(Ensure this number matches your candidate number on your desk label and on your candidate attendance form)

am | 0 | 5 | 1 | 1 | 2 | 0 | 1 | 9 | Date of Examination

Chartered Institute of Taxation
Excellence in Taxation

☐ Tick box if you have answered in accordance with Scots Law

☐ Tick box if you have answered in accordance with Northern Ireland Law

Please tick which Advanced Technical Paper you have attempted (if not already ticked below)

☐	Taxation of Owner-Managed Businesses	☐	Taxation of Individuals
✓	Domestic Indirect Taxation	☐	Cross-Border Indirect Taxation
☐	Inheritance Tax, Trusts & Estates	☐	Taxation of Major Corporates
☐	Human Capital Taxes		

☐ Please tick here if you have used an extra answer booklet (ensure you attach your second answer booklet to the first using a treasury tag which will be provided).

Advanced Technical

You must ensure that the Advanced Technical Papers chosen are not the same as the corresponding Awareness Modules you have sat or will be sitting.

Instructions

Your script will be scanned electronically. Failure to comply with these instructions may lead to your script not being marked. You must:

(a) Complete the details on this page and in the booklet using BLACK or BLUE ballpoint pen only.
(b) Write on both sides of the page.
(c) Not write in the margin areas indicated.
(d) Start a new page for each question you answer and indicate the question number in the box provided at the top of each page.
(e) Not remove any pages from this answer booklet or damage it in any way.

Please do all of the above before the end of the examination.

DO NOT WRITE ON THIS PAGE

QUESTION NUMBER	6

Provodit Plc

Provodit Court

Any Road

Somewhere

ZZ10 8AB

Arnold Bloggs + Co LLP

Sunshine House

A Street

Somewhere

ZZ2 6XY

05 November 2019

Dear Albert,

Thank you for your queries

Provodit Properties Ltd (PPL)

As you have not opted to tax these properties, the appropriate VAT liability if considered a supply is exempt, which would potentially create ~~exist~~ irrecoverable input tax.

However, as the property is to be transferred with its existing trade, assets and tenant, TOGC treatment will apply. As the property is not opted, the buyer does not need to opt and the supply should be treated as neither a supply of goods nor services. Input VAT is treated as residual of the

business being sold.

SDLT is not charged on transactions between grouped companies. This 'group relief' applies where one of the entities is a 75% beneficial subsidiary of the other party. This means the owner must be entitled to 75% profits and assets on winding up. These transactions will qualify for group relief as PDL is a wholly owned sub.

Provodit Development Ltd (PDL)

The transfer of properties into PDL will qualify for 'group relief' from SDLT and provided that it develops, then leases these properties, no further SDLT will be due (see below re: non-qualifying transfers).

As the two properties are being transferred with OTT, the VAT liability would ordinarily be 20%. However, the properties are transferred with the benefit of an existing tenant so there is the potential to qualify as a TOGC. Treatment as a TOGC will reduce any future SDLT due on transfer out of the group within 3 years.

QUESTION NUMBER	6

TOGC is also preferable as any capital goods scheme adjustments will carry over meaning the length of future adjustments is a shorter time frame.

To benefit from TOGC, the purchaser must opt to tax by the relevant transfer date and notify the seller. VAT will then be charged on ~~any~~ the leases, by PDL.

The other, vacant properties transferred in will be exempt and as there is no input VAT at risk on these I would not recommend opting them.

Provodit (Sales) Ltd (PSL)

The properties transferred in will benefit from 'group relief', however there is a 3 year time limit on this and any disposal within the period will create an SDLT liability.

To claim 'group relief' on any of the properties,

a return must be filed with HMRC, within 30 days of transfer.

Group relief cannot be claimed if a disposal is already arranged, however this condition does not appear to be breached as there is currently no buyer.

