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

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☐ 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 Advisory Paper you have attempted (if not already ticked below)

☐	Taxation of Owner-Managed Businesses	☐	Taxation of Individuals
☐	VAT on UK Domestic Transactions, IPT & SDLT	✓	VAT on Cross-Border Transactions & Customs Duties
☐	Inheritance Tax, Trusts & Estates	☐	Advanced Corporation Tax
☐	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).

Advisory

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- For those candidates on the Indirect Tax Route you must sit the VAT on UK Domestic Transactions, IPT & SDLT Advisory Paper.
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QUESTION NUMBER 3

Tax Advisors
UK

7th November 2017

Nigel McNickel
MacRosta Ltd
UK

Dear Nigel

Thank you for your previous correspondence.

I have set out my VAT advice on the place of supply issues and input tax incurred by Brazil Ltd.

(1) Almond Ltd

The place of supply of restaurant and catering services is where the services are physically carried out (VATA 1994 Sch 4A Para 5).

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The place of supply for all catering services from the cafés in Belfast and ~~Glasgow~~ Glasgow will therefore be the UK and UK VAT should be charged on these supplies
The same rule will apply for the supplies from train stations in those cities ie UK VAT chargeable.

The supplies made from the cafés and train stations in Dublin, will have a place of supply of Ireland, with Irish VAT being charged.
I assume you have a VAT registration in place in Ireland to account for this Irish VAT.

Looking at the on-board catering services, these also fall under an 'exception' to general place of supply rules.

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QUESTION NUMBER 3

The place of supply of onboard catering services is where the relevant point of departure is located.

When the train leaves Belfast, the place of supply is the UK and UK VAT should be charged on supplies

When the train leaves Dublin, the place of supply is Ireland and Irish VAT should be charged on any catering supplies made.

(2) Hazelnut Ltd

The supply of franchising is a supply of services that falls under the general place of supply rules

As you are making supplies to business customers, you will need to be aware of the B2B rules in this scenario ie Business to Business

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The place of supply of general B2B services is where the customer belongs.

Any supplies made will not be chargeable to VAT by the supplier, but instead the customers must account for VAT under the reverse charge mechanism. eg in ROI.

You should obtain the customers VAT number as evidence of them being in business and reference that the reverse charge applies on the invoice

The customer will account for the VAT on the purchase of their services on their VAT registration.

The exception to this is the supplies to UK businesses, as you will have to account for the UK VAT, not the customer.

The supply of goods (coffee) by Hazelnut is to both businesses, and to consumers.

~~The supply of services to the UK vator company~~

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QUESTION NUMBER	3

The place of supply of goods is where they are located at the time of supply ie Belfast.
The place of supply of these goods is therefore the UK.

When supplying these goods to Almond's outlets in the UK, UK VAT should be charged and accounted for by Hazelnut.

When supplying to Almonds outlets in Dublin, the place of supply will remain the UK, but Hazelnut is able to zero rate the supply as an EU dispatch.

In order to qualify for the zero rating:

→ must obtain and show on your VAT invoice, Almonds Irish VAT registration number

→ the goods must be transported

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outside of the UK to another EU member state
→ you should obtain and keep commercial evidence that the goods have left the UK within 3 months.

Almond in the ROI will have to account for acquisition VAT in the ROI on their Irish VAT return.

Hazlenut should include the supplies on Boxes 6 and 8 of their UK VAT return.
The supply should also be included on their EC sales list and on their intrastat report (subject to exceeding the thresholds)

In terms of the other customers outside of the group, if they are non VAT registered, there will

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be UK VAT charged by Hazlenut regardless of whether they are based in UK or ROI.
→ zero rating wont apply in this case as there will be no VAT number for ROI consumers to justify the zero rating

If they are VAT registered, the same rules apply as were previously described above:

ie UK customer → charge + account for UK VAT
ROI customer (VAT reg) → zero rate if conditions met

(3) Brazil Ltd

The supply of leasing, is a supply of services for VAT purposes.

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The place of supply falls within the general rules (as previously described)

If supplying to a business customer the place of supply is where the customer is located.

When supplying to UK restaurants, place of supply is UK and Brazil should charge UK VAT on the periodic rental payments received. This should be accounted for on their UK VAT return.

When supplying to ROI restaurants, the place of supply is Ireland. No VAT should be charged as the customer will account for VAT using the reverse charge mechanism.

The invoice must include the customers Irish VAT number (as evidence they are in business)

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and reference that the reverse charge applies
The supply should be included on Brazil's EC Sales list also

The supply of insurance intermediary services is an exempt supply under VATA 1994 Sch 9 Group 2.
Any commissions received by Brazil are therefore exempt income

This provision of exempt supplies will restrict input VAT recovery for Brazil as they are partially exempt

Any input VAT directly relating to the provision of the insurance intermediary services will NOT be recoverable.

