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	**984**	**4682**	**5655**
Section 2	**736**	**3576**	**4307**
Section 3	**614**	**2864**	**3469**
Section 4	**591**	**2851**	**3432**
Section 5	**894**	**4204**	**5086**
Section 6	**775**	**3623**	**4386**
Total	**4594**	**21800**	**26335**

Answer-to-Question-_1_

1. Option 1 - trust to acquire

Purchase of theatre

The purchase of the theatre is not for charitable use as it is for a mostly buisness purpose. A certificate should not be issued from the trust to the vendor.

If the trust purchased the theatre, VAT of £200,000 wouldbe charged on the sale as the vendor has opted to tax.

The VAT on this cost and associated legal costs would be recoverable in line with the intended use of the theatre. As they will be making exempt admission sales, this recovery will relate to partly, if not wholly an exempt supply. This would result in a significant amount of VAT costs becoming irrecoverable.

An option to tax would be beneficial for the trust as this would mean that any lets would become standard rated, increasing their taxable use however this would not impact the exempt admission meaning that some VAT will always be restricted.

Th purchase of the theatre is a CGS asset as it is lnad and buildings over £250,000. This means that the recovery of the asset would be dependent on the use over a 10 year period. Adjustments should be made annually on the second return following the end of the VAT year.

Refurbishment

The refurbishment is also a CGS asset and adjustments will be made on the £100,000 of VAT incurred. For the purpose of CGS, these adjustments are not seen as connected or

linked and the adjustment for the purchase and refurbishmnt should be done seprately. This means that the VAT recovery on the refurbishment will be the same as the purchase by the theatre.

Lets to performers

Where the trust is acting as agent, VAT is reportable on the lower amount of their commission, instead of teh total price of the ticket.In an agency arrangement there is a supply from the third party charity to the customer, and one from the trust to teh third party. The trusts supply would not relate wholly to the provision of admission to the show but it akin to standard rated advertising/agency services.

To confirm whether the trust is actually acting as agent, the economic reality of the agreement must be considered. In A1 Lofts ltd, the customer belived that she was receiving a single construction service fromA1, not separate supplies from each subcontractor therefore they were acting as agent. In this case, the consumer will exepct that they are receiving the supply from the relevant performers, not from the theatre itself. This supports that agency is applicable.

Also the invoicing psoition is that the relevant amounts are remitted to the third party after the commission is taken. The fact that the trust is collecting the money on behalf of thr third party does suggest that this is a typicalagency agreement and VAT can only be accounted for on the commission.

Function rooms

The lessons are a business activity of the charity under the rules outlined in Wakefield college. There is a supply for consideration i.e. education and an intention to obtain income. Although a fee is charged for the service, this does not mean that there is an intention to obtain income as the intention could simply be to recover costs to allow them

to continue running the lessons. This is supported by the fact that the members providing the service are not employees.

If it were a business as a registered trust, they may be treated as an eligible body for the purpose of the education exemption on the basis that they are not for profit. A fee is charged however this does not automatically mean that they are aiming to profit. Where the fee is put back into the education supplies such as the relevant equiptment they are an eligible body.The eductaion is being provided by individual members who are not employees of the trust as they are not making a salary etc.

Considering the above I would recommend that this is treated as a non business activity as there is sufficient evidence that there is an sufficient intention to obtain income and also an insufficient link between the trust and the service provided as they have little control over the members.

Cafe

Where the trust operates the cafe they will be making taxable supplies, which would increase their VAT recovery position. The supplies eaten in the cafe or any hot takeout food would be standard rated with cold takeout food zero rated. Any VAT incurred on costs for the cafe would be recoverable.

This would result in the trust having to register for VAT. They should inform HMRC within 30 days of exceeding £90,000 over a 12 month period or having the intention to exceed this within the next 30 days. They will be required to make quarterly returns.

Option 2 - form a subsidiary

Purchase of theatre

If Bform26 Ltyd ("BF") purchased the theatre, they would also incur the VAT of

£200,000 and teh CGS assets. It would still be beneficial for them to opt to tax the building as this would allow some VAT recovery. This would mean that the trust could remain not VAT registered.

The CGS adjustments would be the same.

