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

Event **NA**

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Exam ID

Count(s)	Word(s)	Char(s)	Char(s) (WS)
Section 1	**1387**	**7021**	**8367**
Section 2	**640**	**3028**	**3649**
Section 3	**1119**	**5352**	**6433**
Section 4	**1311**	**6386**	**7666**
Section 5	**912**	**4525**	**5414**
Section 6	**897**	**4161**	**5038**
Total	**6266**	**30473**	**36567**

Answer-to-Question-_1_

Dr Ibrahim

The case of D'ambrumenil outlines what is expected to be regarded as an exempt medical service. In particular this will be treatments of a restorative, protective and preventative nature. HMRC also offer guidance to say where these services are provided by a registered medical professional in the field of the service being provided, this will be exempt under Schedule 9, group 7. As a qualified doctor, dr Ibrahim will meet the condition of being registered on a relevant register of medical practitioners.

The supplies he makes treating burn victims comfortably fit into the definition of medical care as they have are treating a medical ailment. However, the supplies he intends to make of Aesthetic treatments are unlikely to meet the definitions.
In particular, athough the case of Sketteverjet highlighted that treatments for with phycological benefits could be regarded as medical, this was only where there was a medically assessed need by a qualified professional, and not an assessment of the indivitual receiving the treatment. Although his treatments intend to increase confidence and mental wellbeing, unless this is to address an assessed medical need, the phycological impact will not be determinative of the aesthetic treatments being regarded as exempt medical care.

Therefore, the Aesthetic treatments are unlikely to fall within the exemption and as such will be standard rated. This is inline with the findings in Aesthetic doctor and Illuminate Skincare cases where cosmetic procedures were deemed not to be medical services.

Dr Ibrahim is making supplies of both exempt and standard rated services.
To keep invoicing simple, he has suggested invoicing a total fee for each client covering initial consultation, follow up work and medicines/creams.

This brings in questions of single and multiple supply. The case of CPP highlights that where a single price is charged, this is not decisive in determining a single supply. It must be determined whether there is a principal supply with one or more ancillary elements which do not constitute means in themselves, but means of better enjoying the principal supply.

In his case, the initial consultation and follow up work is likely to follow the treatment of the predominant supply, that being exempt healthcare when relating to burn victims, and standard rated relating to Aesthetic treatments.
The supplies of medicines and creams may constitute an aim in themselves, but in this instance the case of Spectrum Healthcare Services should be informative. Here, the entity supplied medical services, and prescriptions and contraceptive products (potentially 0 rated or reduced rated) and tried to argue that there were separate supplies. However, it was determined by the courts that, from the point of view of the prisons, they were obtaining a single supply of healthcare services.

Therefore, where Dr Ibrahim invoices for a package of healthcare, this will be a single supply following the treatment as above.

Dr Ibrahim may wish to consider splitting out the medicines for self administration at home for the medical patients, as it is possible that this would be zero rated, however HMRC may look to argue that the splitting would be artificial.

It is important that Dr Ibrahim keeps clear records between the medical and aesthetic treatments, this is because a recent case found that authough there may have been exempt medical services of the removal of skintags, because there were not clear records between the exempt and standard rated services, they were not allowed to be treated as exempt.

Mrs Ibrahim

Mrs Ibrahim, is supplying private tuition of a course ordinarily taught in schools or collages. This is based on the fact that she is providing lectures as part of a psychology curriculum. This will be exempt under Schedule 9, Grp 6 of VATA1994.
However, this exemption will only apply where she is acting independent of an employer. Where she is operating these activities as an employee of the single limited company, the services will be standard rated.

This principal was tested in a recent case considering whether what was ultimately the same supply of tuition in golf by the same individual in their capacity as an employee of a limited company and a sole trader could be treated differently for VAT. The courts held that this was possible and the exemption only applied to the services of a self-employed individual acting in their own capacity.

Based on the above, when operated as separate sole traders, her services will be exempt, but when as part of a single limited company, it will be standard rated.

This will have an impact on the partial exemption recovery postion for the limited company. If treated together, Mrs Ibrahim's services will increase the taxable supplies, and therefore increase the overall recovery rate of residual input VAT based on the standard method.

