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

Event **NA**

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Count(s)	Word(s)	Char(s)	Char(s) (WS)
Section 1	**1038**	**4889**	**5924**
Section 2	**831**	**3906**	**4720**
Section 3	**923**	**4253**	**5175**
Section 4	**659**	**3021**	**3674**
Section 5	**1033**	**4842**	**5873**
Section 6	**801**	**3894**	**4691**
Total	**5285**	**24805**	**30057**

Answer-to-Question-_1_

Option 1

Income

The provision of the lets to other charities would still be exempt on the basis that this is still in the furtherance of the Trusts charitable aims. This is only on the basis that the lets are restricted to entities who share similar charitable aims to the Trust.

The commission retained by the trust for agency services is likely taxable, if this is a true agency agreement, teh Trust is not principal and is providing agency services to the other charity. If this income exceeds the VAT registration threshold, VAT would be due as it is a taxable supply of services. The Trust cannot substantially change the supply as per the case of Sonder, and the documentation must reflect that the Trust is agent, but this also must be the case from the customers point of view as per the case of A1 lofts. This is a supply of agency services, not a right to occupy a theatre seat. Both of which are taxable.

The revenue share amount is likely to be seen as consideration for the letting and the agency services. It may be argued that the agency services form part of an exempt single supply of letting and VAT is therefore not due. The ticket services would not be purchased without the letting of the theatre.

The income from the cafe is also likely to be taxable. The cafe area is likely to be considered taxable standard rated catering services, and dependent on the food and drink served, food taken to the theatre goers seat is likely to be considered takeaway food as the

theatre seats are not primarily for the purpose of consuming food as per case law. This means some of these supplies might be zero-rated (cold food) but some are also likely to be taxable (any confectionary, soft drinks except water).

The provision of courses may be considered exempt education as it is supplied by an eligible body as per Note 1(e) to Group 6, Schedule 9 VATA 1994. This once again limits VAT recovery as there is no onward taxable supply. If the Trust is not paying the volunteer for the services they provide, there is no supply. This is therefore likely a taxable activity as it is more than a licence to occupy for the students (access to the room, educational services) so would be standard rated.

A VAT registration is likely on the basis that there are taxable services supplied by the charity as above.

Admission to the Trusts own performances is exempt as per Group 13, Schedule 9, VATA 1994 as it is an eligible body.

Capital Goods Scheme

If VAT registered, the purchase of the theatre and the refurbishment costs would be subject to the Capital Goods Scheme, meaning the VAT recovery is apportioned across a 10 year economic life and reflects taxable use.

Partial exemption

The Trust would be partially exempt, meaning the input VAT in relation to exempt supplies is restricted, and overhead input tax is partially restructed. The Trust may be able to argue a direct and immediate link between production costs and taxable bar sales. This

is factually distinct from the Royal Opera House case as customers must have a ticket to purchase refreshments. Mayflower theatre is also relevant, as the production costs were necessary for the sale of zero-rated programmes. Here, a ticket is necessary for the sale of taxable bar food. This will create increased VAT recovery for the Trust.

Option to tax

If the trust acquires and operates the second theatre, it may be able to disapply the option to tax by the vendor on the basis that it will be used for a relevant charitable purpose. This does not include head office activities, and 'solely' for these purposes means 80% in HMRC's view.

This would be beneficial as the Trust is currently unable to recover the VAT on the purchase of the property.

The Trust needs to write to the vendor explaining that the building will be used for a relevant charitable purpose before completion to ensure the option is disapplied. This may not be particularly advantageous for the vendor as this then impacts their VAT recovery.

The Trusts own option to tax may not be effective under the anti-avoidance rules. The theatre is a capital goods scheme item, the Trust knows it will be occupied by them, and it will be used for both taxable and non taxable supplies. This only disapplies the option in respect of the use of the building by the Trust or connected parties, the option would still apply in respect of letting to other charities (as they are not controlled by the same entity/person).

Input tax

Input tax is only recoverable to the extent that it is used to make onward taxable supplies.

The charity may benefit from zero-rating on construction services on the basis that it would hold persons constructing status as the building has been fisused for a number of years.