In addition, any residual input VAT to general overheads and expenses must be apportioned

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QUESTION NUMBER 3

between the taxable supplies of leasing and the exempt supplies.

A partial exemption method should be considered. We are happy to help with this

The input VAT should be recoverable in full as it relates to the taxable supply of leasing the machines.

The £10,000 other VAT will have to be treated as residual and input VAT will be restricted.

I hope this has been helpful, If you require anything else, please let me know.

Yours sincerely
Tax Manager

FOR EXAMINER USE ONLY

QUESTION NUMBER	1.

To: Mr Nordheim
From: Tax Manager
Subject: VAT advice
Date: 7th November 2017

Dear Strom

Thank you for your previous correspondence. I have set out my advice below.

1) Tromso SA

Having reviewed the information you provided, it appears that Tromso, a Norwegian company has no establishment in the UK.

An establishment for VAT purposes can be:

1) Business establishment - ie the place where essential decisions are taken, the head office, the place where functions of the business central admin are carried out.

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QUESTION NUMBER 1

Or

(2) Fixed establishment - this is any other establishment with a sufficient degree of permanence and with suitable human and technical resources to receive and make supplies eg a branch.

Although there is a compound in Liverpool, this would not meet the definition of a fixed establishment due to the lack of permanence and the lack of resources - both human and technical.

Therefore is therefore a non-established business in the UK.

For non established businesses, there is a NIL registration threshold

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QUESTION NUMBER	1

when making UK supplies. This was as a result of the 'Schmeltz' case.

The supply of goods in June 2015 would have been a taxable supply.
The goods were located in the UK at the time of supply so UK VAT would have been due on the supply → place of supply UK.

As already mentioned, there is no registration threshold for non-established companies, so this supply should have triggered a VAT registration for Tromso under SERVA.

They should have accounted for UK VAT on the supply.

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QUESTION NUMBER	1

As a result, there will be late registration penalties for Tromso.
↳ based on the potential lost revenue and behavioural penalty

If you buy the share capital, you will inherit these liabilities, so we advise the issue is rectified before purchase or you put warranties/indemnities in place to protect yourself.

The sublease of the unit will be a land related supply by Tromso SA.
The place of supply of this will be the UK where the land is located.

The liability of this supply will depend on whether an option to

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QUESTION NUMBER 1

taxes in place (OTT)

If so, Tromso must charge and account for UK VAT on this supply. Again, regardless of income levels a VAT registration will be necessary due to this UK supply by non established co.

If no OTT is in place, the supply will be exempt.

The potential of VAT registration for Tromso is that they will be able to recover UK VAT they have incurred eg the VAT incurred on the leasing of the compound in Liverpool.

As discussed the registration must be backdated to June 15, when the supply of containers was made. Input VAT will be recoverable from this point

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QUESTION NUMBER	1

Norske Jegermod

- Looking firstly at the input VAT incurred:

→ Business expenditure is NOT recoverable for existing UK clients as this is blocked.

→ Car hire costs are not recoverable as these are for your wife, therefore not business expense.

The remaining expenses appear to be allowable for recovery.

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QUESTION NUMBER	1

VAT recoverable in 2018:

Rent (land related) 8000
Security charge (land related) 5600

Travel expenses (12 x 208) 2500

Business ent for overseas clients (allowable as necessarily incurred) 600
16,700

The total VAT recoverable in £2018 appears to be £16,700

This VAT can be recovered using the NON EU Business refund scheme.

The prescribed years for the claim is 12 months from 1 July to 30 June. Therefore, in 2018 you will need to make a shorter claim initially for January to June 2018

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QUESTION NUMBER	1

This is to be submitted no later than 31 December 2018

This should be done on VAT65A

A further claim can then be made for July 18 – June 19.

When you make your first application you will need to include a certificate from Norway showing you are a registered business.

I hope this is helpful

Kind Regards

Tax Manager

FOR EXAMINER USE ONLY

QUESTION NUMBER 2

Tax Advisors
UK

7th November 2017

Marios Crespo
UK Sub

Dear Marois

Thank you for your previous letter.

I have set out my advice below.

(1) Review

Firstly, I can confirm that yes, HMRC can enquire on VAT as they have done so.

If they become aware of anything unusual in their reviews, they can enquire into it

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QUESTION NUMBER	2

(2) Seconded staff:

You have stated that you have paid and recovered input VAT on hotel costs not relating to your business.

As the staff are not employed by you, the expenses are not related to your business and are therefore not recoverable by you.