Single Limited Company

As a single limited company, it will be partially exempt. This will mean a block on input VAT recovery where this relates directly to the medical services to burn victims, as well as a restriction on the recovery of overheads that relate to the business as a whole.

The total anticipated exempt income is 8k+30k+6.4k = 44,400
(This is on the basis that the medicines prescribed cannot be zero rated as regarded as a single package as per the Spectrum Healthcare Services case)

The total anticipated standard rated income is 12.5k+50k+1.6k+35k = 99,100

This results in an anticipated recovery rate of 99,100/(99,100+44,400) = 69.05% rounded up to 70%.

This will be applied to overhead costs such as the costs relating to the Annex that is intended to be used for both medical consultations/ patient procedures, and as an office for Mrs Ibrahim. It will have mixed use, so running costs should be residual.

As it would be the first year, the limited company would be eligible to apply a use based method, rather than standard values based method, without the need to apply to HMRC. It should be determined which would produce a more fair and reasonable approach. For example, a floor space calculation relating to the annex if a larger space was used for the office, than the medical procedures. If this does produce a fairer result, an application should be made to HMRC to apply for a special method going forward.
It should be noted, however, that HMRC are generally reluctant to use floor space methods as demonstrated in the case of Vision Express.

It should also be noted that the taxable income of 99,100, is above the registration threshold of 90,000, so registration will be required in the first year.

Individual Sole Trades

As discussed above the individual sole trades have the benefit of his wifes supplies being exempt and therefore, there being no need for her to register for VAT.

At the same time, the taxable supples relating to Aesthetic treatments total 64,100, which falls below the registration threshold.

Therefore, neither of the sole traders would be required to register of charge VAT on their supplies. This would allow them to remain competitive with their pricing without haveing to add vat, but would mean input VAT could not be recovered.

Based on this assessment, it would be recommended to remain separate sole traders, in the first three years. This position would have to be reviewed if taxable supplies of Aesthetic treatments increased to breach the threshold

Insurance

The supply of insurance is exempt from VAT under schedule 9, group 2. This also includes any insurance intermediary services provided by Dr Ibrahim to the insurance company.
The insurance backed guarantee meets the definition of an insurance contract as established by case law. In particular, as per the Prudential case, there is a premium of £80, and the individual will be insured against the risk of an uncertain event.

Therefore, the £80 will be exempt from VAT.

For IPT purposes, Dr Ibrahim is acting as an undisclosed agent and so the commission of £8 must be included in the total premium.

Long term health insurance is an exempt contract for IPT, however, this will not be considered long term as the policy covers only 3 years. Therefore, this will be a standard rated insurance contract, liable to 12% IPT.

The total of 80 is treated as ipt inclusive so *3/25= 9.60 of IPT will be due.
This is the responsibility of the insurer, not of Dr Ibrahim as this is a standard rate contract.

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

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

Answer-to-Question-_2_

Section 53 of FA 2003, provides that there is a deemed market value where a transaction involves a connected company.
Thali is connected with the company and so this will apply. Here, the consideration will be taken to be the market value of the property at the time of the transfer.

The purchase of six residential properties would be considered non-residential, however as there are only three here, it will be subject to the residential rates of SDLT. As it is a non-human entity acquiring the property, the 3% additional charge will also apply.

As the transfer of the property is all part of the same transaction, they will be considered linked and SDLT will be due on the aggregated value, rather than on each individual property. This is regardless of whether the transfers occur under separate contracts, or over a course of time, as they are part of the same deal, they will be linked.

Option 1

Where the transfer occurs prior to extending 11 caxton close, the SDLT will be due on the current valuations of the three properties together:

250,000+395,000+525,000 = 1,170,000

It should also be noted that there is a high value property over 500,000 in the transfer. As

a non-natural person is acquiring the high value residential property, there is a potential that a single 15% SDLT rate will be payble as per Schedule 4A. However, this will not apply where the company is carying on a relievable trade. A relievable trade includes anything persued with a view to profit, so as the property will be intended to remain rented out on a commercial basis, the 15% will not apply. Equally, the property is acquired for the purpose of exploitation of rents as a property rental business, so the higher rate will not apply.

