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

Event **NA**

Exam Mode **OPEN LAPTOP + NETWORK**

Exam ID [redacted]

Count(s)	Word(s)	Char(s)	Char(s) (WS)
Section 1	**808**	**3832**	**4632**
Section 2	**359**	**1703**	**2055**
Section 3	**743**	**3487**	**4220**
Section 4	**486**	**2194**	**2673**
Section 5	**930**	**4478**	**5393**
Section 6	**672**	**3283**	**3939**
Total	**3998**	**18977**	**22912**

Answer-to-Question-_1_

Broadhurst Performing Arts (BPA) is a charity which is not currently registered for VAT. However the Trust's Board (TB) is a VAT registered entity.

Admission income for the admission to theatrical shows is an exempt category under VATA 1994 Sch 9 Group 13.

Option 1: TB acquires and operates the second theatre

As the Trust will be opting to tax the property I have assumed that they will be registering for VAT on a voluntary basis. they will be a partially exempt company and recover input tax per their recovery % but also pay output tax on supplies made.

As the vendor has opted to tax the property, the second theatre will be liable to tax at the standard rate of 20% (£200,000). The trust will be able to recover the input VAT per normal partial exemption rules, however as they make many exempt supplies much of this VAT may not be recoverable.

The purchase of the building does not meet TOGC conditions, as it is not the transfer of a currenytly live and functioning business. It will therefore fall within the scope of VAT.

As the Trust will opt to tax the property, input tax related to the purchase eg the legal and surveyor costs will be reclaimable. Per Beaverbank, as long as there is evidenced intention to opt to tax, input tax is recoverable. Per Tremerton, if this intention changes at a later date, this will trigger a CGS adjustment.

With respect to the legal and surveryor costs, they will be directly attributable to onward

taxable supply with input tax recovery available in full.

The refurbishment of £500,000 and the purchase of £1m both exceed the CGS threshold for Land and Buildings (>250k) and therefore input tax will be adjusted for annually via CGS.

This will be done by determining the baseline percentage in the initial year, the recover for the property and the refurbishment will follow the companys Partial exemption recovery %.

In the first year, VAT will be recoverable at

500k * 20% = £100k * recovery percentage = IT recoverable
1m * 20% = £200k * recovery percentage = IT recoverable

The CGS period will run for 10 years and to calculate the payment/clawback each year the company will need to usr the formula

Initlal VAT * (BASELINE % / Current year PE %) * NO OF YEARS REMAINING / 10

The let of the threatre to other charities will not qualify as an exempt license to occupy land. Per Diana Bryce and other cases such as Rufforth Park and Zombory, when a license to occupy is combined with other services provided e.g. ticket sales the supply becomes a composite supply of a standard rated supply of services. Only the license to occupy bare land is exempt, and it's likely that other features will be provided in this case due to the nature of the productions.

There is a disclosed agency in place and both the tickets and the commission will be charge to VAT separately, with two separe supplies occurring. The commission charged by the Trust will be a standard rated supply of services, whereas the tickets remain exempt.

The courses provided in the function rooms will not fall into the exemption of Sch 9 Group 6 education, as the courses are not in a subject ordinarily taught in schools. The fee charged for the courses will be taxed at the standard rate of VAT and the free service provided by the members may trigger a deemed supply of services to the Trust.

When considering the supplies by the cafe the findings from Card Protection Plan should be considered. Is the economic reality of this case such that the supply of refreshments is not an independant aim itself but to support the principle supply of the exempt admission? Usually, refreshments consumed on site are a standard rated supply of catering. The facts that a ticket must be shown for the purchase of the refreshments proves that their supply is ancillary to the principle predominant supply of tickets. Per Faaberg-Gelting, the VAT treatment should therefore follow that of the tickets.

Option 2: Bform26
Allows recovery of tax on purchase

If a separatle Ltd is formed, mandatory VAT grouping may apply if HMRC believe this is artificial separation created to form a VAT advantage. Per Halifax, if a transaction is structured for the purpose of obtaining a tax advantage, and if the tax advantage is acheieved, it can be redefined to remove the abuse of law.

