

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

Event **NA**

Exam Mode **OPEN LAPTOP + NETWORK**

Exam ID 

Count (s)	Word (s)	Char (s)	Char (s) (WS)
Section 1	759	3685	4440
Section 2	480	2265	2737
Section 3	635	2882	3512
Section 4	876	4192	5062
Section 5	736	3507	4237
Section 6	644	2783	3417
Total	4130	19314	23405

Answer-to-Question-__1__

The two key areas here for Dr Ibrahim are whether his services are taxable at the standard rate or exempt as medical treatment.

The treatment in relation to burns victims and the consultation will be exempt from VAT, this is because the treatment is necessary and is used in order to restore, maintain or improve someones health.

However, there was a recent case called aestheticdoctor.com which concerned whether cosmetic treatment relating to aesthetics would not fall under the medical exemption and therefore be subject VAT at the standard rate. Aesthetic doctor argued that where their supplies benefited mental health this should fall under the medical exemption. However there was limited information to suggest that their cosmetic work did in fact benefit mental health of the patients. There may be scope here for Dr Ibrahim to argue that his services will fall under the exemption however, given current caselaw this will be unlikely.

Given this Dr Ibrahim will be carrying out both taxable and exempt activities. Only taxable activities will count towards the 90k registration threshold.

When considering whether they both join companies it is important to determine the VAT liability of both persons income as if they are to join this may trigger a VAT registration.

Where they are sole-trader then this will mean they are both below the VAT registration threshold and will not need to account for VAT or complete any VAT returns which will be beneficial to them if they have not had this obligation before. It also means that they will need to issue VAT invoices and collect all input tax invoices to ensure they can

reclaim. This may be beneficial if there are heavy input tax imposed on the couple. However this looks unlikely as Mrs Ibrahim can use her home office for work and Dr Ibrahim will normally receive zero / exempt supplies as a doctor.

It is likely that where Mrs Ibrahim supplies teaching to students while operating under an employer e.g. the university here, supplies will be standard rated. Therefore when joining together the company will need to be vat registered.

As Mrs Ibrahim is not an eligible body and will be working under the university she will not fall within the education exemption which would allow the couple to escape VAT registration if they were to join.

If acting as a sole trader then the couples will not need to charge VAT on their supplies making them more competitive within the market.

However where they are joined then they will need to be VAT registered and VAT will need to be included on both Mr's Aesthetic treatment and Mrs educational services.

If they were to join then obviously a benefit of the registration will allow them to recover VAT on any inputs they incur. This will also be allowed on exempt inputs provided they are below the de minimis limits within the year of £7500.

Ofcourse the couple can optionally register separately even if they are sole trader and where they join together they will need to inform HMRC within 30 days of the breach of income whenever this occurs and they will be registered from the first of the second month from them.

IPT and VAT

For the purposes of VAT any insurance contracts will be exempt from VAT. The question here is whether Dr Ibrahim is acting as an insurance intermediary between the insurer and the insured. Where this is a single supply with ancillary insurance then the insurance may be subject to VAT if the principal supply is taxable e.g., aesthetic treatment.

Levob details where the separation of this invoice may be non-economical and therefore splitting may not be allowed of the invoice. Here provided the insurance is optional this will be allowed to be split and charged separately.

A single invoice points to this being a single supply and therefore VAT may be added to the overall supply.

Medical insurance is subject to the standard rate and as it is not disclosed to the patient then Dr Ibrahim's commission will be included in the overall premium and IPT will be due by the insurer on the £8 Dr Ibrahim receives.

In order to avoid this it may be best having separate contracts for the insurance to allow for a deduction of Mr Ibrahim's commission on the total premium.

IPT due on each contract - $£80 \times 12 / 112 = £8.60$.

Dr Ibrahim is acting as an undisclosed intermediary for a standard rated insurance contract and therefore registration won't be necessary provided Dr Ibrahim is not providing any further insurance.

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

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

Answer-to-Question- 2

As Thalli will be transferring the properties in to a limited liability company. Therefore Thalli will still have interest in the property before and the transfer.

Given this we will need to consider the value that is still owned by Thalli after the transfer of the property and before and apply a SLP calculation.

Therefore the company will need to pay SDLT on the total acquired by them e.g., 75% as Thalli retains 25%.

Where all the properties are transferred it will be treated as a joint sale and therefore SDLT will be due on the total purchase.

Companies buying residential properties will incur an additional 3% on their purchases and any residential properties over 500k will be subject to the additional 15%. Unless the properties are for a letting company which appears to be the case here.

It will be important that all of the properties are transferred under separate contracts to ensure the lower rates can be claimed on the properties above £500k. Where the properties are re let out then this should not be an issue.