This relief from the 15% is threatened if Thali moves into 11 Caxton Close. So option 1 will ensure that the 15% rate does not apply.

Under this option the SDLT will be:

250,000 @3%	7500		
925,000-250,000 @5%	33,750		
1,170,000 -925k@8%	19,600		

The company would be required to submit the land tax return with the self assessment of the tax along with payment within 14 days of the effective date. This is usually completion of the transaction, unless there is substantial performance before this point.

oPTION 2

Under option 2, Thalli will move into 11 Caxton Close, so the relief from the 15% rate is jeapodised.

The property will be available for a non-qualifying employee for use as living accommodation. This is because Thali will be the shareholder and will therefore be entitled to 10% or more share of the profits.

Therefore the 15% rate will apply

1,170,000@15% = 175,500.

Recommendation

Thali should not live in a property owned by the company, instsead, if she intends to live in 11 caxton, she should delay the transfer of this property to the company until after she has moved out. This will mean the 15% rate will not apply. Thali should then transfer the property to the company when she moves out. This will still be part of the linked transaction so will not be individually subject to SDLT, but will be on top of the original charge for the other two properties.

If the transfer of 11 Caxton occurs within 12 months, this would allow the company to amend the original SDLT return and make the additional payment within 30 days. However, if more than 12 months later, a separate return will be due to make the additional payment.

In this case, however, the market value of 11 caxton will have increased from 395,000 to 515,000.

This will mean an additional charge to stamp duty of 120,000 (the increased market value) *5% = 6,000

This will still represent a saving compared to if the properties were liabile to the 15% higher rate.

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

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

Answer-to-Question-_3_

Parking

Schedule 9, group 1, provides that the grant of facilities of parking are standard rated supplies of land, irrespective of any option to tax over the land. Therefore, the supply of parking will be standard rated when supplied to the public.

The provision of free parking is a non-business activity.
Business activities are defined by the two stage test in the case of Wakefield college as:
- Supply of Goods or services for consideration
- The supply is made for the purpose of obtaining income.
The fact that there is consideration is not determinative of it being a business activity if there is not an intention to make generate income.

Where the parking is provided for free, this will be non-business and should be treated as outside the scope of VAT, rather than exempt. There is a question of whether there should be a self-supply charge, however, the provision of in-house services to not cause self supply charges to occur. As the service is being provided from in house supplies, this will not need to be considered. The change from being treated as exempt to non-business will have a net nil impact on the VAT liability.

The parking to the members of the public is likely to be standard rated. Although HMRC do allow certain public bodies to treat parking as outside the scope (such as in the case of Northumbria NHS trust), as the carparks are cheaper than other local car parks in the area, this would be likely to cause distortion.

In particular, case law has provided that off-street council carparks must be regarded as standard rated.

In this way, the car parking fees charged to the public have been treated as non-business in error. They should be standard rated. This means that there has been an underdeclaration of Output VAT of 5,000*20% = £1,000.

Based on the notes to the question, there is clearly a business intention with the provision of the car parking facilities as it is used as an attraction for the other supplies on the site, such as the restaurant/hair dressing salon/gym. It would be possible to contend that the supply of car parking is ancillary to the supplies of the other services, however, as there is a separate charge for the car parking and it is also separately supplied to others who do

not use the services of the other facilities, this is unlikely to be a defendable position should HMRC question it.

Based on the above, in reference to the parking, there has been an underdeclaration of input VAT by 1,000.

If any input VAT has been incurred on the provision of parking facilities, this would not have been recovered under the current treatment. A portion of this input VAT would be attributable to the taxable supplies of carparking by the collage and so would be eligible for recovery so there could also be an underdeclaration of input VAT to offset some of this liability.

Based on the question, the new barrier will not be recoverable as it relates to non business activity, however the pay machines will be recoverable as relating to taxable supplies to the public.

Therefore input VAT of 45,000*0.2 = 9,000 underrecovered.