However, what the entities could consider is purchasing and refurbishing the theatre in BF and the making taxable leases to the trust (following an option to tax by BF). This would allow full recovery on the purchase and refurbishments as BF are making wholly taxable supplies of leases. The trust could continue with their business activities as notmal and although they will get charged VAT at 20% on the lease,which would be mostly irrecoverable, the overall VAT cost would be significantly less.

HMRC typically allow the set up of these Prop cos and are unlikely to challenge this arrangement as abusive.

Function rooms and cafe
Where BF were operating the courses/cafe, the same treatment would be applicable as per the trust above.

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

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

Answer-to-Question-_2_

2. GPL Learning

Automated tool

This is not an exempt supply of education as Grimsby Pulbishing Ltd ("GPL") is not an eligible body (school/university or a not for profit),nor are they an individual providing private tuition. This is not a supply of online exam services as does not result in a qualification (as seen in the recent case of generic maths).

Books are typically zero rated,this includes e-books supplies electronically except where they relate wholly to advertising or are prodominantly audio/visual content.

It could be argued that the payment of the subscription is not for receipt of the books but instead is akin to a platform fee. As the purpose of the platform is simply to access the books available the subscription paid had a direct and immediate link to the provision of the educational e-books and this can be zero-rated.

However, the use of the integrated AI tool would typically be a standard rated service. Using the principles of CPP, although each supply should usually be treated as distinct and independent where one supply is sen as ancillary to the other, this is a single supply. In this case, the AI tool would not be purchased on its own and is simply a means to better enjoy the books/platform. Therefore this is a single zero rated supply.

E reader bolt on

Theis a physical of supply of goods but is not in itself a supply of a zero rated book. This would typically be standard rated.

When supplied to disabled persons, talking books and wireless sets can be zero rated under Group 4. As there is pre-installed software to specifically meet that individuals needs and allow accessability, the supplies are clearly for the disabled. However, group 4 does specify that to benefit from this zero rate the supplies must be made to a charity. As GPL is not a charity, they cannot benefit from this.

Audio bolt on

As above, where e-books are prodominantly audio, these are standard rated for VAT. The access to podcasts/lectures does not benefit from teh zero rate as this is not a book.

Invoicing position

As teh bolt-ons are provided in a single invoice this may suggest that there is a single supply of the zero rated subscription. As per Levob, where supplies are so closely economically linked that they would be artificial to split, this should be treated as a single supply for Vat. In this case, the bolt-ons are not so closely linked as they are optional, demonstrating that they are easily removed from such. This is also not a supply of a zero rated book and a service as seen in BskyB. Therefore, these should be treated as separate supplies each with the relevant VAT rate.

Charity advertising

The sale of advertising space on the platform would be expected to be standard rated advertising services. The provision of journals, including e-publications however, are zero rated supplies under sch8 Group 3 unless they are wholly or prodominantly advertising.As the charity is promoting research, it could be argued that this si not advertising however as they are ikely asking for funding etc. this is unlikely.

It must be determined whether there is a direct and immediate link to the journals or the advertising services. GPL is simply allowing the charities use of the space, meaning that their intention is to make money from the advertising. GPL does not have control over whar documents are sdhared in the space therefore suggesting that this is a standard rated supply of advertising.

Correcting errors

GPL have underdeclared output tax on all of the bolt-on sales (£190,800 / 6 = £31,800) and the advertising (£40,000/6= 6,667). GPL should correct these errors via a disclosure to HMRC. It cannot be corrected on the next VAT return as it exceeds 1% of turnover (as this is £13,520).

As output tax will be be due, a disclosure will also assist in preventing penalties as penalties are behaviour based. This likely would be an unprompted careless error so penalties could be mitigated to 0 be telling, helping and giving, but would be a maximum of 30%. GPL could argue that they had a 'reasonable' excuse for the errors however HMRC do not typically accpet this unless something sinificant has occured e.g. death of a family member.

GPL should also ensure that they have corrected the position going forward as any further errors may be considered deliberate.

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

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

Answer-to-Question-_3_

3. Vehicles

Lease scheme

Cras are standard rated for VAT meaningthat where the £1200 is incurred for the lease, £200 of this relates to the VAT. Schubert Tague LLP ("ST") will not be able to recover the VAT in full as the lease of cars is included in the input tax blocking order and therefore only 50% is recoverable (reduced by the PESM recovery rate).

