in one transaction the commercial rate can be used as well.

MDR calculation, £3,205,000/8=400,325

amount £	%	SDLT £
0-125,000	3	3,750
125,000-250,000	5	5,000
250,000-400,325	8	<u>12,050</u>
Total		20,800

20,800*8=166,400

Commercial rate calculation:

Amount £	%	SDLT
0-150,000	0	0

150,000-250,000	2	2,000
250,000-3,205,000	5	<u>147,750</u>
Total		149,750

From the calculation above it is advisable that Abdul use the commercial rate when calculating the SDLT on the transfer of the properties. Abdul will only have to pay SDLT on his share

The residential properties are exempt from VAT, so there will be no VAT included in the SDLT calculation. The calculation for that we can use the formula of sum of lower proportion (SLP):

market value * (100-SLP)

£3,205,000 * (100-60) = 1,282,000

The SDLT return will have to be submitted and paid within 14 days after the restructuring, by Abdulco.

SDLT on the new property

Because the property is residential and commercial MDR can be used as above

There will be no VAT applicable for residential property.

160,000 residential
 348,000 commercial $(290,000/5) + 290,000$
 508,000 total cost / 2 = 254,000

calculation

Amount	%	SDLT
0-125,000	3	3,750
125,000-250,000	5	3250
4000	8	<u>320</u>

total 10,570

is payable on the purchase of the property

Separate calculation for commercial and residential building can be done, to compare the cost.

VAT

When Abul will take on the renting on the residential properties, The company will become partially exempt business and the input VAT will not be recoverable in full on the cost which relates to the taxable and exempt supplies, such as Head Office cost.

The input VAT is fully recoverable if it has a direct and immediate link to taxable transaction. The restructuring cost will be residual cost and will be recoverable based on the partial exemption % of the business.

Also it is important to establish who the service is provided for. If the solicitor invoice to Abdul that cost is partially recoverable. But in the invoice is for Tariq - because his business was exempt business the input VAT will not be recoverable.

When the partner leaves the partnership with the property, that will trigger a deemed supply, but because the residential properties exempt from VAT there will be no VAT payable.

If Abdul will opt to tax the property VAT will be recoverable on the conversion cost and the rent will be taxable.

No input will be recoverable on the renovation of the flat.

It will be advisable for Abdul to set up a new company for renting the residential properties, to maximize the input VAT recovery of his main business

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

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

Answer-to-Question-_4_

If the course is liable to VAT?

First of all John has to establish if the street art lessons will be liable to VAT or will be exempt.

Under sch 9 group 6 the lessons will be exempt if it is provided by the eligible body, such as school, college or university. Or if the supply of tuition is a subject taught at school or university, by individual teacher.

John is not an eligible body. We need to consider if the subject is taught at school. There has been a number of case law regarding different subjects: Belly dancing, boxing and yoga where the tribunal disallowed the exemption as it is not commonly taught at schools.

I believe that street art course will be viewed by HMRC as taught at school, as a result it will be liable to VAT at the standard rate. John can contact HMRC and confirm that.

Also if John were to set up a company the course will be liable to VAT.

Different component of the course

John will have to establish what actual he provides to the individual to make sure that he applies the correct VAT rate on the invoice.

List of the goods and services John will provide if he were to provide them on its own

Course - standard rated SR
materials (paints, brushes) SR
books Zero rated ZR
train travel ZR
Catering - SR
Webinars SR
Telephone conversation SR
Examination SR

If the services were to be sold as one supply, John will have to apply Card Protection Plan (CPP) test which had been established by the case court:

Is the customer is receiving two or more supplies, each distinct and independent of each other, or is the customer receiving one supply made up of several components parts

Can any of the parts be properly regarded as a principal supply to which the other goods or services are ancillary. They do not constitute an aim in themselves but rather a means of better enjoyment of the principal supply.

The supply of the course which include study material and trip to London will be viewed as a single supply of the course, as the result the VAT will be applicable at £180 (900/5). Even though it includes the trip to London, it will be artificial to split the travel cost and study material from the main supply of the art service.

If the additional services are included in the course they will follow the VAT rate of 20%.

If the customer separately requested additional services John will have to invoice them separately and apply VAT rate which is

applicable.

The same Kind of business

Also Jogn will have to made a decision id he will be running the courses as a seperate business activity, or as a art trade.

