Institution **CIOT - CTA**
Course **Adv Tech Cross-Border Envrmnt Taxes**

Event **NA**

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Count(s)	Word(s)	Char(s)	Char(s) (WS)
Section 1	**1067**	**5002**	**6063**
Section 2	**959**	**4468**	**5423**
Section 3	**560**	**2768**	**3353**
Section 4	**532**	**2449**	**2980**
Section 5	**1014**	**4921**	**5932**
Section 6	**920**	**4321**	**5230**
Total	**5052**	**23929**	**28981**

Answer-to-Question-_1_

Subsidiaries are seen to be separate legal entities for VAT purposes.

Gibraltar is not in the UK for VAT purposes and has been considered in the EU.

BetBarb Ltd:
Management and accounting support to the subsidiaries will be seen as a general B2B supply of services. The place of supply for these services is where the recipient business is established. Therefore, where services are provided to ZBet, this will be a UK POS. Zbet UK will need to reverse charge these services. This will count towards Zbet's registration threshold.

Supplies of these services to Gibraltar, will also be supplied to its recipient being BetGib where the appropriate VAT rate should be applied there.This is outside the scope of UK VAT.

We need to first understand whether BetBarb has a fixed establishment in the UK. A fixed establishment is created when a company has sufficient technical and human resources in the UK and where essential decision making takes place. We understand that there is an office in the UK which has been rented and three employees in the UK. This creates a fixed establishment in the UK.

This will mean that BetBarb will be required to register for UK VAT where its supplies exceed the UK VAT threshold of 90,000.

We need to understand whether they have surpassed this threshold. Sisnce the management and accounting services are being provided from Barbados and the company

based over there, this 100k per month will not count towards the VAT registration threshold as the UK office is not closely related to this supply.

However the supply of the 75,000 annually will count towards the 90k threshold as the suppleis are being made from the UK office. Therefore, it is not compulsory required for the company to register for UK VAT, however it can voluntary register as an intending trader/trading under the threshold, which will allow for input VAT recovery. This will also mean that VAT must be charged on its supplies to UK customers. The cost benefit analysis should be considered to understand whether this is beneficial for the business.

The employees in the UK office (still under BetBarb) will invoice the subsidiaries for its services. For supplies to ZBet UK this will be a domestic supply of services, liable to standard rated VAT (if registered). For supplies to BetGib, this will be outside the scope of UK VAT. There should be a mechanism for BetGib to reverse charge this service, however local advice should be sought to the possibility of this.

Zbet UK Ltd:

Since Zbet UK Ltd is based in the UK, it will benefit from the VAT registration threshold of £90,000.

Under Group 4 of Schedule 9, the provision of any facilities for the placing of bets or playing any games of chance for a prize are exempt. It should also be noted that playing of dutiable machine games are exempt but only to the extent that the facilties are used to play such games and the takings and payouts in respect of those games are taken into account in determonong the charge to the machine games.

Therefore the supplies of these games and cash prizes will be exempt from VAT.

It also promotes BetGib's services. It recieves commission upon conditional factors. Commission will be liable to VAT based on the general B2B supply of services. This is where the recipient is based. Therefore the place of supply will be the BetGib Ltd which is outside the scope of UK VAT. The percentage of the customer's spend will follow the same VAT liability as the commission.

BetGiB Ltd:

BetGib is providing these services to UK customers. this is a B2C supply and the general place of supply is where the business is established, being Gilbraltar. Therefore this is outside the scope of UK VAT.

It should be noted that if these services were being supplied to UK customers, they would be exempt from VAT anyway.

App:

A supply of software can be argued to be an electronically supplied service as there is minimal to no human intervention and is all powered by the software.

This will change the place of supply for VAT purposes. The place of supply for ESS services provided to customers will be where the customer is based. Therefore, where the customers are based in the UK using these services, they will be subject to UK VAT, which is the responsibility of Betgib to account for.

Since BetGibb does not have a UK establishment due to the lack of technical and human presense in the UK, it will be liable to register for UK VAT upon its first sale in the UK

within 30 days of making that sale or creating the intention to make that sale.

The income of £100 from the customer will be subject to VAT wherever the customer is based.

It should be noted that where the customer is based in an EU member state, distance selling can be used until the EUR10,000 threshold is breached. VAT can be accounted for in the Gibraltar until this is threshold is breached, in which case it can then register under the OSS, which allows for VaT to be accounted for in each member state at the aplicable rate and paid over to the relevant tax authorities. However, this is only a mechanism to account for VAT and not to recover VAT. if this has been opted quarterly returns must be submitted. An alternative to this would be to register and account for VAT in each country where these ESS sales are made. This would be more of an admin burden however, VAT can be recovered as normal on the relevant VAT returns.