The amount of the SDLT payable will depend on the consideration passing over.

Option 1

This option appears reasonable as the completion of the contracts will be done before the construction works are completed. Therefore any work done after the effective completion date will not be subject to additional SDLT.

The property will need to be empty regardless of when the works are to be completed so this should not have a massive impact on the companies trading.

Under this option SDLT will be due on £275000 rather than £395000.

This is because transfers between connected parties happen at the market rate. Therefore the value of £395k will need to be taken.

Total consideration - 1050000. 75% will be payable.

787500 = total consideration for company.

0-250k @ 3%= 7500

527500 @ 8%= 42200

SDLT due 49700

Return and payment will be due 14 days after the completion of the contract.

Option 2

Where Thalli lives in the property before it is transferred into the incorporation, then this

may hinder their ability to receive relief for the letting business as the activities for this property are no longer letting it if Thalli is occupying the building himself.

Also where the extension is completed on the property prior to being incorporated then this will be an additional cost for the company as it will need to be included in the total value of the property and more SDLT will be due on it.

SDLT consideration will be on 395k rather than 275k.

0-250k @ 3%= 7500

617500 @ 8%= 49400

SDLT due 56900.

Conclusion

It will be best to go with option 1 as there is less SDLT due under this option as the extension will not be considered in the consideration as it will happen after the effective date of the transaction.

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

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

Answer-to-Question- 3

The treatment of the car park will depend on the usage of said car park. Where the carpark is used purely for use of the staff and has a direct and immediate link to the staff and their needs to park there in order to go to work then this can indeed fall within the exemption.

However where the carpark is used by staff members as a way to attend the the resteraunt and cafe then this may be argued that the car park fees will need to standard rated. And therefore output tax may become due.

The non-subsidised income will be outside the scope of VAT provided there is no reciprocity.

They have also treated the income from the car park as non business for general public parking. To determine whether this is non-business HMRC adopt two tests which were identified in Wakefield college.

- The activities result in in a supply of goods or services for consideration. This requires a legal relationship between the supplier and the recipient.
- The supply is made for the purpose of obtaining income therefrom.

The fact that there is a number of different shops to attend once parked then this clearly

identifies that the college is looking to obtain further income from this parking.

In the Wakefield college case it did not matter whether the consideration is below costs which appears to be the case here. As they are 30% below normal operators.

Here it appears the parking for the public is to obtain an income and therefore will be a taxable supply at 20%. The college should correct this out put by 20% e.g., 1/6 of 5000.

Pay machines for the public car park relate to a taxable activity and therefore this may be recoverable from the College as it directly attributes to the taxable parking. Input tax reclaim of 1/6 of 45k can be reclaimed from HMRC. £7,500.

The catering and meals provided has been correctly treated as standard rated, the fact that they have lowered their prices should not matter as this will be a discount as they are currently in training. Therefore the quality may not be to the standard of that supplied by normal caterers.

Recovery in relation to the catering will be allowed as it relates to a taxable activity. Input tax should not exceed output tax because of the discounted pricing. This will generally not be allowed by HMRC.

When determining whether the fees from the creche are non-business it is important to understand the rationale behind the service provided and level of fees. The fee is set to clearly cover costs which would hint at the being a non-business supply and therefore outside the scope of VAT. There is no input tax recovery on the items purchased for the creche and this has been priced in such a way that it precludes to be business income.

This is different to parking being treated as business income as there were clear income

benefits of operating a carpark within that location and there were slight profits made on the income. HMRC does not look only on the volume of profit to determine whether non-business applies but will heavily apply the principles set out in the Wakefield college case.

The club may be able to recover their input tax in relation to their exempt income provided it is below the de minimis of 7500 per annum and less than 50% of their total input tax.

Therefore it looks as if they can reclaim ~VAT on the new barrier as it de minimis.

Adjustments needed

Output Tax

- Car parking - $5k \times 1/6 = \text{£}834$

Input tax

- Public car park cost - $35 \times 1/6 = \text{£}5833$.

The college should correct this on their next return as it is below £10000.

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

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

Answer-to-Question- 4

The construction of the residential accommodation can be zero rated provided the charity are constructing accommodation for relevant residential purpose aswell. It can also qualify for zero rating if the construction is for dwellings.

As the properties are self contained with seperate accesses then it could qualify as a construction of dwellings. The dwellings must be able to be disposed of seperately aswell which in this case looks likely. Student accommodation is seen to be a relevant residential purpose and this will be for the housing of doctors aswell by the charity.