It could be deemed that ST is acting as an agent in this scenario. ST are simply recharging the cost of the lease to the employee without any markup, suggesting that this is simply a recharge of costs.

Alternatively, this could be viewed as third party consideration. ST are paying the fee on behalf of the employee. This would mean that STs services are not subject to VAT, which is beneficial as some of the VAT may have been irrecoverable. This is the treatment taht should be applied.

The salary deduction i.e. supply between ST and employee would not be subject to VAT as this is an employee benefit and would be subject to personal tax.

Installation of charging station

Where a loan is provided for the installation this is simply an employee benefit. This would not be subject to VAT but instead personal tax.

Where ST cover the cost of installation this is a reduced rated supply of installation of energy saving materials. This is because it is the installation of an electric battery in a residential accomodation. This is considered in the recent case of Charge my street, including the zero rating of EV chargind as a supply of power.

As ST are invoiced directly they would be seen as the recipient of the service. In Redrow, redrow were a recipent as they could select and instruct, which would be the case here. This means that any VAT incurred would be recoverable.

Vans

VAns are standard rated for VAT meaning that ST will incur VAT at 20% on the leases. Under the input tax blocking order 50% of VAT is blocked on leases where private use is available however this does not extend to vans therefore the VAT incurred on the leases would be recoverable in full.

Recruitment

In order for ST to be able to recover the VAT incurred on the relocation charges it must be determined who the recipient of the supply is (see Redrow above).

In the case of Danesmoor the to whom test was formed and Danesmorr were not viewed as a recipient as the services were recievd directly by the individual shareholders. However typically, a benefit for an employee differs to that from a director or shareholder.

On this basis, ST may be able to recover the VAT on the removal firm charges, as these are benefitting the business by allowing the new solicitor to be close to the firm. There is a direct benefit for the business. The maintainance costs and cleaning costs however do

not benefit the business and are simply provided for the ease and as an incentive for the employee. This VAT therefore does not relate to a business supply and would be irrecoverable.

Gym membership

Where this perk is for senior staff only, it would not relate to a business supply and would be wholly irrecoverable. VAT incurred o entertaining employees is typically recoverable (as per the cases of EY and KPMG)however not when some employees are excluded.

Where the perk is awarded to all employees this would be employee entertaining and therefore recoverable as a business expense.

Recovery

Please note where VAT recovery is referred to above, this would be in line with the PESM, and as all costs are residual only 75% would be recoverable.

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

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

Answer-to-Question-_4_

4. Provision of insurance

For IPT to be chargeable there must be the provision of insurance under a contract of insurance. Where insurance is provided but this is not under a contract of insurance this is not subject to IPT (Gbtaxi service). A contract of insurance is defined in Prudential as:

- a premium being received
- the insured being indemnified against a loss
- an insurable interest

Travel insurance meets the above anf therefore the contracts may be subject to IPT. They are not typically exempt contracts other than where there is no UK risk.

Travel insurance is subject to the higher rate of IPT at 20%.

Summer policy

IPT is not chargeable where the risk is not in the UK. For travel insurance under 4 months, the risk is where the individual was at the time of booking. Therefore, where an overseas student books this policy whilst overseas no IPT is chargeable but when purchased in the UK, the IPT is chargeable at 20%.

IPT is chargeable on the chargeable consideration. This is typically the premium but can also include commission and interest.

Turor Insurance Ltd ("TI") is not the provider for the purpose of the IPT, as Ensure InSurance Ltd is ("EI"). In terms of the short policy, no commission is received by TI, meaning that IPT is chargeable on the premium by the insuerer, EI.

Annual policy

The risk for travel insurance over 4 months is where the customer is habitually resident as these are B2C supplies. This means that where an individual habitually resides in the UK i.e. the UK based students, IPT will be payable on these contracts.

Option 1

Under option 1 TI is receiving £20 of commission. As this is a higher rate contract, this commission will be taxable at the higher rate by TI unless there is a separate contract. As the purchaser recives a single invoice for this service, this could suggest separate contracts however this indivuidual is unlikely to enter into this without the insurance policy.

This means that TI will be liable to account for the IPT on the £20 arrangement fee (1/6 x 20 = £3.33). The will be liable to register for IPT within 30 days of having the intention. Therefore TI should register immediately and will be required to submit quarterly returns.