Deducting a percentage of the customers winning will again follow the ESS supply VAT liability and will be where the customer is based.

UK bookmakers are paying commission to BetGib. This will follow general B2B rules and the place of supply will where the recipient is based. The place of supply will therefore be the UK and therefore UK VAT will be charged.

The commission does not fall under the betting and gaming exemption and therefore will be a general B2B supply where the recipient. Bookmakers are seen to be receiving the supply and therefore 20% VAT will be charged on this supply. This will not be recoverable by BetGib unless it resiters for UK VAT or submits a refund claim.

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

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

Answer-to-Question-_2_

Home removal services do not fall under any exemption or do not benefit from any lower ratae of VAT, therefore this would be a standard rated supply of services.

The general place of supply for a supply of services to business customers, is where the supplier is established, being the UK. Therefore, even where these services are being provided to customers outside the UK, due to Eumove Ltd being established in the UK, the supply of these services will be charged with 20% UK VAT. There are a few exceptions to this, which we touch on below.

Hotel:

These are technically bought in services which are then supplied onward to the customer. This can arguably be a TOMS supply. Toms is a special scheme for businesses that buy in and resell travel, accomodation and cetain other services as a principal or undisclosed agent.

An undisclosed agent has three supplies, one where they are reciving the supply from a third party supplier, one where they are supplying these supplies to its customer and another where it charges for its agency services or commission to the third party supplier. Euromove is partaking in all of these three supplies. Therefore, it is undertaking its services as an principal/undislosed agent.

Typically under general VAT accounging, the business typically accounts for VAT on the full selling price of the supplies and recovers the associated input tax in making those supplies. However, when TOMS is involved, the VAT is paid to HMRC on the margin of the supply. This means deducting the selling price from the bought in price of the services. The margin liability is standard rated when enjoyed in the UK and zero rated when enjoyed outside the UK. This supports the override rule as follows.
It is important to note that TOMS does not allow for input tax to be recovered.

There is an ovveride to the general B2C supply of services rule under Schedule 4A, item 1, where the supply is in relation to land. The place of supply shifts to where the land is actually located. Therefore, if Eumove is arranging for hotels in the UK, this will be a UK supply and subject to UK VAT. This changes the VAT accounting position where the supply is of an EU hotel, this will be outside the scope of UK VAT due to the hotel being located overseas.

The invoice to the customer will be charged with 20% VAT on its hotel charges. The arragnement charges will arguably be an ancilary supply to the main supply and will follow the same VAT liability.

However, if they are identified separately and a separate fee is charged, there could be an argument for the general B2C supply of services rule as seen as a multiple supply.

Since the arrangement fee is used to supply the main supply and support the better enjoyment of the main supply, we will consider this as a single supply with the VAT laibility following that of the main supply (i.e standard VAT for UK accomodation, and EU VAT for EU accomodation).

Other supplies:

Commission to the hotel owners will follow the general place of supply rules. This is a B2B of services, the place of supply being where the recipient is based. Therefore it its a UK hotel, there should be UK VAT and an overseas hotet, will be outside the scope of UK VAT as this is where the recipient business is likely to be established.

Where the additional charges are paid by the hotel on behalf of the customer, and these are recharged to the customer, the VAT liability should follow that of the supply of the hotel, as these are interchangeably linked.

Discount:

Where payment is recieved within 14 days, the prompt payment discount will need to be accounted for. This can be done by issuing a credit note and amending the output tax on its VAT return.

Euromove will need to amend the VAT return to reflect the true value of its services.

Private Home:

Again, here this is a land related supply so the POS will follow where the land is located.

Again here Euromove is seen as supplying the services since it is the one invoicing the customer. This is an undisclosed arrangement and will follow the VAT liability as stated above.

The tax point of Eumove's services will be the earlier of the services being performed or payment being made. Where an invoice is issued within 14 days of the basic tax point,

this will become the actual tax point of the supply. Since payment is collected in advance, this will be the likely tax point of the supply.

Eumove's own accomodation:

When using TOMs we exclude in house supplies. Therefore, VAT will be accounted for under the general rules stated above for non TOMS supplies.

Again, this is a land related supply. However, here Eumove is not acting as an undisclosed agent as it is not buying in and selling on any supplies. It is simply providing from its own supplies.

Since the text specifies that this is a London flat, the services will always be subject to standard rated VAT (provided that the building is opted), and input tax in relation to this supply can be recovered. If it is not opted, then this will be an exempt supply and the VAT recovery should be considered.