The fact that that part of the building will remain in place is ok for the construction of dwellings as it is a planning consent obligation to do so.

Dwellings

For dwellings to be constructed at zero rate the laboratories and other offices must be demolished to ground floor before the construction can begin.

When constructing these properties as dwellings, the construction work that is not dwellings e.g., the shared basement which acts as a communal area, will need to be standard rated for VAT purposes as it is not construction of a dwelling for the purpose of the zero rate.

Therefore the charity will be charged VAT on certain sections of the construction when constructing them as dwellings and will only be able to recover the VAT based on their partial exemption method e.g., split between taxable input and exempt inputs.

This may not be wise for City Medical to construct these buildings as dwellings as the ancillary construction will not attract the zero rating for VAT.

The onward let of these dwellings will be exempt from VAT and this may hinder recovery on any input VAT incurred during the course of the construction of the dwellings.

Items such as the kettle will be standard rated and will not be subject to any input tax recovery due to the blocking order on white goods.

Construction of things that are ordinarily incorporated within a dwelling will qualify for the zero rate e.g., sinks and food preparation areas, ensuites and toilets. Anything not ordinarily incorporated will therefore be standard rated. Where any architect fees are incurred on the construction or bare materials these will be standard rated unless there is a design and build contract in place.

There will be no change of use clawback for the construction of dwellings and the charity will not need to issue a certificate to any construction companies to get the zero rate qualification.

Buildings as a RRP.

Where there building is constructed as an RRP as it is done by an eligible body for the

purpose of housing. Then the charity will need to issue a certificate to confirm the use of RRP and obtain zero rating on the construction.

In order to qualify for RRP the charity must confirm that 95% of the properties will qualify for relevant residential purpose. Where this 5% is not met then there will be a restriction on the amount of the construction that can be zero rated.

RRP zero rate relief allows for the construction of the laundry facilities and basement at the zero rate. This is because, as per a number of university cases, the other facilities will be ancillary to use of the residential buildings. As restriction has been placed on who can access this laundry room then it will qualify as RRP and zero rate will apply to the construction of this. This ancillary construction relief is not available for dwellings. So this is a benefit of using RRP to construct the site.

Again similar to dwellings there is no VAT relief on the goods bought as white goods and anything not ordinarily incorporated within a dwelling. Therefore VAT will be incurred on these and no recovery will be allowed.

For any architect fees then this will be standard rated but recoverable based on the charities partial exemption method.

Institute building

This looks to be a conversion which will not qualify for the zero rating relief.

The conversion to a porters lodge will be a qualifying conversion as the number of dwellings will change and therefore be subject to the reduced rate of VAT.

However the change will also be to a residential service office which will be a conversion at the standard rate of VAT.

The conversion of the upper floors to an archive will be standard rated as this is not moving to a number of dwellings and rather from commercial to commercial. Depending on the usage of the floors will depend on the vat recovery by the charity. Currently it looks as if it will be non-business activity and therefore recovery will be effected.

From the above it looks best to treat the construction as a relevant residential purpose as it will allow for ancillary construction on a number of areas.

The charity will need to monitor their residential use over 6 years as if this changes then there may be a self supply trigger. This is the change of use anti avoidance provision.

The charity will also need to consider their 5% de minimimis to ensure the entire build is RRP as at the current the archive house will not qualify as it is likely to be of larger then 5% residential use.

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

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

Answer-to-Question- 5

The issue arising here is that the income from both the farm and the holiday letting/bed and breakfast is being queried by HMRC and there may be an issue of a direction coming from this. The direction from HMRC will be that the accounts should be consolidated into one return and therefore VAT accounted for on this.

Where HMRC see a business has been artificially split and should in this respect be one single business rather than 2 separated businesses, then they can issue a direction to join the businesses. Where a direction is issued then the effect of this direction will be on a go forward basis. That means there may be no retrospective VAT due if there is a direction issued.

However, where HMRC believes this is an artificial separation for the purpose of avoiding VAT on the holiday lets then they will be able to assess going back 20 years for any underpaid output VAT.

To test the strength of HMRC enquiry and the potential counter arguments, it is important to apply the following three links to the scenario.

Financial links

Initially the funds were routed through the same bank account and therefore looks like a link to maybe these were the same business accounts / business. Although merely sharing

the same bank account is not detrimental to whether these are separate business as per the Caton case which won its appeal v HMRC and they operated the same bank account. The fact that the accounts are now separate will benefit the argument for separation.

No rent is paid to George or Amanda for the occupation of the barn which seems odd as it looks as if there is minimal income from this.

All income and expenditure is put through Amanda's personal account and therefore there does not seem to be any financial support coming George other than the use of the credit card initially.