Option 2

Bform26 is unlikley to be able to recover the costs in relation to the transaction, as it is not the recipient of the supply as per the Redrow Principles. Bfrom26 did not instruct the service or contract with the suppliers and therefore input tax recovery is blocked.

The vendors option to tax would also likely be disapplied as above as it is the 'use' of the building that matters rather than the recipient.

There may be a self-supply charge where zero-rating on construction services has been claimed and non-qualifying use (i.e. non charitable use, for example a sale of the building) within 10 years.

Bform16 is likely to be partially exempt in the same way as the charity as admission to its own productions would be partially exempt, however, VAT recovery would be maximised in relation to the courses delivered as Bform26 is not an eligible body, so this would be taxable at the standard rate.

The Trusts management charges would be taxable services and subject to VAT at the standard rate.

Admission to its own performances would be standard rated, as it is not an eligible body. There is nothing to suggest this is run on a voluntary basis or is precluded from distributing profits.

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

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

Answer-to-Question-_2_

GPL Learning

This would be a zero-rated supply on the basis that it is a supply of an ebook. This used to be standard rated, but since the decision in the News Corp case, HMRC accepts that e-books qualify for zero-rating under Group 3, Schedule 8 VATA 1994. This is now reflected in law.

The supply of the AI tool is ancillary to the supply of the e-books as per the principles set out in CPP. If a separate supply, this would have been standard rated, but as this is 'for the better enjoyment of the principal supply' (the e-books) the VAT liability for this would also be zero-rated.

Physical e-book reader

This is a supply of standard rated goods, subject to the single v multiple supply argument.

Using the Levob principles, the supply of the e-reader with the subscription, it would not be artificial to split the supplies on the basis that they do not objectively form a whole transaction from an economic point of view. The e-reader is optional and has a separate price (although this is not determinative), and therefore the VAT liability is standard rated.

GPL would need to account for VAT on the supplies made going back four years (discussed further below).

The provision of the specialist software on e-readers for disabled people is likely to qualify for zero-rating as per item 3 of Group 12, Schedule 8 VATA 1994. Grimsby Publishing Ltd (GPL) is adapting the e-reader for use by disabled persons so qualifies for the zero-rate. No VAT is due on these and no error correction is needed. GPL may need to obtain a certificate from the customer in order to prove zero-rating is justified, where this is not the case, VAT would be due at the standard rate. The whole supply of the e-reader and software services would be zero-rated.

Pre-recorded lectures, podcasts and soundbites

This is not exempt education as there is no active leading or supervision. This also does not qualify for zero-rating as it is excluded in the legislation if predominantly video or audio content. This would therefore be standard rated.

This is also unlikley to be part of a single supply of a zero-rated e-book. The case of Mesto Zamberk states that it must be considered from the customers point of view - here, this is an optional add on for a separate price. Although, it could be said that as per the CPP principles, the fact that this covers wider topics relating to the e-book collection may suggest that it is for the better enjoyment of the principal supply of the e-book. The Weight Watchers case held that leaflets supplied with the weight services were ancillary to the primary supply on the basis that they were for the better enjoyment of the services and would unlikely to be purchased in their own right. If the pre-recorded items are unlikely to be purchased for enjoyment in isolation, this is likely a successful argument. GPL would likely benefit from this argument on the basis that it means no error has been

made in respect of charging VAT.

The fact that a single price is charged is not determinative of a single supply as per the CPP case.

Charity Advertising

This is likely to qualify for zero-rating as per Revenue Brief 13/20 as it targets audiences who are already researching and learning about climate change. There is therefore no error here.

Errors

Where VAT should have been declared (E-reader sales, potentially audio visual bolt ons), HMRC will treat GPL's income as VAT inclusive.

HMRC can assess going back four years, this means GPL will need to repay output tax going back to April 2022.

Year: 12 months to	E-Reader sales £	Minus ZR disabled supplies	VAT due £		
2023 (note 1)	8800	7920	1320		
2024	14300	12870	2145		
2025	16500	14850	2475		
April 26	6600	5940	990		
		Total	**6,930**		

Notes

1. 13,200 x 8/12 = 8800

£6,930 output tax is due on the sale of e-readers.