Per AB Osman if businesses have economic, financial, organisational links and are

artificially separated, aggregated by HMRC may be put in place.

The trust is operating as a holding company for Bform26 and will be making taxable supplies of management services. For the costs on acquisition already incurred, Bform26 will not be able to recover input on this.

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

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

Answer-to-Question-_2_

Grimsby Publishing has various income streams.
Per VATA 1994 Sch 8 Group 3, educational e-books are a zero rated supply. (Item 7) The correct VAT treatment has been applied in this case.

Pre recorded content is not included in Zero rating per Item 7(b) - specifically excluded, it is standard rated. Grimsby should have been charging VAT at 20% on this service.

Charity advertising is not included in Zero rating per Item 7(a) - specifically excluded, it is standard rated. Grimsby should have been charging VAT at 20% on this service.

A physical e-book reader for disabled subscribers is a zero rated supply (Group 4 Item 1). The correct VAT treatment has been applied in this case.

However, for non-disabled subscribers it is charged at standard rate, as the exemption only applies for use by disabled users.

There has therefore been a singificant understatement in VAT. HMRC can issue an assessment for the last 4 years and penalties and interest charged on the potential lost revenue will become due. As the action is not deliberate or concealed it will be deemed careless with a maximum penalty of 30%. An unprompted disclosure can reduce this penalty down to 0%.

To calculate the value of the penalty due, we must calculate the PLR to date. The assessment period window goes back no more than 4 years from the end of the accounting window, so we will calculate the figures from 2022 and onwards.

GPL learning sales total = No adj required
E reader bolt on total = 63,800 * 90% (Taxable supplies) = 57,420
Audio visual bolt on total = 117,000
Project nature advertising = 40,000

Total standard rated supplies = £214,420 * 20% = £42,884
This amount will need to be paid back to HMRC.
Grimsby can file an error correction form, correction via just VAT return is not allowed as the amount is not nominal.

It is advised that an unprompted disclosure is submitted urgently to avoid any additional penalties on this amount. As, if HMRC make an assessment the penalty % can increase if the disclosure is prompted. Interest will also be payable on the PLR to date.

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

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

Answer-to-Question-_3_

Schubert Tague (ST)

Vehicle lease.

Supply of a lease is a standard rated service.

To consider the VAT liability for ST we can first consider the Redrow principles. ST are instructing the lease company, for a third party benefit, however they do not receive any benefit from the supply.

Per Jeancharm, for a input tax recovery, paying for a supply which you are not the recipient of does not apply. No input tax recoverable on the lease. However, as the salary deductions cover this, this is at no real financial loss to the company.

The employees are effectively the end user of the leasing service and input tax recovery is not necessary.

Loan

Per VATA 1994 Sch 9 Group 5, the supply of the loan to the employees is an exempt supply, even though no interest is charged. Any dealings with money are an exempt supply.

The take up of this loan will impact the company Partial exemption residual input tax %.

The use of the loan by the employee will be a standard rated supply from the leasing company to the employee, with the employee being the final user of the supply. In this case, the employee both commissions and benefits from the work.

However, in the case were the firm both covers the cost and engages with the providers to direct the work, both Redrow and Airtours principles apply.

Per Airtours, the company will be the one with an economic and contractual relationship to the installation provider. There is also some benefit to the company here as it encourages the update of the leasing benefit being offered to the employees.

Though the employee receives a third party benefit (Redrow), commission of the works by ST would likely be a supply for consideration and a business activity for the company with input recover available.

Vans

Usually, the supply of goods for no consideration is considered a deemed supply for VAT purposes and triggers and output tax charge to recover the relevant input tax claimed on that item.

However, there are some exclusions to this. In the case of Julius Fillibeck, transport was provided to employees free of charge which was reequired for business purposes. In this case there was no deemed supply and output tax was not payable.