The farming partnership also pays Amanda a modest income which may be seen as a form of financing this other business as it appears that Amanda's contribution to the farmings is not very substantial.

It would be crucial for HMRC to consider the level of payment to Amanda to see if they directly reflect her contribution.

Organisational links

The bed and breakfast is marketed separately to the farm via their own website, this is beneficial in arguing whether they are separate or should be combined.

The occasional help by George on the b&b business may point to a sharing of staff as both workers do complete work for the other company e.g., Amanda completing accounts for the farm and George helps out with the B&B.

However the level of involvement in each business does seem fairly low and therefore should be considered with too much weight.

Economical

The economical test determines whether the business are economically viable without the help of the other.

Amanda meets in full all of her costs relating to the B&B which would point to the main activity being fairly reasonable and well financially.

It is also important to consider whether from the eyes of the standard consumer if these are two separate businesses. Do the attendees of the B&B have interest in the activities of the farmer as well.

This could be arguable as the letting of the bnb may positively effect the sales by the farmer.

Given the facts above it may be determined that HMRC may not issue a direction under the basis of the Caton case, although there are clear links these may not be sufficient to direct a business to operate as one. Amanda and George should reply to HMRC disclosing all of the information and reasons why they are operating as separate businesses.

As HMRC have not issued a direction yet it is important to highlight why they are separate. The fact HMRC are only enquiring at this stage is positive, however, they must seek more information from HMRC to determine the exact enquiry they are after.

This will avoid further probing to the business if HMRC questions are not addressed.

The potential outcomes of the enquiry are a direction which will be imposed going forward, HMRC may allow the businesses to operate seperately provided they are happy with the arguments put forward. Lastly they could raise an assesssment for intential disaggregation of the business and assess back 20 years or when the business started in this case.

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

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

Answer-to-Question- 6

As both the barn and horse school were opted to tax then VAT will need to be applied to the purchase price. The option to tax on the flat will have no effect on the flat as this is residential property.

The sale of horses will be a zero supply as it is a transfer of animals.

As Amanda has opted to tax the properties confirmed that the option will not be disapplied then the property can transfer over free of VAT. This is also the case for the assets acquired by Nancy, these will also pass over outside the scope of VAT provided Amanda;

- Carries on the same type of business,
- Has no significant break in trading,
- Is VAT registered
- Opts the properties in time.

In regards to carrying on the same business, Amanda appears to be changing this from early 2026 onwards. HMRC do not give a definite time period for which the same trade carries on and therefore it is upto the revenue to decide whether the three months will be sufficient enough for HMRC to consider this a TOGC. Where this is not a TOGC then it will have a number of output tax implication on the sale of the opted property which will now be subject to VAT.

Recent case law has helped determine what was long enough for TOGC to be considered, and although not the case for every scenario, as long as the same trade is carried out initially, HMRC will allow for the trade to change at some point in the future. They will also consider whether the two activities are the same kind of business which may be argued here.

As the barn and horse school are subject to the CGS adjustments, Nancy should ensure she has the relevant information in order to carry on the CGS adjustments for the remainder of the years. Nancy will have to establish her base recovery rate and then adjust moving forward. Once the adjustments over 10 years have been made then no further adjustments will be necessary.

2) SDLT

SDLT will be due on the acquisition of the Barn and Horse school.

Above the barn there is a flat which is residential property. As this is a mix use property then SDLT will be due at non-residential rates.

As the properties went over as a TOGC then no VAT will be added to the sale price.

The flat is worth £80k so this will be added to the value of the barn and the horse school. Provided the barn's value does not already include this.

Total consideration 780k

0% @ 150k = 0

2% @ 100k = £2k

5% @ 530k = £26,500

Total SDLT due on Barn, Flat and Horse school.

£28500. This will be payable and notifiable on an SDLT return 14 days after the effective date of the transaction. e.g., 14 days from the 25th of ~September.

This is Nancys obligation to file and pay.

Purchase by Nancy and Phillippe

Tally Ho House will be considered a residential property aswell as the surrounding grounds and gardens. Recent case law seeks to include surrounding grounds unless there is a clear commecercial use of the land. Here there does not seem to be so.

The building works as they are carried out before the completion of the contracts will be included in the SDLT consideration.

As this will be Nancy and Phillippes second home they will need to pay the additional 3% surcharge.

0-250k @ 3% = 7500

650k @ 8% = 52,000

Total SDLT due on the purchase will be £59,500.

This will be due for payment and return due 14 days from the 24th of October. Similarly

to the above.

Nancy will not need to pay SDLT on this transfer as it is the obligation of the purchaser and not the seller.