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

Event **NA**

Exam Mode **OPEN LAPTOP + NETWORK**

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Notice: **Exam was restarted!**

Count(s)	Word(s)	Char(s)	Char(s) (WS)
Section 1	**1048**	**5242**	**6289**
Section 2	**541**	**2525**	**3048**
Section 3	**533**	**2571**	**3099**
Section 4	**695**	**3496**	**4179**
Section 5	**918**	**4716**	**5631**
Section 6	**753**	**3541**	**4285**
Total	**4488**	**22091**	**26531**

Answer-to-Question-_1_

VAT

MR Ibrahim

Ibrahim is a qualfied medical professional for the treatment of burn victims. As such his services of when supplied in his capacity as a health professional will be exempt from VAT under Group 7 of Scheudle 9 (VAT 1994). The purpose of his services must be to protect, restore or maintain the health of an individual in order to qualify for exemption. If we consider the recent case of Illuminate Skincare, the courts perceive some services as not restoring, protecting or maintaining the health of the individual, as such any supplies he makes for aesthetic purposes will be standard rated on the supply to individuals.

The initial consultation for the burn victings and the subsequent skin treatment will therefore be exempt from VAT.

Another question here lies with the mental health improvement gained from his services, which could arguably be conceived as restoring a persons mental health. They are not performed by a regsitered mental health professional however and therefore it will likely be standard rated.

Mr Ibrahim's fees from aesthetic treatments do no exceed the VAT registraton threshold of 90k taxable turnover within the first year and therefore he will not be required to VAT register. VAT registration may be beneficial for Mr Ibrahim as it will allow for input VAT recoveyy on costs associated with his taxable supplies, however he will eb required to undertake partial exemption obligations which will restrict input VAT associated with the supply of exempt healthcare services.

Mr Ibrahims income from dispensing medicines will not be available at the zero rate as he is not supplying it as a registered chemist, as such the suppply of prescribed medicines where it relates to aesthetic treatments will be standard rated. Prescribed medicines for burn victims will qualify for the exemption however as item 1 B applies from Group 12 Schedule 8.

Mr Ibrahim may find it difficult to invoice customers for all three supplies given the varying VAT rates for burn victims and aesthetic treatments. Given that he will be uncertain of the VAT liability prior to the initial consultation, Dr Ibrahim should issue a proposal form in order to ascertain how to treat his supplies in respect of the individual going forward.

Mrs ibrahim

Mrs Ibrahim will be supplying educational services, and as she will not be an eligible body for the purposes of the education exemption. She will be supplying her services indepently of an employer for a class that is ordinarily tought in schools, as such she would be able to exempt her income from schools and colleges. This is to the extent that body confidence, mental health is ordinarily tought in schools. In a leading case where zoomba classes treated as exempt, it was found that although dance classes are exempt as it's ordinarily tought in class

Mrs Ibrahims supplies ef taxable education will not be subject to VAT provided her income does not exceed 90k within a 12 month period or 30 days. She will not be required to register where operating independently.

Operate Together

Where both operate together, they will be operating above the taxable turnover threshold of £90k and therefore will be required to notify HMRC within 30 days from the effective date.

As they will be perforoming a mixture of exempt and taxable supplies to individuals, they are required to calculate the input VAT attributable to exempt supplies via the standard method:

	Taxable	Exempt	Total
Mr Ibrahim	(1.6k+50k+12.5k) = £64100	(8k+30k+6.4k)= £34.4k	98,500
Mrd Ibrahim	35k		35k
Recovery rate %	99,100		133,500

The business within it's first year will be eligible to recover (99,100/133,500)*100=74.23% (rounded up to the nearest whole number 75%) on it's costs attributable to both taxable and exempt supplies, this will likely include the costs of the office they both use.

Generally it would appear that where both operate together would acheive greater input VAT recovery due to the income generated from the taxable lectures. if we were to consider Dr Ibrahim's supplies in isolation then it would result a recovery rate of 66% (rounded up to the nearest whole percentage)

They may want to consider whether a sectorised partial exemption method as the values method may produce an unfair method of attributing input VAT. This must be formally agreed with HMRC prior to use and the business will conced the benefit of being able to round up it's recovery rate to the nearest whole percenntage).