This precedent can likely follow in this case as the vans will be used for genuine businesses purposes. However, storage of the cans at their homes raises concerns for output tax charged on private use of the vehicle.

Where a vehicle is genuinely only used for business purposes e.g. locked away on site, keys handed in etc, an output tax charge would not be due. However, if these requirements do not fall into place, output tax needs to be accounted for for the potential private use.

There are a few ways of accounting for the private use of vehicles:

1. Claim no input tax
2. Treat as wholly private/non-bus and pay full output tax
3. Use Lennartz accounting to account for the private use output tax over the period of the items life
Accurately track the mileage and pay the proportion of output tax.
4. Use Fuel Scale Charge given by HMRC 'advisory fuel rates' to calculate the percentage of VAT payable.

Recruitment

Removal firm charges - Here the VAT is recoverable. The firm benefits from this supply and instructs and pays for it. The benefit is that the solicitor joins their firm, the input tax will be recoverable as an overhead at the PE residual recovery %., as it is not directly attributable to any type of supply. However if the solicitor solely makes taxable supplies input tax could be fully recoverable.

Maintenance costs & Ongoing cleaning cost - The VAT is not recoverable in this case as

only the solicitor is the beneficiary of the service. This is similar to Jeancharm where merely funcing a supply does not entitle input tax recovery. This is not a supply for consideration for the firm and not to be included in their PE recovery.

Gym Membership

Deemed supply rules will apply to the Gym memeberships as no consideration is received. The firm must pay output tax to compensate for the input tax recovered unfairly.

PE

ST will need to amend their PESM to align with the tax treatment of the above. PESM are required to be rounded to 2dp and HMRC can revoke it if it no longer deemed fair and reasonable per Vision Express.

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

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

Answer-to-Question-_4_
TutoringU (TU) Ltd - IPT only

All travel insurance is liable to the higher rate of IPT at 20% per EU law which found the use of both a higher and lower rate unjust.

For IPT to be liable on a contract we first look at the rules per Prudential:

1) Premium paid
2) Indemnity for an uncertain event
3) Insurable interest.

Per GB Taxi Services a contract for insurance must also be in place.

There must also be a UK risk. In the case of travel insurance this occurs in policies under 4 months is they are taken out in the UK. For policies over 4 months (long term travel insurance), the risk location is a UK risk if the person is "habitually resident" here. This usually means they have been here for more than 8 months.

Therefore, any summer policies booked whilst the student is in the UK are liable to IPT.

Any annual policies booked by habitual residents will also be liable to IPT. If the overseas residents have been here for 8 months the IPT risk location will still be the UK in this case.

The sale of summer insurance to the overseas students before they arrive in the UK will not incur IPT. However this could be considered an IPT avoidance scheme and may need to be disclosed to HMRC.

Ensure Insurance Lrd

Option 1 - Here there is a disclosed commission. In the case of higher rate contracts with commissions disclosed, the insurer is liable to pay IPT on the full amount of £160. The £20 commission is retained by TutoringU and liable to normal VAT as the supply of a service.

Option 2 - Here the staff and students do not receive an itemised invoice and the commission is therefore undisclosed on a higher rate contract. This creates a taxable intemediary (TutoringU).

In this case, they will need to register for IPT. Ensure will pay IPT on the £140 they receive and TU on their £20 commission. Unlike VAT, IPT is not recoverable. TU will need to register from the first sale as there is no minimum threshold for IPT, they must also submit their IPT1.

Staff

Where a company provides its staff with travel insurance and the staff are not the beneficiary of the policy, this is not higher rated travel insurance but standard rated professional indemnity insurance.

Intallments

The interest charged on the installments is ancillary to the supply of insurance and will therefore follow the treatment of the travel insurance and be liable to IPT at the higher rate of 20%.

Gadget cover alone is chargeable to IPT at the standard rate of 12%. However, when supplied as part of a travel insurance bundle it follows the IPT liability of the travel insurance at 20%. If the gadget cover was separate it could pay the standard rate, however is is a composite supply in this case.