Option 2

Under option 2, TI is not receiving commission for the specific contracts of insurance and are simply recieving a payment in exchange for their advertising services. This means that is they adopted this option,they would not be required to register for IPT or submit returns, which would save time and money on administration costs. I would recommend going with this approach as having to submit returns not only decreases profit but could result in interest and penalties for late returns/payments.

Interest charge

Where the annual policy is paid in installments and the interest charge is made, this interest is also subject to IPT as it is part of the premium. This however will be payable by the insurer, EI.

Gadget cover

Travel insurance protects an individual against travel associated risks.Travel risks would not typically include gadget cover and therefore this would be chargeable to IPT at the standard rate, not the higher rate.

This would mean that when provided the IPT amount is 3/28ths of the policy, not 1/6.

Additionally, if commissions were payable on this insurance, this would not be payable by TI under either option 1 or option 2, meaning this would not trigger an IPT registration under option 2.

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

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

Answer-to-Question-_5_

5. Local cycling club

The use of the cycling club would be a standard rated supply.

It may be argued that this ia a licence to occupy land and is therefore exempt from VAT. However, to have a licence to occupy, you must have exclusive right to the specified land as owner for a specific period of time for an agreed fee. As the cycling club is dependent on the employee to open and close the the velodrome, this condition is not met as they do not have exclusive right. This is akin to the provision of facilities and therefore standard rated.

Any other shared hires would be standard rated.

School hire

The hire by the school is an exempt supply as the conditions above for licence to occupy are met. Any other supplies of the exclusive use can be exempt.

This may also fall within the sports competition exemption if the competition results in a grant of prizes. This is unlikely.

As this is an exempt supply, this means that Cycle for Good Ltd ("CFG") are a partially exempt business. They may however, be under the de minimis thresholds (£7500 exsempt income per year and exempt supplies under 50% of total supplies). Where this condition

is met, all tax incurred will be recoverable. If this is not the case, they should consider which partial exemption method is used and if the standard method does not produce a fair and reasonable result, agree a special method in writing with HMRC.

Alternatively, they could look to opt to tax the velodrome, meaning the exempt supply would become taxable at the standard rate, meaning VAT would continue to be charged. Where there supplies are de minimis, this is not recommended as they could keep a higher profit margin on the exempt supply and not lose any VAT recovery. If they are not de minimis it may be worthwile to ensure they remain fully taxable, although a school is unlikely to recover the VAT so this would impact their customers.

Lessons

CFG is not an eligible body as they are not a school/university nor a not for profit organistation. They are not able to provide private tuition as they are a company, not an individual. This also does not qualify as a youth club due to the range of students. This means that the lessons, for both adults and children should be standard rated.

Clothing and hire

The sale of childrens clothing including shoes is zero rated (subject to meeting the sizing and held out for sale tests) whereas the sale of the adult clothing and shoes is standard rated.

Helmets can be zero rated as safety wear where they meet the specific conditions of such. As bike helmets usually meet these standards, these are likely to be zero rated.

The hire of all equiptment and clothing is standard rated and does not benefit from the zerto rating for children.

Cafe

Rental fees are typically exempt unless there is an option to tax.

Unlike the school, the cafe would be able to recover the VAT as a fully taxable business however the option would effect the whole building including the school hires. The small fee for the rental would be de minimis therefore it should be considered whether the school hires allow the business to remain de minimis, or consider the options above.

Cycling holiday

Typically, each of the supplies in the package would be standard rated, meaning that VAT is accounted for on the full price.

However, the cycling trip would be considered a supply within the tour operators margin scheme (TOMS) as it is the onward supply of bought in designated travel services. Unlike the case of Sonder, there is no material alteration to the provision of the accomodation (in Sonder this was the change in length of lease and the addition of furniture).

This means that VAT should only be accounted for on the margin i.e. 1/6 x (selling price - purchase price).This however does only relate to bought in supplies and as the accomodation is an in house supply, a calculation must be done to confirm the margin, as TOMS will apply to the package as a whole. This apportionment can be either a cost based or market value apportionment, depending on which is more fair and reasonable for the business.

This reduces the overall VAT cost on the package as a whole, which is beneficial as if they are patrially exempt their recovery would be restricted.