We need to consider the courts findings within Caton in order to ensure that this wouldn't qualify as a disaggregation of the business. HMRC may perceive that the Ibrahims have artificially split the business to operate below the VAT registration threshold and as they both operate out of the same office.

Organisational links - there is a not so clear organisational link between both entities, however they both operate out of the same office and therefore this would be satisfied

Financial links - It appears that both business' keep seperate accounts and therefore it will likely not be considered financially linked

HMRC could see this as a halifax type attack, although there isn't a clear intention to obtain a tax advantage as a result of seperating the business, both business do benefit from operating below the VAT registration threshold as they do not have to account for VAT on their taxable supplies, making them more competivie locally. On that basis HMRC will likely issue a notice of direction which will require both companies to be treated as one, HMRC will accept that retrospecitve requirements will not be required given that the Ibrahim's give, help and tell HMRC of all the relevant activitirs undertaken.

2)

VAT
The insurance he intends to provide will fall within the intermediary exemption for VAT purposes as he is bring together a person who is needing insurance and an insurance provider. The supply of the insurance on behalf of Dr ibrahim will be exempt for VAT purposes.

IPT

Dr Ibrahim will be receiving a taxable premium as a result on a medical insurance contract and therefore it will be subject to IPT on the commission he recieves at the standrad rate. He will have 30 days to nofiy HMRC of forming an intention to receive taxable premiums and msut submit an IPT 1 form in order to be IPT registered.

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

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

Answer-to-Question-_2_

chargeable consideration

Where a vendor is connnected to the purchaser, the chargeable consideration for the properties cannot be less than the open market value of the properties, given the clear connection here each propeprty will be subject to the current valuation at the time it was sold. Therefore SDLT will be payable on a higher amount as opposed to the actual consideration received.

23 High street

Normally, the purchase of residential property will be subject to the 3% surcharge where a company has made the purchase, however the transfer of a residential property which is intended to be used on a commercial basis will qualify as a relievable trade, meaning that no SDLT will become payable at the higher rate on the transfer of the peroperty into the company. This will provide the benefit of not having to pay the residential rates you would ordinarily expect with purchases of residential property.

This is however still a notifiable transaction and should be declared to HMRC within 30 days of the effective date to ensure that no penalties will be due.

11 Caxton

Where the works have been carried out before the effective date of the transaction then the value of the works will be included as part of the chargeable consideration.

Carrying out works before transfer

This will form part of the consideration which is payable by the company and therefore the chargeable consideration will be £395k.

Carrying out works after transfer

Where the Caxton property has been transferred prior to extending, it will not form part of the chargeable consideration payable by the business. Therefore SDLT will be payable on (395k - 70k =) £325k

159 Meadow view

The purchase of residential property for meadow view will be liable ot the 15% surcharge as the value of the property is greater than £500k. However again the relievalble trade principle will apply on any higher rates payable and therefore it will be subject to the normal rates for residential property purposes.

SDLT payable

Group relief will not be available on the transfer of the any of the properties as Thalli is not a corporate body and therefore does not satisfy the conditions for group relief.

23 High street

No SDLT will become payable on the 23 high street property as it's open market value is at the basic rate to account for SDLT at 0%.

11 Caxton

Option 1

As it will be solely used on a commercial basis and Thalli will not reside in the property it will not qualify as a relievable trade and therefore the higher rate will not aply and it will be subject to the residential rates for companies purchasing as follows:

first 250k = 0

Next 145k * 5% = 7,250

SDLT payable: **7,250**

Option 2

Option 2 will likely result in less SDLT payable as it chargeable on less consideration as opposed to option 1. It would be advised that the company carries out the work if Thalli intends to occupy the building.

As such SDLT will be payable on 325k as opposed to 395k:

first 250k * 3% = 7,500

Next 75k * 8% = 6000

Total SDLT payable = **13,500**

159 Meadow view

first 250k = 0

Next 275k * 5% = **13,375**

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

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

Answer-to-Question-_3_

VAt treatment of supplies

Car park

The northumberland case takes precedent when considering that VAT liability of car parking services. It was found that car parking services where a charge is made will be non-business provided there is a statory interest in providing the car park. other factors to consider is whether the supply of parking which is not subject to VAT is whether it significantly distorts the competition of local suppliers of parking services for commercial reasons. Given that the car park is 30% cheaper than local council run parking services, and that rhe car park is often used by customers for taxable purposes, it is likely that the car park to the public will be taxable and associated input VAT will be wholly recoverable. As this has been treated as non-business output VAT will be due on the on the income previousl treated as non-busines. T

Similarly the business will be able to recover associated input VAT based on the apportion of taxable supplies made of the car park. that the paymachiens are to be solely used for taxable pruposes, this will be recoverable in full.