If audio-visual bolt-on sales were not part of a zero-rated single supply, the following would be due:

15,000+30,000+29,000+(25,000*8/12) = 90,667 x 1/6 = 15,111 output tax due.

GPL would be able to correct the £6,930 error in the next VAT return. GPL may wish to write to HMRC to mitgate any errors in case this is raised at assessment. GPL has actively sought advice as to the VAT treatment and is clearly committed to compliance. GPL should tell HMRC about the error, give all necessary information to HMRC to help them complete the checks and help them determine the figures. This would be an unprompted disclosure and would mitigate penalty amounts from 30% of the potential lost revenue (£2,079) potentially down to zero.

If the audio visual sales were also a separate supply, this would need to be done by way of voluntary disclosure to HMRC in writing explaining the error. HMRC would then raise an assessment and GPL would pay HMRC within 30 days.

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

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

Answer-to-Question-_3_

Vehicles

VAT can only be recovered if it has been incurred in the course or furtherance of business and relates to an onward taxable supply.

The supply and invoice of the leased vehicles is to the firm, but the benefit and use of the car is for the employee. As per the Redrow case, input tax can only be recovered if the person recovering the VAT instructed the service, benefitted from the service, it is a cost component of an onward taxable supply and the required evidence is held.

If the supply of the car is held to be to the firm, no input tax is recoverable under the input tax blocking order.

There may be an argument that the firm benefits from the car as it assists with the retention of staff, and it is a cost component of the supplies of the firm as a whole. The input tax here is likely to be residual, meaning £1,800 of the £2,400 VAT incurred per lease would be recoverable.

The provision of a loan to employees is likely to be a VAT exempt supply of the granting of credit as per Item 2, Group 5, Schedule 9 VATA 1994.

However, there may be an argument that there is no supply for consideration here or this is non-business income. This is an interest free loan, so as per the Wakefield college test, this supply is not made for the purposes of obtaining income. This would mean it is outside the scope of VAT.

If the employee comissions the work and the firm is invoiced, VAT would only be recoverable in line with the Redrow principles as above. In the case of Birmingham City FC, the VAT was only recoverable by the club on supplies made to them, not supplies made by the agent to the player. This was largely dependent on the contracts. The firm may wish to consult with the installation provider to ensure this is set out in the contract to support VAT recovery.

The provision of an exempt loan would impact VAT recovery across the firm in the partial exemption method, and if non-business, this would be removed from the partial exemption calculations.

The provision of vans to employees is likely to cause some input tax recovery issues. Normally, if leasing a car used for wholly business purposes, 50% of the input tax incurred can be recovered. However, this is on the basis that no private use occurs. As the employees can take the van home and store it overnight (a transaction that would require payment if at arms length as per the legislation) then the input tax is not recoverable. It does not matter that the employees are not charged.

There may be a deemed supply on the private use of the vans if not restricted, this is a fair and reasonable apportionment. For example, hours of the day/week available for private use as an apportionment of cost. The VAT would be 20% of this amount, and would only be partially recoverable.

The firm should restrict the private use of the vans by storing them at the work premises and restrict private use. This would reflect the use of the vans as 'pool cars' as per HMRC's policy. This should be reflected in internal policies for HMRC inspection. Some companies install trackers or GPS devices to monitor private use.

If the people incurring the costs subject to VAT are used only for the purposes of making taxable supplies, then the VAT may be fully recoverable. For example if the PESM is on an employee basis, and that employee on makes taxable supplies, the argument for VAT recovery is strengthened.

Recruitment

As above, inptut tax can only be recovered if it is for a business purpose. There must be a direct and immediate link to an onwards taxable supply (BLP).

The removal firm charges are likely to be recoverable, this is likely to be a reasonable business expense as bringing the solicitor into the business will generate further taxable supplies.

However, the costs for ongoing cleaning are unlikely to be recoverable. This would only be an issue if the ongoing cleaning provider was VAT registered (unlikely unless a chain or franchise). This is clearly beyond the realms of a reasonable business expense. In the case of Danfoss, to recover the VAT on the benefits to employees this had to be a reasonable cost. In the case of Praesto and P&O, legal costs were recoverable defending current employees against criminal charges in which there was a clear business interest. There is not a clear business interest here in the ongoing cleanliness of the solicitors flat.