If he will be running them as an art trated. the course will be libel to VAT from the moment is is sold and output VTA should be included in John's VAT return.

If he desides to set that up as a seperate business John will be liable to VAT from the moment it reaches the VAT threshold of £85,000 in the period of last 12 months.

He has to prove to HMRC that it is ecenomically, financialy and organisationaly a seperate business. To have a seperate business bank accounts, maybe different facilities, differnt name.

TOMS

Aslo John will have to register for Tour Operator Margin Scheme (TOMS) as he is going to buy and resell trave and catering for its customers.

The schem is not optional and under the scheme John is not entitelte to recover input VAT incurred on the related goods or services. The VAT will have to be accounted on the differnce between the amount received from the customer and the amount John paid for the goods or service. Jonh can recover input VAT on the general overhead expences. Because John's course includes the traven the whole supply will be liable to TOMS. That had been established in the Alpenchatels cour carse - where the company supplied the bedding and breackfast rolls to its customers, the court concluded that the whole supply is a single supply which is liable to TOMS.

Jong should maybe reconsider including the trip to London in the course, or maybe that should be optional.

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

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

Answer-to-Question-_5_

The receivership under Law of Property Act

The bank can appoint the receiver under the Law and Property Act to arrange for the property to be sold of the receiver will be responsible to collect rent for the Propco 2016. The company can continue to trade.

All the rent collected by the Receiver will be for the bank.

The receiver will not be able to register separately for VAT, as they are appointed under the legal charge and deemed to be an agent.

The receiver will be the agent of the Propco 2016 and will be making taxable supplies of rent as Propco is registered for VAT and the property is opted to tax.

The Receiver is only entitled to the net amount of the rent. The Receiver will be responsible for accounting for tax due to HMRC using the form VAT 833, VAT reg number should be stated on the form.

Propco 1996 should account for input VAT credit on its VAT return

Because the tenant is a charity and it is intent to use the property for relevant charitable purposes, the option to tax will disapply and rent will be exempt. The Receiver should obtain written confirmation from the charity that the property will be used for relevant charitable purposes. The invoice will have to be reissued stating that it is an exempt supply. As the result of exempt rent the business will become partially exempt and input VAT will not be recoverable on the associated cost, unless it is fallible under the diminimus amount of £7,500 a year or £650 a month.

Sales of goods

Propco 2016 is registered for VAT as the result VAT should be accounted for on the sales of the goods by the Receiver and valid VAT invoice should be issued to the contractor. The VAT due must be accounted and paid to HMRC using form VAT 833 quoting the Propco's VAT registration number. Payment has to be made electronically.

The receiver cannot make a separate claim for the input VAT, that should be done on the Propco 1996 quarterly VAT return.

VAT invoice will have to be amended if the goods are not sold

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

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

Answer-to-Question-_6_

Period of assessment

HMRC can issue an assessment if they believe that the VAT return is incorrect. The assessment must be to the best of the officer judgement and must be made by the later of:

- two years after the end of the prescribed accounting period in question or
- one year after the evidence justifying the assessment came to light.

One year cap is subject to 4 years, which had been established in Weight Watchers court case.

Based on the above the assessment should have been raised by the officer up to June 2016. The previous periods are out of time, unless the officer can prove fraud or dishonest conduct, then it will be 20 years.

Actions

Mr Peel should write to HMRC within 30 days by 1 December 2021 to request an independent review to ask for the reconsideration. That will mean that an independent officer will look at the case and Mr Peel should expect the reply within 45 days. Also the business can appeal to the Tribunal within 30 days. The other option is available for the business is Alternative Dispute Resolution where the dispute is resolved at the meeting together with arbitrator.

Mr Peel should consider engaging with the specialist in HMRC civil and criminal investigation. If HMRC can prove fraudulent activities by Mr Gasket, Mr Peel is likely to require a legal advise in relation to how best to cooperate with HMRC.

If HMRC is able to prove that the business took part in fraud - the proof has to be beyond a reasonable doubt. the maximum imprisonment will be 7 years and/or unlimited fine.

If HMRC can prove the civil fraud based on the balance of probabilities, the penalty will be based on the behaviour. Because HMRC stated that 100% penalty, they assume that the error is deliberate and concealed. Also it had not been disclosed and prompted by the HMRC officer.