The new barrier is solely used for the supply of exempt parking and therefore the VAT incurred on this will be wholly irrecoverable.

Restaurant meals

Catering is normally standard rated for VAT purposes, however where supplies are closely related to the provison of education then it can qualify under the education exemption. it is arguable whether it would qualify under the exemption given the distoriton in local competition it will make as it's cost to the public is less than 50% of the normal rate.

It is likely however that the closely related exemption supersedes the distortion in competition argument and therefore the supply of catering will be exempt. Subsuequently Sotton College has overaccounted for £1,200 of output tax on it's supplies of catering and as it's recovered input VAT in relation to this supply it will also be required to repay any associated input VAT previously recovered on the supply within the last 4 years.

Creche

the college has treated it's supplies of the creche as non-business, however to the extent that it is a supply for consideration it will be a taxable supply if we consider the wakefield test (something is provided in return for the consideration). As such it is likely that this will be subject to VAT as a room hire and not a passive supply of land. The customers intention of purchasing the supply is to provide facilitate children which indicates that this would not be an exempt supply. As a result it should be taxable at the standard rate and the input VAT previously restricted on the play equipment should be recoverable in full given the sole use of the play equipment.

Sotton College, where it has over-declared or underdeclared VAT, should consider the net liability for each error and the method of correcting will be subject to the 10k erorr threshold or the error is greater than 1% of box 6 up to a maximum of 50k. Where the threshold has been breached Sotton College will need to make a seperate disclosure to HMRC via VAT 427 form.

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

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

Answer-to-Question-_4_

City Medical school is an eligible body for VAT purposes given it's charitable status. Eligible bodies are able to claim relief from VAT on construction costs provided that the sole use test is met (HMRc accept 90% for RRP).

demolishment of existing building

The supply of construction services to demolish the exisiting building will be considered to be zero rated if it's supplied in the course of constructing a dwelling or relevant residential purposes. Ordinarily the supply will be standard rated.

Relevant residential Purposes

The question he is whether the the construction of the accommodation will be eligible for RRP, which allows eligible bodies to zero rate the construction of RRP buildings rpovided they have notified the contractor before the price is legally fixed.

Zero rating will apply where it relates to the sleeping accomodation and ancillary features you wopuld normally expect to be supplied with the accommodation. The television room and social amenities rooms will likely be used for both the public and residents and therefore it will likely not satisfy the sole use test. City Medical should establish a suitable apportionment of the accomodation and the other activities within the building to consider whether it qualifies for RRP.

Dwellings

The supply of construction services in the course of contructing a dwelling can be zero rated for VAT purposes. The dwellings are self contained on the basis that they are only accessible to occupants and trust staff. It is likely that they will qualify as dwelling and as RRP and therefore the construction services will be zero rated relating to the accommodation. It is likely that the 50 single rooms will qualify for the zero rated VAT relief as dwellings.

Given the uncertainty as to whether it qualifies for zero rating when looking at RRP, the sole use test is not required for dwelling and provided they are self-contained dwellings they will qualify for the zero rate.

Incorporated goods and consultancy services

Goods that have been incorporated will not be eligible for input VAT recovery and will also be charged at 20% by the contractor. This is referred to as the builders block and the charity will gain no relief from this costs.

Consulatancy services such as Architects will be standard rated regardless of whether the building qualifies for RRP or as dwellings. This can be relieved however to the extent City Medical can agree a design and build contract with the contrcctor, which will subsume the supply on consultancy services within the overall supply of zero rated dwelling of RRP.

Ground floor

The proerrs lodge and residential services office are likely to form as an ancially part of managing the dwellings, and therefore will likely be subsumed within the zero rated supply ensuring no VAT on it's supply to city medical.