Where the business makes exempt and taxable supplies, input tax recovery will be apportioned to recover the amount of VAT that is used to make taxable supplies. If Eumove does not believe for the standard method to be just and reasonable, it may agree a Partial Exemption Special Method with HMRC to provide a just and reasonable solution to the input tax recovery.

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

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

Answer-to-Question-_3_

Aggregate is subject to aggregates levy when the aggregate has been subject to commercial exploitation, unless reliefs and exemptions apply. This can occur when it is removed from a site, becomes subject to agreement to supply it to any person, used for construction purposes or is mixed with other materials other than water.

Republic or Ireland is not in the UK for VAT purposes and therefore the removal of this aggregate can be considered an export. Credit can be granted for any aggregatre that is exported from the UK.

However, we do note that this will be moved to a registered site in Ireland that is operated by Gritsea Ltd. Section 19 notes that aggregate is subject to exploitation when it is removed from a site falling within subsection 2. Subsection 2 notes that any site which is not the originating site of the aggregate but registered under the name of person whos name that originating site is also registered.

Where they are moved from one registered site to another owned by the same operator under the same registration, they are not commercially exploited and not subject to aggregates levy.

Seabed gas pipeline:

Aggregate arising from ground on site, which is removed exclusively for the purpose of

laying foundations, pipes or cables is exempt from the levy.These are materials arising from utility works. Therefore the crushed granite and quartz are exempt from the levy.

Road Access:

It can be argued that the construction of new road to access new workings can be an exempt process, as its the process of construction used for improvement of modification and not forpurpose of extracting aggregate, however for this to apply the aggregate must be removed from the ground. Therefore this will be subject to aggregates levy as its been commercially exploited by being used for construction purposes.

When sold to third parties, this will be subject to aggregates levy too as it falls within commercial exploitation mentioned above.

If the Moorcambe aggregate has been subject to aggregates levy from the use of making roads and hauling timber, it will not be subject to aggregates levy upon the sale.

Mixing of sand and shale:

Mixing of aggregate with anything apart from water is considered commercial exploitation. There are a few permitted circumstanced when mixing aggregate is not subject to commercial exploitation. This occurs where the taxable aggregate which hs not previously borne the levy and all the mixing takes place at a site which is:

- the originating site
- a site registered under the same name as the originating site
- a site which aggregate has been removed for an exempt process to be applied to it

Under section 18 of exempt processes, the use of shale for a purpose other than construction purposes is an exempt process.

Since the goods are beibng sold to be mixed with material other than water at a different site and is being used for construction purposes, this does not fall under the exemption and aggregates levy must be charged.

Where the goods are sold to the customers on demand, this will not be subject to the levy unless they are used for construction purposes.

Glass/sandpaper:

There are no exemptions noted for these processes and since they are being sold they are being commercially exploited. Aggregates levy at £2.03 per tonne will need to be accounted for.

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

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

Answer-to-Question-_4_

The donation of goods for sale, letting or export by a charity is zero rated for VAT purposes. Therefore where Pruoruse Ltd makes the supply of these clothes to the charity, this will be a zero rated supply. There is no charge for this supply, therefore the output tax will be nil. However costs associated with making these supplies will be recoverable.

Goods are exported from NI to Ireland to carry out processing.Exports can be zero rated for VAT purposes. Relevant evidence of the export should be retained such as commercial documents, export declarations, supplementary documents etc. These are then returned to NI which will mean that the goods will incur customs duty and import VAT upon entry into NI.

Proruse may consider using outward processing for duties to be only accounted for on the value added to the goods when bought back into NI. This will mean that VAT will only be charged on the services for turning the goods into yarn and chips. Certain conditions need to be met for the goods to qualify under outward processing.

If the Ireland business are only turning the clothing into yarn, this would be general B2B supply of services, incuring VAT where the recipient business is based, being NI. Therefore UK VAT will be charged. This can be accoutned for by Proruse Ltd as a reverse charge by accounting for it as input tax and output tax on the same VAT return, leaving it in a net nil position.

When the goods are imported back into the UK, they will be liable to customs duty and import VAT. However, where the goods are less than £135, duties are not payable and instead domestic VAT is accounted for instead when the goods are sold. this is unlikely to be the case here as the consignemnts are liekly to be over the value of £135 due to the turnover figure. This will mean duties will need to be accounted for when the goods are bought into NI. PVA can be used to account for import VAT. This essentially means that the import VAT is accounted for and recovered on the same VAT return,

When the goods are then sold to NI businesses, this will be a standard rated supply.