Total repayment owed = 9,000-1,000 = 8,000 from HMRC

Restaurant

The provision of meals to the public in a restaurant would ordinarily be standard rated. However, the facts here are very similar to the case of Brockenhurst Collage, who were able to argue their supplies in student run restaurants, and hair dressing salons was closely related to the supply of education. The supply of education by a further education college such as Sotton is exempt from VAT and this includes any supplies closely related to education.

Therefore, on the basis that the situation in Brockenhurst can be applied, the students on the cookery course can be regarded to have a direct benefit from the supplies of catering and so the supplies should not be standard rated, but instead exempt income.

There is a question of whether this would be a business activity on the basis that the restaurant only charge 50% of the commercial rate for the meals. If considered non-business, the meals would be outside the scope of VAT, rather than exempt. As the college is providing the meals as a means of education, and as a further education college, the education will be the principal activity, it should be regarded as a business activity, regardless of the fact that a below market rate has been charged for the supply to the public.

Therefore there has been an overdeclaration of output VAT on a supply that should have

been exempt.

6,000*1/6 = 1,000 will have been overdeclared.

However, this will also mean that there will be an over recoery of input VAT on the equipment.
The provision of advertising to a charity is eligible to be zero rated, and therefore, there should not have been any VAT incurred on the advertising.
Food, unless excepted will also have been zero rated

As only 15% of the cost of 4,000 was standard rated, it can be deduced that this element was relating to equipment = 600

Therefore, total VAT over recovered = 120

This would have been recovered in full by the college as relating directly to a taable business activity per their classifications, rather than being allocated to the residual

Therefore there would be a repayment of 1,000-120 = 880 due to the business from HMRC.

Creche

The provision of the creche facilities is likely to fall into the exemption for welfare provided by a charity or state regulated private welfare or institution. As Sotton College is likely to be a charity, they will qualify for this exemption.

There is also an argument similar to the restaurants that the cheche is closely related to the supply of education and therefore should also be exempt.

On this basis, we must turn again to the Wakefield principals to determine whether it is an economic activity.

The charge is at 80% of what a commercial creche would charge, indicating that is not provided in persuit of profit. Furthermore, the creche is not part of the predominant supply by the college, it is instead an supply intended to allow the student to participate in the education.

Therefore, there is a strong argument that the creche has been correctly treated as non-business.

Correction

Based on the above, there have been some errors in the VAT declared. In particular:
Car parking - Over payment by 8,000
Restaurant - over payment by 880

Therefore, Sotton College are owed a total of 8,800 by HMRC.

As this is less than 10,000, the error can be corrected via the next VAT return.

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

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

Answer-to-Question-_4_

Schedule 8, Group 5 of VATA 1994, allows for the zero rate of VAT to apply to supplies of certain construction services. This includes the supply in the course of construction of a new dwelling, relevant residential building, or relevant charitable purpose building. Also included in the zero rate, is the supply of building materials of a kind ordinarily incorporated into a building of that type when supplied by the contracter supplying the services. The building materials must be incorporated in a way that would require tools to remove and would cause significant damage requiring remediation after removing.
There are several cases covering what is included as a building material, for example, it was found in Darren Luke that where a bathroom vanity with mirror and sockets was installed, this was not integrated as could easily be removed by unscrewing the screms.

Residential Accommodation

To fall within the zero rate, and not be considered a conversion, the building must be new. This means that the demolishment must be to ground level before construction begins. As the demolision will not be complete, leaving the listed Institute building standing, there is risk that this condition will not be met. However, HMRC accept in note 18 to the group that where any part remaining above ground level consists of no more than a single facade or where a corner site, a double facade, the retention of which is a condition or requirement of statutory planning consent, this will still be considered a new building.
Therefore, the retention of the institute, as a condition of the planning consent, may still qualify.
There is still risk, however, as what is retained is more than a facade. Here we turn to case law:
In the case of Astral, a residential care home was constructed on the site of an old church, with the part of the old church being retained as a reception area. Here, the courts considered that, as the new residential units build swamped the existing church in side, this could still be considered a new building.