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

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

Answer-to-Question-_5_

Cycle for Good Ltd CFG

Per VATA 1995 Sch 9 Group 10 the supply of services closely linked with or essential to sport are an exempt supply.

Per Group 1, the license to occupy land is also an exempt supply. This is a protected category which is exempt by default but it is subject to some exclusions.

Adult cycling club & School hires

Per Abbotsley Golf Club, the exempt license to occupy does not require exclusive use of the land. However, per Sinclair Collins, it does require unrestricted access.

Both the club and the school have unrestricted and exclusive access to the land.

Per Netbusters, the short term hire of a pitch (or this case the velodrome) can be an exempt supply of a license to occupy land so long as the services attached do not dominate.

An employee opening and closing the velodrome would not be considered a dominant service, so the exempt rating would still apply.

The hire by the school for competitions would also likely be an exempt supplt of a license to occupy land so long as the velodrome is not providing services such as staffing, catering or other additional services during this time.

Personal lessons

Lessons in cycling for children would definitely qualify for exempt rating under either Group 6 Education (as physical education is ordinarily taught in schoolS and the individals would be younger than 19).

If the lessons qualify for Group 10 the supply of services closely linked with or essential to physical education for VAT exemption then the supply would be exempt for both children and adults.

Clothing

Per VATA 1994 Sch 8 Group 16, there are a few items of clothing that will qualify for zero rating here. Zero rating is more beneficial as the company can not charge VAT but still recover input tax in relation to the supply and increase the residual recovery pecentage.

ALL childrens clothing is zero rated under Item 1.
Adults clothing will be standard rated, apart from helmets which are zero rated under Item 3.

The hire of bikes, helmets, cycle shoes etc would be considered part of a composite supply per Card Protection Plan principles. They are not an independant aim alone, however they aid in the enjoyment of the principle supply. The VAT on the hire would

therefore follow the VAT treatment of the main supply (Faaberg-Gelting).

Cafe

Rent charged on the cafe is an exempt supply of a license to occupy land. However, if CFG are providing substantial services alongside the cafe, this could be a standard rated composite supply.

With the rent being so low, the question could be asked if CFG are benefitting from the cafe in any way? If HMRC find that there are economic/financial/organisational links per AB Osman, the cafe could be aggregrated though this seems unlikely with it being an independant party.

The supplies made by the cafe will either be standard rated catering if supplied on site, or ZR/SR food depending on what they sell.

If might make sense for CFG to take over the cafe as they make wholly taxable supplies, this would be beneficial for their input tax recovery rather than an exempt supply of land.

TOMS

A cyclc holiday to Scotland in its own name will likely trigger the use of the Tour Operators Margin Scheme. This happens because CFG is buying goods and reselling travel facilities.

Under TOMS, CFG will not be able to reclaim any VAT charged on the travel services bought in and resupplied. VAT is instead accounted for the on the margin - ie the difference between the amount received from the customeers and the amount they pay for

the goods bought in.

A margin scheme supply is a designated travel service defined by law. The coach, meals, tickets to the football match and travel back to England are all margin scheme supplies.

Accommodation is also a margin scheme supply however it is not 'bought in' in this case. The hotel in Scotland is an 'in-house' supply and is taxed under normal VAT rules and not subject to TOMS. If the TOMS package includes a mixture of in-house supplies and Margin scheme supplies, the value of the in-house supply (the accommodation) needs to be quantified so that it can accounted for under normal tax rules.

CFG can either use a cost based or market value based method to calculate it's liability under TOMS.

Standard rating

Following the above analysis on supplies made by CFG, I note that the company supplies should mostly be exempt from VAT. With the exeption of adults clothing and potentially personal lessons, all other supplies have been exempt rated (e.g. license to occupy land, childrens clothes, childrens PE lessons). With the exception of the new TOMS package of course.