Archive

Access to the archive will not be a supply for consideration given that no consideration is being paid by users. As a result of the use of this floor it is likely that this area will qualify for VAT relief provided it meets the sole use test of 95% for RCP.

again City Medical should consider whether the sole use test has been met for RCP purposes in respect of this floor, any taxable supplies made here must be considered in detail. Provided it is satisfied, the cost of constructing the floor will be wholl zero rated on the £8.5m.

Summary

City Medical should issue a certificate of intended use as dwellings for the self-contained accomodation it will supply. This will relieve City Medical from the standard rate on the construction services incurred and the zero rate will apply.

to the extent that RRP and dwellings relief is available on the social amenity rooms is questionable, giving that they arent included within the dwellings and are available for the public use. City Medical should perform a suitable apportionment of the intended use of these rooms to see if it will qualify for RRP as an ancillary benefit to the sleeping accommodation.

Desing and build contracts with the contractor can mitigae a VAT charge on architect and consultancy services, however incorporated goods will be charged at the standard rate and

wholly irrecoverable.

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

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

Answer-to-Question-_5_

HMRC approach

HMRC have identified that the seperation of the holiday letting and the farming partnership may be an artificial disaggregation of the business and have therefore requested further information in order to ascertain the links and whether it should be considered a single entity, which may require Amanda to account for output VAT on it's supplies of holiday letting services under the partnerships VAT registration.

if we consider the courts findings in Caton, we need to consider what economic, contractual and financial links there are to both business in order to determine whether these business have been artificially split.

The fact that the accounts are segregated indicates that they are seperate business' and are able to accurately identify what income belongs to them. the courts found however that the actual flow of money is important and as the income was initially collected in the same bank that it was a single business. This will relate to the period prior to May 2024, as it appears there has been some steps taken in order to ensure there are seperate bank accounts in place.

additionally, the holiday homes are jointly owned by George and Amanda which indicates there is no agreement of which area belongs to who and for what period . The contractual position indicates that they are one business.

We also need to consider that the holiday letting business accounts for the full cost of the barn, including food. there doesn't appear to be a a distinct seperation of resoponsibilities which you wouldynormall exepct if two unconnected entities operate out of the same business. Simialrly the business rates of the barn have been incorporated within the partnerships liabilities, indicating that there seperate division of the business meet particular costs.

Amanda's involvement in the partnerships accounting records, to which he receives a salary for, indicates that there is a seperation between the services Amanda supplies to to the partnership as an employee compared to her activities within the holiday letting business, to which she isn't paid for indicating that they are seperate businesses.

There will likely be limited crossover of customers betwee the holiday letting business and the farming business. If found that there is a high-level of cross over, given that

seperation in customers it would indicate seperate businesses. Additonally, other than Amanda's services within the partnership business, there appears to be little to no crossover in employees between both business.

HMRC also have to consider the Halifax case principles when determining if there has been an abuse of the law with the primary purpose of obtaining a tax advantage. The overall intention of both Amanda and George appears to be on a solely commercial basis, and would ultimately would be the result of a careless action of not ensuring that it has correctly seperated the businesses for VAT accounting purposes. It is likely that this would not be an abuse of law under the halifax principal. However the Kittel principles may apply given the facts of the situation and the potential risk that George and amanda knowingly undertook when setting up the holiday letting business alongside the partnership. This should have instigated Amanda and George to obtain specialist advice in respect of the disaggregation of the business and therefore may be consider an abuse of law under the Kittel principles.

Potential outcomes

Where HMRC determines that the arrangement is a disaggregation of one business. They are entitled to issue an notice of direction which will likely result in purchases and sale within the Holiday Letting business will be incorporated within the VAT returns of the farming partnership going forward. HMRC will likely not issue an assessment for retrospective liabilities arising from the disaggregation of the business provided that Amanda and George give, help and tell HMRC as many details as possible as a result of the enquiry.

HMRC may deem that although both business' are not acting a single business currently, it was while Amanda could not a seperate bank account, making it difficult to ascertain what income belonged to the holiday letting business and therefore during this period output VAT should have been accounted for on holiday letting supply (whilst also giving the right to deduct input tax). HMRC are not likely to treat this as an abuse of rights, contrary to the intent of the VAT law, but are likely to raise an assessment for undeclared VAT from 1 April 2022 up until the accounts were seperated until May 2024.