Applying this to the case of City Medical School, the new residential accommodation will be 5 times larger than the retained institute building. This is likely to be considered "swamped" and so, if questiones by HMRC, there is justifiable reason to conclude that the building is new, despite the retention of the institute.

As it has been determined that the building will be new, it now falls to consider which of the following it will be considered:

Dwelling
relevant residential purpose
relevant charitable purpose.

In many ways it is more favourable to be considered a dwelling as there is no need to provide a certificate to the contractor of intended use. This will mean that the zero rate can apply to both the services of the main contractor and any subcontractors. However the conditions of dwelling are stricter. Note 2 to the group outlines that to be a dwelling the following conditions should be satisfied:
- The dwelling consists of self-contained living accommodation
-There is no provision for direct internal access from the dwelling to any other dwelling or part of that dwelling
-The separate use, or disposal of the dwelling is not prohibited by the term of any covenant or planning consent
-Statutory planning consent has been granted.

Based on the information provided, there has clearly been planning consent obtained. It is unclear whether this planning prohibits the separate disposal of any of the rooms. However, there is no direct access between the rooms as stated in the question. There is a question mark over whether this would be considered a self-contained living accommodation though. This is because although there are ensuite washing and toilet facilities, the cooking appliances of a microwave and a kettle may be considered to not constitute cooking facilities for the pupose of being self contained living. There is also no shared kitchen. Although the situation is similar to that of student accommodation, which can be considered dwellings where in the format of cluster flats, this would not apply in this case, as there is no shared kitchen even.

The accommodation will potentially fall to be solely (meaning 95%) relevant residential purpose, as student accomodation is RRP, however, the housing of the employees will not fall into any of the categories outlined in note 4 of the group. Therefore, if the housing by the Medical school of students makes up 95% of the use, this will be RRP and they will be able to issue a certificate to their supplier to apply the zero rate to construction services and building materials as above. The certificate will not apply to subcontracted services. However, if the accomodation for other key workers makes up more than 5%, this will not be RRP.

In this case, if HMRC do not consider the rooms to be self contained living accommodation and qualifing as dwellings, the standard rate may have to apply to the 8.5 million costs resulting in Input VAT of 1,700,000 of VAT. As City Medical school will be making exempt supplies of living accommodation, this will not be eligible for recovery.

It is therefore in the interest of City Medical School to ensure the rooms meet the

definition of dwelling and perhaps look to provide more than a microwave and kettle as cooking facilities to allow the zero rate to apply.

With regards to the basement, as this will be solelt for the use of the residents, there will be no restriction of the the application of the zero rate to this element. HMRC allow in the case of student accommodation, for example, shared facilities for the use of the residents. There is no intention to make business supplies from the basement, so an apportionment will not be required, and where the conditions for dwelling are met as described above, the zero rate would apply to the whole construction project.

This is subject to certain restrictions to professional services such as those of an architect or surveyor, which would not qualify as a construction service, unless supplied as a component part of a design and build contract.

Conversion of institute.
The reduced rate of VAT can apply to certain qualifying conversions, but this will not apply in this case as the floor will be used as a porters lodge and office with the upper floor being an archive. This will not be a dwelling, or changed number of dwellings, so will not qualify for the reduced rate.

Therefore, VAT on construction costs will be subject to the standard rate of 20% = 300,000.

The use for the porters lodge and residential services offices will relate to the exempt supplies of accommodation to the doctors, nurses and other key workers. Therefore, the input VAT will not be recoverable on this element. The use as an archive will be non-business and so also restricting input VAT recovery.

The cost of this contract of 1.5 million is above the 250,000 threshold for the capital goods scheme so City Medical School will be required to monitor and track use of the building over the course of an economic life of 10 years. This will mean that adjustments will be required each year to reflect any changed use of the building.

It should be noted that s.41 of VATA1994, allows for VAT chargeable on the supply of goods or services to a government department for the purpose of any non-business activities carried on by the department, HMRC allow a claim to be made by that department to refund to it the amount of the VAT chargeable.
Therefore, the VAT on the goods and services relating to the non-business element can be recovered in a claim to HMRC on the basis that The City Medical School as NHS trusts qualify as exercising functions on behalf of a minister of the crown.