Should you dispose of the ~~properties~~ company within the 3 year window then SDLT will be due as follows:

£1·25m + £350,000 + £680,000 + £850,000 + £150,000 + £500,000

= £2,625,000

0% @ 150k = £0

2% @ 100k = £2,000

5% @ £2,375m = £118,750

Total SDLT due = £120,750

The properties are transferred exempt and again should not be opted as input tax is not at risk and it would increase the SDLT liability

Joint venture (JV)

The transfer will not qualify for group relief as the JV does not meet 75% condition.

SDLT due is:

2 x 0% @ 150k = £0.

2 x 2% @ 100k = £4,000

1 x 5% @ 500k = £25,000

1 x 5% @ 2.25m = £112,500

Total SDLT due. = £141,500

~~the~~ The transfer of properties into the JV will not attract VAT as there is no OTT in place.

As the site is to be developed into residential housing, the construction and grant of major interest (freehold or leasehold > 21 years) will qualify for zero-rating.

This will apply to the demolition works and subcontractor works. Any VAT incurred on professional costs (e.g. architects) can be recovered as input VAT by the JV to the extent that it is attributable to the taxable sales.

QUESTION NUMBER	6

Leasing any residential properties on short lets will be exempt and apportionment for exempt input tax will be required based on the lease term and future sales value, provided that the intention to sell remains.

I hope this assists.

Yours sincerely,

Charles Fotheringham.

DO NOT WRITE IN THIS AREA

11284

DO NOT WRITE IN THIS AREA

QUESTION NUMBER	1.

To: AndrewTrew@shl.co.uk

From: mrobinson@VATadvisers.co.uk

Date: 05 November 2019

Subject: Re: New Development.

Dear Andrew,

Thank you for getting in touch.

Student Halls Ltd (SHL)

There are certain constructions of new buildings which qualify for zero-rating. These are:

- Dwellings
- Relevant Residential Purpose (RRP)
- Relevant charitable Purpose (RCP).

As you are not a charity or constructing a village hall you cannot qualify for the latter.

In order to qualify as construction of a new building, any existing structures must be razed entirely, unless planning stipulates a facade. Based on your email, it seems clear that total demolition will take place and therefore your work is a new

build construction. You should retain evidence of the razed site.

In order to qualify as RRP, you must construct your building solely for RRP ~~purposes~~ use. It is well established that student accomodation will meet RRP ~~purp~~ criteria provided it is for overnight accomodation, where the students reside.

As ~~you have stated~~ It is also possible for an RRP building to qualify as a dwelling and if so, no certification is required. However ~~as you~~ this is unlikely as each unit must hold self contained living accomodation and be available for seperate disposal. Your premises do not appear to meet this condition.

non - Building use

Users of the building must use all of the building >95%. in order for the whole building to qualify as RRP. If use of the gym by non - building users >5% of building use, apportionment will be required. You should consider this and the area of the gym would need to be treated as ~~standard~~ standard rated new commercial. ~~exempt~~ and input tax apportioned accordingly

QUESTION NUMBER	1

Certification

Only the main contractor acting directly for student Halls Ltd can charge their services Zero-rated. Subcontractors working for them will charge SR.

Any VAT able costs incurred by SHL will not be recoverable, therefore I would recommend that you do not contract directly with the white collar professional services (e.g. architect). These costs are specifically standard rated.

This is because your lease to students will be exempt and thus input VAT will directly relate to exempt supplies.

You should instead consider a design and build (D+B) contract where your main contractor engages any VAT able services, and also covers all materials. The overall supply to you will be ZR and the MC will be able to recover all its VAT.

In order to obtain ZR, you will need to provide a certificate to your main contractor explaining that you meet RRP conditions. HMRC publish an example of this in VAT notice 708.

QUESTION NUMBER	1

You should issue this prior to completion, stipulating sole (>95%.) use for RRP purposes and detailing which parts, or all of the building is to be ZR.

I am happy to assist this process.