Recommendation

George and Amanda should respond to HMRC and provide the accounting records of the holiday lettings business and outline that both business are seperate due to:
- lack of ancillary use by customers of the farming business;
- Seperation of accounting records and bank accounts (see above however - likely HMRC will issue an assessment where income flowed into the same bank account);
- the steps taken to ensure that the flow of money relating to the holiday letting business

are seperate
- direct costs of operating the holiday lets have been generally purchased by Amanda.

HMRC may disagree with this argument on the basis that there is no definitive distinction between the contractual obligations of both entities, and may therefore require output VAT to be accounted on Amanda's supplies once a notice of direction has been issued. A retrospecitve assessment may be issued if HMRC deem this to be abusive and the partnership will be required to account for output VAT from the date Amanda commenced the business on 1 April 2022.

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

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

Answer-to-Question-_6_

VAT

TOGC

The transfer of a property as a going concern will be subject to Nancy ensuring that she will continue to operate the same kind of business. it doesn't have to be exactly the same kind of business however the supply must have an identifiable link to what was supplied previously. The fact that she will operate the business as accomodation for horses, it may be that she is supplying land. If we consider that Nancy will solely providing the right to occuppy the premises, whereas previously the horse school actively undertook a service to better the riding skills of owners and horses. It is arguable whether the purchase of the horse school qualifies as TOGC as they are not the same kind of business.

Another implication to ensure that a TOGC qualifies is that there musn't be a significant break in trade. In a leading case relating to the renovation of a property which was treated as a TOGC, it was not considered that a break in trade occurred where it was essential to ensure it was operational. Given that the break solely relates to ensure that her business can operate again, it will likely satisfy the no break in trade condition.

The horse school will not qualify as a TOGC and therefore the sale will be subject to VAT. The horse school will be used for exempt leasing activities and therefore the associated input VAT in purchasing the Horse School will be irrecoverable. This is however subject to the option to tax and she is making a taxable grant of a lease to the owners then VAT will be recoverable on the 140k on input VAT incurred.

CGS

As the horse school and barn are now CGS assets for Nancy, she will be required to monitor the business use of the property over a 10 year period from the date it is first used by Nancy and the first interval will run up to the partial exemption year end.

SDLT

Residential v non-residential

The property appears as a mixed use property given the residential and commercial aspects of the site. If we consider the courts findings within Harjono it is important to consider the immediate use of the property rather than the intermediate use. There is a clear commercial activity being performed on the property, and Nancy reasonably expects that there is a profit to be made as a result of the acquisition. It should therefore be subject to the non-residential rates on that basis.

However in light of the courts findings in Bonsu - it was found that easements which contain the garden and grounds are considered to be within the curtilege of a building and. Given that the gardens and grounds are not to be used for commercial purposes in the context of Nancy's new business, therefore subject to the residential rates. Therefore the consideration for the garden of £800k in addition to the flat that has been designed to be used as a dwelling of £80k, the chargeable consideration which is subject to the residential rates will be 880k.

This will be Nancy's second residential property and she is a UK resident, therefore it will be subject SDLT at the following rates:

First 250k *3%= 7,500

next 630k * 8%= 50,400

Total SDLT payable - 50,400

to the extent that the property will be used on a commercial basis, i.e. rented out, any SDLT chargeable can be relieved by way of a relievable trade, provided it is ran on a commmercial basis and therefore no SDLT will be chargeable.

Jennifers works to the property will not be included in the calculation for chargeable consideration as it is not neccessary condition of the contract. Nancy should therefore get in touch with Jennifer to ascertain how much of the consideration relates to the building works and therefore not subject to SDLT.

The Barn and horse school are likely to be subject to the non-residential rates at the following amounts given that she is an individual purchasing non-residential property:

First 150k = 0

Effective date

Nancy will be required to submit a land transaction return within 14 days of the effective date, which is normally the date of completion (24 october 2025). The latest Nancy can

submit the return is 8 November 2025. However as the exchange of contracts occured on 25 September, the transaction is deemed to have been substantially performed and therefore a land transaction return will be required at the latest of 7 October 2025.