

## ASSESSMENT NARRATIVE – VAT AND OTHER INDIRECT TAXES

### Structure

A simple pass or fail will be awarded.

### Identification and Application

The following are the relevant topics for assessment with their weightings:

1	20% (VAT)	Identifying the rules governing the right to deduct and inability of Properties or FTA to deduct VAT on the works or on rent. Identifying that the alternative invoicing routes will not satisfy the deduction rules and explaining the reasons for this.
2	20% (VAT)	Identifying that, under the proposals, the rent-free period and the Contribution are not consideration for any supply by Properties to the Landlord. Also, Properties could not grant an opted sub-lease to FTA (as the OTT would be disapplied). Applying these principles, concluding that Properties cannot register as a taxable person.
3	20% (VAT)	Identifying that if FTA becomes the person supplied, it will be entitled to deduct VAT at its residual rate. Identifying, if FTA incorporates, the opportunity for VAT grouping arises and its effects. In relation to the Works, identifying a mismatch between the drawdown arrangements & the tax points; also, that the Works will create a CGS item.
4	20% (SDLT)	Identifying the chargeable consideration for the lease – to exclude the Contribution and rent-free/rent review (assuming the statutory conditions are satisfied). Identifying that SDLT must be calculated using an NPV calculation. Identifying how SDLT might be saved (no OTT, nil rate band premium/lower rent) or charity exemption.
5	20% (CT)	Identifying that the works are capital in nature and the expense is non-deductible for CT. Identifying the availability of capital allowances (for plant and machinery) and structures and buildings allowance; but only to the extent the expenditure relates to trading by FTA and is actually incurred. Identifying the Contribution is not liable to CT.

A grade of 0,1,2,3, or 4 is awarded to each topic. The weighting is applied to that grade to produce a weighted average grade. This is then converted to a final absolute grade by rounding up or down to the nearest grade. Thus, scores in the range 2.5 to 3.49 will be a grade 3.

### Relevant Advice and Substantiated Recommendations

The following are the topics for assessment with their weightings:

1	55% (VAT)	Weighing up and recommending against the client's suggestion's for achieving a VAT deduction (including the risk of penalties). Recommending instead substituting FTA as Tenant and/or grouping FTA and Properties (and further VAT savings from grouping).
2	10% (VAT)	Recommending negotiating with the Contractor about aligning the tax points with the drawdown arrangements to reduce the cashflow disadvantage. As the Works are a CGS item and FTA's recovery rate appears to be falling, recommend careful monitoring in case CGS adjustments are required.
3	15% (SDLT)	Recommending against the suggestion of making the Landlord responsible for the Works (as this will increase SDLT liability). Weighing up, and rejecting as uncommercial, possible ways of saving SDLT. However, if FTA is to become a charity, recommend deferring the lease until that time and claiming charity exemption.
4	20% (CT)	Recommending agreeing with HMRC the proportion of expenditure relating to trading and, based on that, making appropriate claims for AIA and SBA.

The final grade will be determined for this skill in the same way as for Identification and Application.

Credit will be given for other valid proposals supported by appropriate reasoning.