Kind Regards,

Monty.

DO NOT WRITE IN THIS AREA

11204

DO NOT WRITE IN THIS AREA

QUESTION NUMBER	4.

J Martinside Plumbing Ltd
6, The Cottages
A village
Somewhere
XY7 6AB

Townfoot advisers LLP
3, Townfoot
Anytown
Somewhere
XY1 4XX

05 November 2019

Dear Joshua,

Thank you for your query.

VAT Registration

The current VAT registration turnover threshold is £85,000 p.a..

Based on your values you will exceed this value during ~~November~~ December for the previous 12 month period. You do not breach the threshold on a look forward test as you do not expect at any point for the value of supplies in the next 30 days to exceed £85,000.

Based on your breach in November, and using

the 'look back' test you will have a registration requirement as of 31 December 2019. You must then notify HMRC within 30 days of this requirement and your effective date of registration will be 1 February 2020.

However, your sales to Jerry Builder (JBL) are zero-rated (ZR) so technically you could apply for exemption from registration as your standard rated (SR) and reduce rated sales remain < £85,000.

I would not advise this, as although there may be administrative benefits, you will not be able to recover any input VAT relating to the ZR or SR supplies.

VAT Recovery

You will not charge VAT on your sales to JBL, however these are still 'taxable' sales and you can recover input VAT relating to these. As all of your supplies are taxable, you can recover all VAT on costs relating to your business.

QUESTION NUMBER	4

DO NOT WRITE IN THIS AREA

This provision extends to all goods bought up to 4 years pre-registration, and still used within the business, and all services incurred upto 6 months pre-registration.

Assuming a registration date of 1 Feb 2020, You can recover VAT on:

- Van
- Pipes and fittings bought since 1 Feb 2016
- Lawyer costs dated 12 Sept 2019 ...

You must retain all evidence of purchase including VAT invoices in order to support your claim.

Your bill dated 7 August is outside 6 months on this timescale, therefore I recommend you register voluntarily prior to 7 January in order to recover this.

HMRC may consider this is not linked to ongoing business and dispute the claim anyway, however I consider that the dispute would have continued to affect the business and recovery within 6 months is justified.

DO NOT WRITE IN THIS AREA

QUESTION NUMBER	4

Care Homes

JB(CH) will likely produce an Relevant residential purpose (RRP) certificate for your works provided to them. This will have effect that you can Zero-rate your supplies to them. You should retain this certificate as evidence in case of future HMRC dispute.

However, Z-R does not 'flow' down the supply chain for RRP works. Your ~~will have to~~ subcontractors will charge you VAT on their services, which you can recover as input tax relating to a Zero-rated taxable supply.

Materials

Any materials that you incorporate into your supplies of Zero-rated services on either the new build dwellings, or RRP build will also benefit from the Zero-rate. You should include all supplies of services and materials on one combined invoice each time you raise a fee.

You should also consider self-billing if you are subcontracting as this will give you certainty of

DO NOT WRITE IN THIS AREA

DO NOT WRITE IN THIS AREA

tax points for input tax claims, and benefit your cashflow.

To do this you will need to enter a 12 month self-billing agreement with your subcontractor.

Yours sincerely,
John Doe.

DO NOT WRITE IN THIS AREA

Bank of Avon — Accountants

XX 11 5XX — XY11 5XY.

5 November 2019

Dear Kirsten,

Thank you for your request

TOGC

Your first option is to transfer the trade and assets of Techbox as a TOGC. A TOGC is neither a supply of goods nor services and is ordinarily outside the scope of VAT. Input VAT is then recovered, attributable to the transfer, according to the purchasers overall VAT recovery position. This is a principle laid down in case law in a recent case.

However, where a TOGC is performed and the assets and trade are moved into a partially exempt VAT group, and those ass there may be drawn self supply charge on that transfer of assets.

Any assets which Techbox has purchased within the

previous 3 years will be caught by this provision.