Error correction

CFG incorrectly standard rated the local school hires meaning they over declared output tax and potentially over recovered input tax. They also incorrectly standard rated the children clothing and shoes and the helmets. This resulted in an overdeclaration of output tax.

CFG should correct these errors either via their next VAT return if they are below £10,000 (not 1% of turnover as this is £7000) or via a disclosure to HMRC. The output tax due and input tax recoverable should be offset to confirm this value. They are likely to be in a recoverable position but should output tax be due, a disclosure should be made to inform HMRC of the error in order to prevent penalties as penalties are behaviour based. This would be an unprompted careless error so penalties could be mitigated to 0% be telling, helping and giving informtion to HMRC.

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

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

Answer-to-Question-_6_

6. SDLT

SDLT is payable on the purchase of land or property by Elite Home Builders Ltd ("EHB").

Purchase of the manor

The manor house is designed as a residential building. Although it is not liveable at the miment this does not impact the fact that it was designed as such. This was seen in Fish Homes where a building could not be luved in due to flammable cladding but was still a residential building. Garden and grounds around a property donot change the residential status unless it is argued to be used for a commercial purpose i.e. Gary Withers in which it was used as grazing land. The sale should be subject to residential rates.

As the purchase is by a company and the manor is valued over £500,000, this means that the higher rate of 17% is applicable.

SDLT is paid on the chargeable consideration i.e. the money or moneys worth. This includes any VAT chargeable, any conditional consideration and if come conditions are met, the carrying out the works.

This means the VAT of 600,000 is included as well as the 6% of all future sales. As this is unknown at this stage an estimate can be made. Alternatively, if the conditional consideration is not expected to be paid until 6 months after completion, this can be deferred. Where an estimate is padi to HMRC and doesnt materialise, a refund can be

requested.

The carrying out of works will not be considered chargeable consideration where, they are carried out after the effective date, on land acquired under the transction where it is not a condition that the works are carried out by the vendor. Therefore, where Oliver carries out the works prior to the sale this would increase the chargeable consideration by the £30,000. Whereas, if EHB carry out the work themselves after purchase, SDLT is not payable. Noting the 17% applicable rate, this would be recommended.

The SDLT payable is therefore (on the assumption that the conditional consideration is deferred):
3,600,000 x 0.17 = £612,000

EHB should submit an SDLT1 form to HMRC and make payment wihtin 14 days of completion.

Penthouse
SDLT is payable by the purchaser, meaning that David himself will be responsible for the payment to HMRC. This is a residential property and is his second home. This means that a 5% surcharge is added to the applicable rates.

Additionally, he is non resident for the year prior to the purchase meaning that an additional 2% surcharge will be payable at the time of completion. However, Davis will become UK residsent if he remains in the UK for a period of at least 183 days in the 365 days following the completion. If this is met, as would be expected, David can request a refund of the overpaid SDLT due to the 2% surcharge.

David should submit an SDLT1 form to HMRC and make payment wihtin 14 days of

completion.

VAT

The purchase of a residential property is ytpically exempt. However as thi has been used as a wellbeing retreat, the option to tax is applicable and teh sale will be standard rated.

The option has not been automatically revoked under the 6 year rule as although the building is derelict, he still owns an interest in it. If the conditions are met he couldlook to revoke the option under the 20 year rule although it is clear that he doesnt want to.

As the sale will be standard rated, all of the VAT incurred in relation toteh sale will be recoverable be Oliver.

The purchase by EHB will reult in the purchase of a CGS asset, meaning that adjustments should be made over the next 10 years to reflect the use of the asset. The construction of the road is not a CGS aset.

As this is a conversion of a derelict manor house to 4 apartments, this is a change in the number of dwelling. The onward sale of such can therefore be zero rated as the first grant of a major interest in a dwelling.Vat incurred on construction costs recoverable by EHB as it relates to an onward taxable supply. The construction costs themselves would also benfit from the zero rate, but this does not include architects and surveyors whose services are always standard rated. As any VAT chargeable is recoverable by both entities, this should not impact the agreement regarding the works.

Whoever does carry out the works shoud note that there is an input VAT blockon certain incorprated goods that are not building materials including white goods and carpets. VAT will notbe recoverable on these but will be recoverable o fitted units/light fixings.