This raises both an advantage and a disadvantage. CFG can raise a disclosure to claim back input tax which was charged due to their own error. HMRC could however argue that this would cause 'unjust enrhichment' and deny the claim. Input tax charged in error is not normally recoverable.

Going forward, the company must now account for the fact that they are operating as a

Partially Exempt company. They must calculate their residual percentage of recover using either the standard method or a special method if HMRC approve. Input tax recovery will be heavily restricted.

PE reclaim suggestions

To increase the recovery of input tax, CFG could opt to tax their property and charge VAT on the hire of velodrome, the shop rent etc. This may however impact profits as prices may no longer be competitive.

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

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

Answer-to-Question-_6_

Elite Home Builders (EHB) - Property development company

Yellowace

There many SDLT and VAT considerations here.

SDLT

SDLT is charged on the cost of the property including VAT, so if £3m is the VAT exclusive price the price becomes £3.6m.

Per Fish Homes & Amarjeet, a property being in a state of disrepair or requiring significant improvement ('derelict') does not disqualify it from being a dwelling and subjects to Residential rates of SDLT.

The surrounding 10acres do not constitute non-residential property, as the size of land alone does not make it non-residential. There is no commercial use of the land so mixed use/non-residential rate bands cannot apply.

Works performed before completion for the benefit of the purchaser will form part of the sale price for SDLT. Works performed post completion will not be chargeable to SDLT,

it is preferable to delay and perform for EHB to carry out the works as they be covering the cost regardless.

As well as being charged to SDLT at the residential rate band, the a 5% surcharge for buying the property as a company.

The entire property could be charged at the 17% enveloped dwellings charge as it worth over £500,000, unless EHB qualifies for exception from this. The 2% surcharge could apply as the CEO of the company is not UK resident.

Envelloped dwellings relief

The 17% charge will not apply and be relieved if the company is genuinely used as a property rental business (Consultus care). Any occupation by a non-qualifying person will remove this relief (Finanzamt). David is not a qualifying person, he not an employee or someone who is required to live at the property for the purpose of furtherance of business, so if he does occupy any of the dwellings while they are in the ownership of EHB, they will be considered enveloped dwellings with SDLT due at 17% + 2% non-resident surcharge.

The SDLT charge in this case would be £684,000 (£3.6m*19%)

Assume the £30,000 renovation is completed after completion. The VAT inclusive cost of the property is £3.6m.

If the enveloped dwellings exception does not apply the SDLT would be:

5% Company surcharge

2% Non-resident surcharge

Residential rates

125k @ 7% 8750

125k @ 9% 11250

675k @ 12% 81000

545k @ 17% 92650

2.1m @ 19% 285000

£478,650 SLDT due

SDLT should be reported and paid within 14days of completion or the contract being substantially performed (eg moved in or payment made)

Penthouse

If he purchases the penthouse, SDLT will be charged on the deemed market value regardless as he is a connected person. If he purhcases in his own name, he will not be emtitled to first time buyers privilege as he is non-resident. SDLT will be charged at residential rates plus non-resident surcharge.

VAT

Conersion of a property to change the number of dwellings is a qualifying conversion per VATA 1994 Sch7a Group 6.

The construction works will therefore be able to be billed at the reduced rate of VAT (5%).

The first grant of a major interest in these dwellings (sale of the freehold or lease over 21years) is also a Zero rated onward sale, with full input tax recovery and no output tax charged.

The self contained apartments each have the features of being their own dwelling so they will qualify. The property goes from being one 9-bed dwelling or 3 dwellings as apartments.

The carpets and any built in appliances will be subject to the builders block per Taylor Wimpey with no input tax recoverable for EHB. However the other building materials incorporated and charged at reduced rate of VAT will be recoverable as EHB is making an onward taxable supply. Per Darren Luke building materials difficult to remove and would cause damage if removed receive the 'building material' status and input tax recovery.

DIY housebuilders scheme not applicable as construction is by company, if David buys the penthouse he can cliam this via VAT431C.

Awellbeing retreat is technically a holiday home but bigger. There is TOGC as there is no live business.