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

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

Answer-to-Question-_5_

HMRC have made enquires to suggest that they view the separation of the farming and b and b businesses as a disaggregation of business activities.

Where there has been artificial disaggregation, HMRC have the power to issue a direction to require the two activities to be treated as one for VAT purposes. As the farming partnership is already VAT registered, HMRC can instruct that the activities of the B AND B be included in the activities of the farm. This would result in the B AND B income being taxable at the standard rate. A tribunal cannot hear an appeal against this decision, unless their is evidence that HMRC could not have reasonably come to the conclusion that the activities should be treated as one.

As a direction has not yet been made, only an enquiry, HMRC are likely to request further information. When considering disaggregation they will consider the financial, economic and organisational links between the activities to determine whether the disagreggation is artificial to avoid a VAT liability.

As the supplies by Amanda of BandB/catering would be standard rated supplies where made by a taxable person, if considered an artificial separation, there will be an avoidance of VAT in hand.

However, based on the matters outlined in the question, it is likely that the separation will not be considered to be artificial. The reasons for this are outlined below.

Financial

The conversion of the barns was completed jointly by George and Amanda, rather than by the farming partnership. This means that the financial investment to set up the b and b was not provided by the farming business.

One sticking point could be the fact that initially the b and b income was conducted through the farming banking accounts. However, there can be demonstrated a clear intention to keep the finances separate, as a separate account was opened in May 2024, and during the period of April 2022 to May 2024 when the account was shared, the b and b income was segregated in the accounting records.

Therefore, it is unlikely that HMRC will consider there to be financial links between the

activities when presented with the above evidence. Especially since a separate account has now been opened

Organisational

There are some organisational links between the activities. Namely, Amanda conducts work as an employee of the partnership and George and the daughter in law (who is also a parter in the farming business) occassionally helps out at the b and b business.

HMRC may question whether this constitutes overlapping organisation of the activities as there are workers of both businesses which overlap.

To contest this point, Amanda and the farming partnership should gather evidence to confirm that the roles in either business are not interdependent on their roles in the other. For example, George and the Daughter in Law should be paid a market rate salary reflective of the work they conduct.

Economic

HMRC will look at the economic reality to consider whether there has been artificial splitting.

The fact that the business rates on the barns are run through the partnership, rather than Amanders sole trade would be indicative that there is overlap in the economic reality of the two activities. Amanda should take over the business rates of the barn to ensure clarity on this point.

Amanda covers all the maintenance and cleaning costs of the b and b activity, which would indicate that there is separation.

The fact that the kitchen is in the farmhouse would potentially indicate that there is overlap, however there is a reasonable argument to suggest that this is similar to someone operating a trade out of their home. Amanda lives in the farmhouse and so her use of the building should not automatically be considered a farming activity. Equally, George's use of the farm house is unlikely to be regarded as a farming activity as the building is used as a residential, non business dwelling.

Therefore, there are clear rebuttals to potential HMRC arguments that there are economic overlaps of the business.

Conclusion

Drawing on relevant case law, the facts in Caton are informative. In this case a husband

and wife were deemed to be separately operating a restaurant and cafe next door to each other. This was on the basis that there were separate staff, menues, tills, and cooking facilities. The fact that there was one lease, a single insurance policy and alcohol licence was not determinative of being artificially split.

Based on the above, although I have identified some areas where HMRC may question the validity of the separation, there are justified reasons for a lot of the overlaps. The case of Caton clearly indicates that there will be some flexibility in the judgment and HMRC will look to the economic realities of the situation.

Under the Halifax principals, there is abuse where a tax advantage has been obtained which is contrary to the law and the sole/ main purpose of the arrangements.

Although the split has resulted in a tax advantage as the b and b business remains under the VAT threshold, this would not be considered to be the sole or main purpose of the split. Therefore, when HMRC enquire, the people involved should offer forward the evidence discussed above and are likely to be able to convince HMRC that the disagregation is not artificial.