However, this will not apply to the transfer of the staff, as they are not classed as a chargeable asset. Employees are outside the scope of VAT.

Similarly, the IP is outside the scope of VAT and is not chargeable.

The transfer of capital items which are within the Capital goods scheme are not ~~Capital~~ captured by this provision. Therefore the computer equipment, which is > £50,000 is a CGS item. The group will need to make CGS adjustments for use for the remainder of its long period adjustments, upto 5 years. You should confirm how long this asset has been owned.

Based on this, there will be no self supply under option 1

HMRC TOGC Policy

Previously HMRC treated what would otherwise be a TOGC, as not being applicable where a business transferred

trade and assets into a ~~previously~~ partially exempt VAT group. ~~This treatment would have captured your transfer.~~ and used those assets only within the VAT group.

However, the JMSL case in the UT found this treatment incorrect. Where you intend to keep the business operating in the same kind of business, and your supplies to group members will be used to make supplies outside of the VAT group. You can treat the transfer as TOGC. You meet both of these conditions under option 1 and therefore you ~~there~~ will not incur any irrecoverable VAT on this option.

Option 2

The purchase of the shares of a company is generally an exempt supply. HMRC do not consider a share sale can be a TOGC, however a recent CJEU case did consider that a TOGC of a share sale would be possible. Despite this, it did not lay down conditions and therefore it is still unknown. You may wish to treat this as a TOGC, however HMRC would likely challenge it.

DO NOT WRITE IN THIS AREA

QUESTION NUMBER	3.

The exempt purchase of shares of Newco will mean that any VAT costs relating to this supply will be irrecoverable.

The transfer by Techbox into Newco will meet TOGC conditions, and again costs relating to this will be irrecoverable as they will relate to the future use as an exempt share sale.

The Newco must operate the business continually in order to qualify the initial transfer as TOGC, and there should be a gap in the acquisition of the shares.

Similarly, there may be partial exemption clawback on any assets purchased by Techbox which it has claimed VAT on and will then be used in future to make exempt supplies by the group.

This should be considered on all business assets, however the CGS computer will not be required as adjustments are caught by the CGS.

Yours Sincerely,

DO NOT WRITE IN THIS AREA

DO NOT WRITE IN THIS AREA

QUESTION NUMBER	3.

Peter Gordon.

DO NOT WRITE IN THIS AREA

DO NOT WRITE IN THIS AREA

QUESTION NUMBER 5.

Arthur and Anne Beck

The Rose and Crown

Any Road

Somewhere

XX3 4AB

AN Accountants LLP

A Street

Somewhere

XX1 1AX

5 November, 2019

Dear Arthur,

Low Markup

HMRC use a calculation known as a mark up to work out the gross takings expected. Within this calculation they will account for matters such as wastage. If you consider that your wastage in this time was higher you should flag this to ensure that HMRC take it into account. If you can evidence this in any way it will support your case.

Unfortunately, theft cannot be removed from the gross takings figure. If you consider that theft has occurred then output VAT will need to be accounted for on the value of this.

QUESTION NUMBER	5

Formal notice

HMRC will issue a formal notice to treat two businesses as one single entity, where they consider that there is evidence that the businesses aren't truly seperate, and there is a reduction in tax resulting from this.

HMRC take this 'disaggregation' and take into account:

- Whether the businesses draw seperate accounts; i.e.
- Whether they operate seperate bank accounts;
- Any crossover in useage of the premises;
- Whether staff of one entity work freely for another
- Whether there is any charge for use of the premises to the second entity.

QUESTION NUMBER	5

Based on your staff working within both, no charge being raised on your wifes BP occupation and the food and bar areas being intertwined, it is likely that from a typical consumers view point there is one business.

As HMRC have not yet issued notice, you should seek to get these provisions in place as a formal notice only has 'look forward' effect. Any previous income is not at risk to tax, unless HMRC consider the arrangement an abuse of rights.