There may be some discussion as to the maintenace costs of the old home, if the firm wanted the solicitor to start as soon as possible then this was a necessary cost and likely justifiable for VAT recovery, however HMRC would likely take the view that this is not

incurred for a business purpose and is not recoverable.

The fact that a solicitor is not a director may inhibit VAT recovery on the moving costs as HMRC may only accept the costs are for business purposes where the person concerned is a director or officer of the company.

Gym Memberships

This is unlikely to be recoverable as this is not a business purchase as above.

The firm may wish to secure a discount or make a contribution towards the cost of a membership instead.

This is likely to be reoverable if provided to directors and senior management.

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

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

Answer-to-Question-_4_

The prudential case stated that an insurance contract is where there is indemnification against loss from an uncertain event, the insured person is the one who suffers that loss, and a premium is received.

IPT is only due on insurance contracts where there is a UK risk. This means where:
> a vehicle is registered in the UK,
> a building is located in the UK,
> a travel insurance policy up to four months which covers risk when the policy is taken out in the UK, or
> where the policy holder is habitually resident in the Uk at the date the contract is entered into.
> for businesses, it is where the establishment is located.

Summer Policies

The provision of travel insurance is a higher rate IPT contract (20%)

Policies up to four months duration where the policy is taken out in the UK is within the scope of IPT.

Where overseas students take out the policy before travelling to the UK, no IPT is due. The remainder of policies taken out by staff and students are subject to IPT at the higher rate of 20%.

Annual Policies

The annual policy is within the scope of IPT where the individual taking out the policy is habitually residing in the UK at the date the insurance contract is entered into.

As above, any policies taken out by the overseas students will not be within the scope of IPT as they are unlikely to be habitually residing in the UK.

Where a separate charge and contract is in place in relation to a higher rate insurance contract, intermediary required to register and account for IPT.

TI is likely to be considered a taxable intermediary on the basis that is is arranging a

travel insurance contract and is charging an insurance related fee. How this is accounted for differs between the options:

Option 1: As the £20 arrangement fee is itemised separately on the invoice to the insured, HMRC may require TI to register and account for IPT on the commission element in its own right, rather than Ensure accounting for the commission on its behalf. This is because the fee is above and beyond the insurance premium amount and it is charged to the insured party as evidenced on the invoice.

In the case of option 1, Tutoring insurance (TI)would be liable to register for IPT from 1 June 2026 as this is the date it intended to receive taxable premiums. HMRC must be notified within 30 days of forming the intention, which means if choosing option 1, registration would be late. Registration is made via form IPT1. TI should use the cash receipt method as this means IPT tax point is when the commission is receved. This is the only method available for taxable intermediaries. TI should keep records for 6 years to show the premiums received, including policy documents and invoices. IPT returns are due quarterly, and are due on the last day of the month following the end of the period. The late registration penalty is £250 or 5% of the relevant IPT, whichever is greater.

Option 2: As the £20 fee is not charged to the insured party here, TI will not need to register and account for IPT on the commissions itself. Ensure Insurance will account for IPT on the full £160, plus the £20 per sommission payable to TI for each sale.

The interest charged on monthly installments should be included in the premium amount for IPT.

The insurance for gadget cover would be a standard rate IPT contract (12%). This is the premium x 3/28. This is not a true travel insurance contract and therefore not subject to the higher rate.

Where this is supplied alongside the higher rate travel insurance, the premium should be apportioned across the different rates.

The best course of action is therefore Option 2 as this avoids the need to register and account for IPT by TI.

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

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

Answer-to-Question-_5_

As Cycle For Good (CFG) is a profit making body, the sports exemption does not apply.

Hire of Velodrome

As per the case of Sinclair Collis, a supply is not a licence to occupy where there is not unrestricted access. In this case, the pub was locked overnight. Here, as the employee opens and closes the velodrome, this is unlikely to be a licence to occupy.

CFG is not providing the 'competition' for the school hire, so the sports competition exemption does not apply. This is the hire of facilities.