Landfill tax:

A disposal of material takes place where the material is placed on the surface of the land, the structure set into the surface of the land or under the surface of the land. When the discards are placed in the on the Newry site, this will trigger a taxable disposal and will be liable to landfill tax at the point where they are disposed of on the land.

HMRC require that they should be abl to distinguish between those activities on a landfull ciute which are taxale disposal and those which are of non-taxable use of material. the non=taxable materials should be placed in a designated area, also known as the information area. This should be easily identifiable and boundries should be set in the area to distinguish its use as an information area.

the conseuqence of not doing this will mean that non-taxable disposals will become taxable and landfill tax will be due.

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

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

Answer-to-Question-_5_

When goods are imported into the UK,they are subject to customs duty and import VAT upon entering the UK border. However, where a customs warehouse is used, these duties can be deferred until the goods are released into free circulation. If the goods are not released into free circulation, either by being exported or transferred to another customs warehouse, customs duties and import VAT still do not become due as the goods have not entered the UK market.

It is important to note that customs warehouse allows for usual forms of handling to take place in the warehouse. This includes simple cleaning operation, repackaging and general maintenance to keep the stock in good condition.

Where the goods are sufficiently processed, the goods can no longer be under the customs warehouse regime.

Since the goods are taken out of free circulation (meaning the the relevant customs duties and import VAT have been paid), before further processing is carried out, this should not present an issue as all relevant duties have been paid.

Credit notes:

Although this method does not seem to result in any revenue loss to HMRC, this is not the correct way to account for VAT and customs duties. The value of the goods for

customs duties purposed must reflect the true value of the goods. Hence, when further cars are being reflected as lower duty due to the issue of a credit note relating to a prior car, this is not an accurate valuation of the car.

This is also not correct for the purpose of import VAT. Import VAT entails the cost of the good and customs duties. If the customs duties accounted for are incorrect, the import VAT value will also be incorrect. Although the amount of import VAT paid is the import VAT recoverable, these are errors in the logistical system which may result in NEwcarimp's revocation of being able to use special customs procedures. Therefore, Newcarimp should look to fix this mistake immediately.

When the credit notes are issued, provided they are not provided over three years later (which doesn't seem to be the case here), NewCarimp is able to make an adjustment in the customs value and recover the overpaid duty made. This should not result in import VAT being recovered, since the import VAT was recovered in accordance with what had been paid, therefore leaving it net nil with no cash loss.

Inward Processing and CW:

Since this stock is bought in from overseas suppliers, processed and then either released into free ciruclation or exported outside the UK, Newcarimp may want to consdier using Inward processing. this can be done alongisde customs warehousing. The goods can be transferred from the CW to the IP regime and then put back into the CW until the goods are released into free circulation. Since a few of the goods are exported, this may be beneficial and provide customs duty relief on the goods. Import VAT can be recovered in full provided that the business is fully taxable, and hence does not result in an absolute cost.

This will also be beneficial for the cars that are sold with factory modifications.

If Newcarimp wishes to utilise this regime, it must do so by applying to HMRC for full authorisation.

To apply, a lot of the conditions are similar to customs warehousing and therefore will be deemed to be met. this includes financial solvency, good record keeping and logical systems in place. there are a few additional criterias that need to be met to operate inward processing. This includes:

1. Througput period - how long the goods are expected to be imported, processed and then re-exported.

2. Rate of yeild - how much of the imports are to be used in the final product.

3. Economic condition - HMRC must be satisfied that the goods being imported do not adverely affect UK producers.
This is typically met when the goods are not sensitive, which they are not deemed to be in this case.

When the goods are released into free circulation, the value of the processing must be added to the goods. This will mean that the customs value of the goods may be higher.

It is important to note that when the goods are released into free circulation, the customs duty and import VAT will be payable on the finished goods released. Therefore any modifications undertaken will essentially increase the value of the goods. the customs duty will also be due on the finished product released, therefore if the customs duty for the goods imported are higher than the finished goods released into free circulation,

Newcarimp may benefit from lower duty. This could also apply the other way around which will increase the customs duty. A cost benefit analysis should be carried out to determine the best course of action for NewCarimp.

Display cars:

If the goods are being released into free circulation for a specified end-use, they may be eligible for a suspension in customs duties. This is provided that the end use conditions are met. the

Gebecar Ltd:

Where the cars are transferred from one customs warehouse to another, the goods are not released into free circulation and therefore duties and import VAT do not become payable.

NewCarimp can use TORO to transfer its responsibilities of these products to Gebecar Ltd. Applications from both parties must be made and an agreement must be in place for the transfer of rights and obligations to take place. Since both warehouses are based in the UK, this should not create an issue. Appropriate records should be kept for 6 years.