If HMRC argue 'abuse' and raise back assessments, based on the values, £15,000 ($\frac{1}{6}$ of £90,000) back tax may be payable. This would be appealable.

Default Surcharge

Late filing or payment of a VAT return is subject to default surcharge regime. This is an escalating penalty, with the first late payment attracting only a warning. Any further failures within a 12 month period will then be subject to a 2% penalty. The period is extended each failure with penalties escalating: 2%, 5%, 10%, 15%.

Penalties can be overturned where it can be shown that a business had a reasonable excuse, and it took steps to remedy this failure as soon as the reasonable excuse was over.

The lack of availability of key staff, eg the death of the bookkeeper is generally a reasonable excuse. This won't apply for all default surcharges but your first instance may apply. Succeeding on this basis would mean that subsequent failures have reduced penalty amounts.

I recommend that you write to HMRC requesting a review. This will be late (i.e >30 days) however they are likely to accept. A review will take up to 45 days (unless extended by agreement) and you then have 30 days in which to appeal following any negative decision.

Simplification

You may also wish to consider using annual accounting simplification. Under this you will file one annual VAT return, and pay quarterly installments of your expected liability based on previous turnover.

QUESTION NUMBER	5

Your return is then submitted and the balance due is paid within one month, plus 7 days of the annual accounting period.

This simplification is available to all business trading below £1.65 mil turnover so you can use it even if catering income is included.

Yours sincerely,

Bill Dodds,

QUESTION NUMBER	2

To: Andreas Rivera

From: Susan Smith

Date: 5 November 2019

Subject: Inner City Stays Ltd.

Dear Andreas,

Coach operators

The provision of a 'free' room for coach drivers is an area of deemed supply. Although it may be described as 'free', you are providing something in return for something else. ~~The~~ There is therefore Output VAT due on the value of the supply of the hotel room.

Following Naturally Yours, this value is taken to be that which it is held out for sale to the general public at, where it is known. You must account for output VAT on this value.

Long Stay

Hotel accomodation is standard rated generally. The hotel room provided for this length is no different.

QUESTION NUMBER	2

Recently a hotel tried to treat this as exempt relating to a lease of land however the tribunal found that the provision of hotel rooms for any period is a standard rated taxable supply.

Output tax is due.

Accomodation For Staff

The 'free' accomodation provided for staff will not create a deemed supply charge where it can be shown that the ~~supply is~~ accomodation is a necessary requirement of the business (Finland).

However it is likely that HMRC would consider the supply unnecessary as there is other local accomodation available in the inner city.

A deemed supply charge on the value of the hotel room as advertised would be necessary.

QUESTION NUMBER	2

Failure to arrive

~~Recent case law has attempted to treat~~ A taxpayer in a recent case attempted to treat the payment of consideration for the room, which is not returned on cancellation as an outside the scope compensation payment.

HMRC won the case to treat the payment as a VATable consideration where there is a specific room booked for the client. As this is specifically what Inner city is doing, it must account for output VAT on these 'no-shows'.

QUESTION NUMBER	2

Car Parking

Parking charges are standard rated license to occupy, and this includes amounts which are paid 'over' the required amount following a recent case. This is further consideration for the supply of parking and not 'outside the scope' compensation.

The parking fines are outside the scope of VAT, however HMRC may seen treatment as consideration for parking where they become the dominant income stream. This would then become liable to VAT at the standard rate.

Yours Sincerely,

Susan.

QUESTION NUMBER	

QUESTION NUMBER	

QUESTION NUMBER	

QUESTION NUMBER	

QUESTION NUMBER	

QUESTION NUMBER	

QUESTION NUMBER	

QUESTION NUMBER	

QUESTION NUMBER	

QUESTION NUMBER	

QUESTION NUMBER	

QUESTION NUMBER

DO NOT WRITE ON THIS PAGE