Both of the above are likely to be taxable, but the continuous lets exception should be considered.

The grant of facilities to the adult cycling club is unlikely to meet the continuous lets concession as this is hired monthly, and therefore exceeds the condition that there is less than 2 weeks between bookings. The payment three months in advance would create a tax point, meaning CFG would account for VAT on the amount received not when the booking occurs.

The supply to the school is likely to be exempt on the basis that this is for 10 or more periods, in the same place, there is less than 2 weeks between each booking, they have exclusive use and is supplied to a school. The consideration must be payable for the entire block booking and this must be evidenced in writing for this to apply.

VAT would therefore not be due on the school hire and would be exempt. This impacts CFG's VAT recovery and makes them partially exempt. Input tax incurred in relation to the supply is not recoverable, and overheads such as the electricity supply to the velodrome need to be apportioned to restrict some recovery. If the exempt input tax is less than £7,500 per year then this is fully recoverable under the de minimis limits.

CFG should submit an error correction notice if the value of the VAT charged to the school is over £10,000 or 1% of their box 6 (presumably £7,000) to get a refund for the VAT charged. This would need to be passed back to the schools to prevent unjust enrichment.

Personal lessons
These would be taxable at the standard rate, the exemption for private tuition would not apply as the education is by a company, not an individual as per the case of Marcus Webb.

Clothing shop

The sale of childrens clothes and shoes is zero-rated, and the sale of bike helmets is also zero-rated. Adult clothing and shoes would be subject to VAT. The hire of bike helmets, shoes and bikes is a supply of services rather than goods. However, the zero-rating still applies to the hire of helmets as per Group 16, Note 5 Schedule 8 VATA 1994.

Cafe rental

The provision of a cafe itself is often standard rated caterig with some zero-rated cold takeaway food. However, as the velodrome is not opted to tax, the rental charge to the independent party is exempt as a licence to occupy. CFG is entitled to recover £60 VAT per month going back four years. This must be passed back to the independent party.

As above, this will likely impact CFG's input tax recovery unless CFG opts to tax the property. This will likely not affect any other supplies made, however may be commercially difficult if the independent party cannot recover the VAT.

Hotel and Trips

The provision of hotel accomodation is standard rated.

Where travel is bought in from third parties and resold as a package with the company acting in its own name (principal), the Tour Operators Margin Scheme (TOMS) applies. This is mandatory.

This is where VAT is accounted for on the margin (difference between cost and selling price) at 20% rather than on full turnover. No VAT can be recovered as input tax in respect of these supplies. This can be beneficial as less VAT is paid to HMRC but the loss of input tax recovery is not always beneficial.

As CFG would be using in house supplies of the hotel accomodation (input tax can still be recovered in respect of in house supplies), CFG would likely use the market value method to work out the margin on the supplies, this being the normal market value rate of supplies to non-package customers. As the supply includes coach travel (normally zero-rated) and supplies from potentially non VAT registered parties, CFG would need to account for VAT on these supplies where they are normally either zero-rated or outside the scope of VAT.

A year end calculation is also needed, similar to an annual adjustment under normal VAT accounting. This is due on the first VAT return after year end.

CFG may wish to structure this in a similar fashion to the 'GoCity' case. Contractually, the taxpayer structured the ticket as a multi-purpose voucher. VAT would only be due when the MPV is redeemed against each supply. This may be beneficial is the local football match ticket is not subject to VAT (not VAT registered)and for zero-rated coach transport. CFG would therefore not account for VAT on non-VATable supplies, and would still be entitled to input tax recovery subject to the partial exemption restrictions above. This must be a bona fide reflection of the arrangements and should be set out in contractual documentation. CFG would only account for VAT on any commission element retained, as the supply of admission to events or for transport would be between the customer and the actual supplier, not CFG.

Reclaims and Error Corrections

CFG is entitled to go back up to four years to reclaim VAT wrongly declared, meaning most of the VAT overdeclared since opening is recoverable. If under £10,000 or 1% of box 6, this can go through the VAT return as an adjustment in Box 4. If over this amount, an error disclosure should be made to HMRC.