When the goods are released into free circulation in GB, it will then be Gebecar's responsibility to account for the customs duties and import VAT upon release. The value of the goods should be clarrified with Newcarimp upon transfer to its warehouse. Appropraite evidence and valuation records should be kept to support this.

Where the goods are exported form the customs warehouse without being released into free circualtion, these goods will not become subject to UK customs duties and import VAT.

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

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

Answer-to-Question-_6_

1) There are several valuation methods that Glyno needs to consider in hierarchal order to value their goods correctly.

It should be noted that where valuation method 4 and 5 are reached, these can be swapped around to provide a more beneficial valuation.

The first valuation method, is known as the transaction value. This is the payment made or to be made by the buyer to the seller, with inclusion and exclusion of certain elements.

To reach the accurate value of Method 1, the following should be included, if not included already:
- commission and brokerage except buying commission

- cost of containers, packaging, labour and materials

- value of goods where supplier directly or indirectly by the buyer free of charge or at a reduced cost for use in production and sale of imported goods. this includes materials, components, tools, moulds etc.
Since Glyno has supplied the moulds to Malymach, the price of the goods should be included in the value when they are imported back into the UK for customs and VAT purposes.

- royalties

- transport and insurance of imported goods up until they enter the UK border

Certain elements to be excluded include cost of transport upon entry into the UK, costs for construction and assembly, interesty and buying comission.

It should be noted that Method 1 can only be used when there is no rerstriction as to the disposal or use of the goods, the buyer and seller are not related or the relationship does not influence the price, the sale or price is not subject to a condition, and no part of the proceeds of subsequent resale, disposal or use will accrue directly or indirectly to the seller.

Buying commission is defined as a fee paid by an importer (Glyno Ltd) to an agent for representing him or her in the purchase of goods being valued. Since the introduction of the two companies were through Bucl who also receieves 3% of the value of goods as her pay, this will need to be excluded from the value of the goods. This will be accounted for separetely by Glyno as a reverse charge, and therefore does not need to be taxed twice by including it in the valuation method.

The second customs valuation method includes the transaction value of identical goods sold at or about the same time as goods being valued. At or about the same time is concluded to be within 90 days.

The third customs valuation method, much similar to the above, is the transaction value of similar goods sold for export to the UK at or about the same time as the goods being valued.

The fourth valuation method is based on the unit price at which the imported goods, or identical or simiular imported goods are sold within the customs territory.

The fifth valuation method is also known as the computed value method, which entails knowing the cost and value of the amterials and fabrications, amount for profit and egenral expenses and elements referred to in the method 1 valuation method mentioned above. This method essentially calculated the cost of the goods and is quite difficult to do as the value of each individual component is not typically known by the importer.

The last and final method for valuation, is Method 6, also known as the fallback method. This is the last resort and it consists of combining the other valuation methods, or agreeing a method with HMRC to value the goods as the above do not provide a just and reasonable transaction value.

Recommendation:

As the parties are unrelated, and the transaction value seems to provide a true arms length market value of the product, the first valuation method should be used to determine the amount of customs duty upon import.

It should be noted where the goods to be incorporated into the product were provided, and to the extent that they are not already included in the value of the goods, these should be added. This includes the free of charge goods and the electric motors. They will be pro rated to take into account how much of the materials were used for the amount of goods that were imported into the UK for the 3,000 food processors.

It should be noted that the 3% buying commission will not be included in the value as per the exclusions under method 1 and under the assumption that these will be separately

reverse charged by Glyno.

2)

3,000 Food Processors

Value of goods: 150,000

Transport to UK border: 6,500

Moulds: 24,750/83.33 = £297

Motors: 36,000 x 3 = 108,000

Total: £264,797

Customs value: £264,797

Customs Duty: 264,797 x 2% = £5,295.94

3)

The purchase of the moulds from Malaysia and the motors from Phillipenes will be subject to import VAT if they were imported into the UK. However, the plastic moulds were shipped directly from the Malysian company to Malymach Sdn, and the motors were directly sent to Malymach from the Phillepenes. Therefore, they only enter the UK when they are imported as a final product and therefore will be due to import VAT when they enter the UK. This will be at 20%, but can be recovered on the VAT return. It should be noted that the company can use PVA to account and recover the import VAT on the same VAT return.

Import VAT:

Customs value: £264,797

Add: Transport to premises: £700

Buying Commission (3% x 264,797) = 7,943.91

Total: £273,440.91

Import VAT: 273,440.91 x 20% = £54,688.18