Therefore, Amanda should be able to maintain her separate sole tradership and remain unregistered for as long as she is below the threshold

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

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

Answer-to-Question-_6_

Under a TOGC the transfer of the Tally Ho Stud business would not be considered a supply of goods or services for VAT purposes. Instead it would be outside the scope of VAT, with input VAT incurred by Nancy on the costs of the acquisition recovered in line with the principals of UBAF, that being in line with the recovery of the business acquired.

Under a TOGC land and buildings that would be taxable must be treated outside the TOGC unless Nancy opts to tax. As nancy has opted and confirmed that the option will not be disapplied, this will be met and the property will be treated as within the TOGC transfer and VAT will not be chargeable on it.

However, there are several conditions required to be met for a TOGC to be in point. In particular, the condition that Nancy will be a taxable person is met as she has registered for VAT.

Another key condition is that there is an intention to continue the same kind of trade after the transfer. In particular it does not apply where the business assets are absorbed. Although Nancy will continue to breed the horses, with effect from early 2026, she will commence a livery business. This represents a different trade. 2.2.2 of VAT notice 700/9 highlights that it is the continuation of an economic activity that is important, not necessarily that it is identical. If the buyer intends in due course to carry on a differrent kind of business using the assets purchased, the sale may still be a TOGC if the buyer intends to continue the old business initially.
Therfore, based on the guidance in the notice, the original intention to carry on the breeding trade, will constitute continuing the same kind of business activity and will qualify as TOGC.

It is common for TOGC agreements to include causes that if HMRC confirm it is not a TOGC it is the buyers responsibility to reimburse the seller for the assessment raised on them by HMRC for the unpaid output tax. Nancy should be clear on the contract whether there is such a clause.

Equally where VAT is charged incorrectly, this will not be recoverable by Nancy, so both parties should be clear that the conditions for TOGC are met.

Therefore, the 1.2 million will be outside the scope of VAT. As mentioned above, Nancy will be able to recover input VAT on in line with the recovery rate of Tally Ho Stud on

any costs incurred as part of the transfer.

Under an TOGC, the responsibility to account for remaining Capital Goods Scheme adjustments is transferred to the buyer.

There is an option to transfer the existing VAT number to Nancy if agreed by both parties, but this is not recommended as it will come with the responsibilities for any outstanding liabilities and poor VAT history. If the registration number is transfered via a form VAT 68, this would mean there would be no split in the interval, and it would continue running.

However, where the VRN is not transferred, the current interval will be drawn to a close with the responsibility for the adjustmnet falling on the previous owners. A new interval will begin on the day of the transfer and will run until the end of the previous owners VAT year. This means that it will potentially not match with any year end of Nancy and so an agreement should be reached with HMRC to find a way of calculating the remaining adjustments.

Where she has opted to tax, the supplies made in the livery business will be standard rated.

SDLT

The Tally Ho Stud will be considered a mixed property as there is commercial buildings and a flat all integrated into one. This will mean the whole value of £700,000 + 80,000 on the flat element of the transaction will be subject to the non-residential rates of tax. These will not be separate elements as they come under one title and transfer and so should not be splitted.

150,000 @0%	0		
250,000-150,000 @2%	2,000		
780,000-250,000 @5%	26,500		
	28,500		

The total will be due for payment along with the self assessment and the return, 14 days after the effective date of the transfer. This will be 14 days after the 25th of September

The adjoining property will be a separate land transaction and will be subject to the

residential rates of SDLT. The gardens and grounds will not be considered non residential, but will be part of the curtilage of the property. This was the findings even in the case of Bonsu, where a communal garden was found to be part of the residential property.

There are some instances in which the costs of construction work should be included in the consideration for SDLT purposes. Here jennifer is benefitting from the commisioned works and the total value should therefore be included.

As Nancy and Phillipe already own a flat in london and the interest is over 40,000, they will be liable to an increased charge by 3% on account of acquiring their second home.

The land return will be due 14 days after comletion on the 24th of October along with payment. That is, 14 days after the 24th of October:

250,000 @3%	7,500		
800,000-250,000 @5%	27,500		
	35,000		

This will be the responsibility of Nancy/ Nancy and her partner in both land transactions.