CFG will also need to go back and apportion input tax recovery on the basis that exempt supplies were being made. The de minimis limits should be considered as the supplies are likely to be low value (£7,500 per annum, average of £625 per month). This would be beneficial for CFG as this substantiates full VAT recovery.

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

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

Answer-to-Question-_6_

SDLT

SDLT is payable by the purchaser on the VAT inclusive price of chargeable consideration. SDLT should be paid and a return filed within 14 days of the transaction, this is usually completion, but can be when the contract is substantially performed.

Elite Home Builders

Elite Home Builders (Elite)will therefore have a base price of £3,600,000 to pay SDLT on.

Chargeable Consideration

The 6% of future sales payable to Oliver constitutes undertain consideration. This is where the amount (or if the sale happens) is unknown. Here, Elite must use a reasonable estimate of the amount likely to be payable to Oliver. As this is part of the contract, SDLT is payable on this amount.

Elite have the option to defer this consideration if the sales happen over 6 months after the original purchase of Yellowacre. This means consideration is only payable on the 6% when the transaction happens. Elite would need to file a further return to declare and pay this amount. If it is likely the sales will be before the 6 month mark, it is payable within 14 days of completion as above.

If the estimated amount is more or less than originally anticipated, Elite need to amend the return with HMRC to reflect the amount actually paid. If Elite overpaid, they are entitled to a refund with interest.

The £30,000 for the road reconstruction is unlikely to form part of the chargeable consideration as per item 10, Schedule 4, Finance Act 2003. The work is being completed on the land that is the subject of the transaction, and as long as Oliver completes the work after the effective date of the transaction and it is not a condition of the land purchase that Oliver completes the work, SDLT will not be due on the £30,000.

The chargeable consideration is therefore £3,600,000 + 6% (presumably deferred).

Calculation

As this has been used as a non-residential property, the non-residential rates will apply. In the case of Hyman, non-residential use needed to be established at the time of purchase to apply. In Brandbros, there was no business use of the asset at the time of the purchase so the residential rates applied.

As this is non-residential, the 5% and 17% additional rates for purchases by companies of residential properties do not apply.

SDLT is therefore payable by Elite as follows:

£0 - £150,000 x 0% = £0
£100,000 x 2% = £2,000
£3,350,000 x 5% = £167,500

If the option to tax was disapplied:

£0 - £150,000 x 0% = £0
£100,000 x 2% = £2,000
£2,750,000 x 5% = £137,500

£30,000 saved - Elite may wish to ask Oliver to reimburse this amount to not disapply the option to tax.

David's purchase

David is a non-resident individual purchasing an additional residential property. As he is purchasing at market value, there are no further issues to consider with regards to valuation or anti-avoidance.

David will therefore suffer an increase of 5% for an additional residential property, and 2% non-resident charge in addition to the residential rates.

The non-residential rates don't apply as at the time of purchase (when the conversion is complete) the use will be residential.

As discussed below, David may wish to buy the non-residential land (lower percentages) and construct the penthouse himself under the DIY housebuilders scheme to mitigate liability.

VAT

Elite may issue Oliver with a VAT1614D on the basis that the building will be used as a dwelling or number of dwellings. This should be issued before completion. This means VAT will not be charged on the sale. This may cause issues for Oliver as he will not be able to recover VAT on the costs associated with the sale unless these are de minimis (£7,500 or less per annum).

This is a non-residential to residential, changed number of dwellings conversion. As per Languard Homes, the building is entirely non-residential meaning that a reduced rate can apply.

The sale of the flats by Elite would be zero-rated first grants of a major interest in a property converted from non-residential property to dwellings. This means that all input tax incurred is recoverable subject to certain blocks. This includdes things such as carpets and light fixings. These are irrecoverable as per the Input tax blocking order.

As Elite would be able to recover the VAT on the purchase of the land, they may not wish to disapply the option to tax, but rather come to an agreement with Oliver as to the extra SDLT payable if VAT is charged.

David may wish to purchase the non-residential part of the building and construct the penthouse using the DIY housebuilders scheme for conversions. This would ensure VAT recovery on blocked items such as carpets. He would also only pay the non-residential stamp duty rates which would constitute a large saving.