It does not matter if you pay for these and recharge them, you are not entitled to recover the input VAT charged as it is not a business expense of yours.

You have therefore overrecovered VAT of £3000 and should adjust for this as soon as possible.

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QUESTION NUMBER 2

The only way to recover this VAT, is for your parent company to make an EU refund claim.

3) B2B to Germany:

~~The general place of supply rules of services, for business to business (B2B) supplies is that the place of supply is where the customer~~

The place of supply of goods is where the goods are located at the time of supply.

These supplies can be zero rated if provided to a business customer in another EU member state.

There are certain conditions that must be met to allow for the

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2072

QUESTION NUMBER	2

Zero rating in such a supply:

→ you must obtain and show on your invoice your customers VAT registration number.
→ the goods must leave the UK
→ you must obtain and keep evidence that the goods left

As you have not included the VAT number on the invoice you have not met those conditions

I would like to confirm if you have simply forgotten to include the VAT number or if you have not actually obtained a VAT number for this customer?

As you have not met the required conditions, HMRC have the

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QUESTION NUMBER	2

power to make you account for VAT at the appropriate rate on these supplies.

You have underdeclared output VAT on these supplies as UK VAT should have been charged in the absence of a VAT number of your German customer.

However, if you do have the VAT number and have simply forgotten to include it, there may be a chance that HMRC will allow the mistake this time
So if you have sufficient evidence to show your customer is in business

I advise you address this issue with HMRC promptly and ensure invoices are correctly raised going forward.

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QUESTION NUMBER 2

(4) Legal advice

Again, you have recovered input VAT on a supply that is not related to you.

The legal advice should have been invoiced to your Italian parent as the supply was made to them.

As the are VAT registered in Italy, the UK law firm should have made a B2B supply to them, an Italian customer.

No UK VAT should have been charged on this supply, as the place of supply is Italy where the customer is established.

Your Italian parent should have accounted for VAT using the

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QUESTION NUMBER	2

reverse charge mechanism instead.

This UK VAT has therefore been incorrectly charged.

You cannot recover this and have therefore over recovered VAT on these supplies

You should adjust for this VAT and pay it back to HMRC.

Your Italian parent should contact the UK law firm and ask for a refund of the UK VAT incorrectly charged to them.

They should provide the law firm with their Italian VAT number.

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QUESTION NUMBER 2

(5) Corrections:

As discussed, you have over received VAT on certain supplies ~~[illegible]~~ (ie VAT you were not entitled to)

This should be adjusted promptly either ~~[illegible]~~ on the next VAT return (if within the limits) or by a voluntary disclosure

I hope this has been helpful.

Yours sincerely
Diana Fioperi
Tax Adviser

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Question 4

QUESTION NUMBER 4.

To: Mr Dimple
From: Tax Advisor
Subject: VAT advice
Date: 7th November 2017

Dear Derek

Thank you for your previous correspondence.

I have set out my advice below.

(1) Log cabins - private customers

The supply of these cabins falls under the distance selling rules as you are supplying and delivery goods to customers in member states who are not registered for VAT.

With these type of supplies, you should charge UK VAT until ~~that~~ the

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QUESTION NUMBER 4

value of your supplies, on any day, in a calendar year exceed the distance selling threshold in the member state where your customer is established.

The threshold in Germany is €100,000
The threshold in France is €35,000.

(a) Germany:
Reviewing the information provided in 2017, the distance selling threshold in Germany was exceeded.
This occurred in April 2017 when turnover exceeded €100,000.

From the date of the breach, you should have been charging and accounting for German VAT on these supplies. From the May 17 supplies onwards, German VAT should have been charged.

You therefore have a late registration requirement in Germany and

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QUESTION NUMBER	4

Owed the German tax authorities VAT on the supplies from May ~~onwards~~ onwards. Penalties may apply.

You have also over accounted for UK VAT in the UK from the date of the breach. You should contact HMRC for a refund of this VAT.

(b) France:

Again the distance selling threshold was exceeded in 2017, when the sales ~~distance selling threshold~~ exceeded the €35,000 threshold.

This happened in May 2017.

A VAT registration should have been in place in France since the date of the breach. ie end of May 17.

From this point onwards, French VAT should have been charged and accounted for.

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QUESTION NUMBER	4.

The same implications apply as for Germany

eg

→ late registration in ~~Gem~~ France
→ owe French authorities VAT
→ have overpaid UK VAT.

again penalties are likely to apply as a result of the late registration.

Belgium – Supply of Kits

2 ~~[illegible] – business customers~~

As these goods are supplied on sale or return, they are not treated as a regular ~~tl~~ dispatch

These goods are not supplied until they are accepted by the customer. ie when customer indicates that they will keep the goods.

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QUESTION NUMBER 4

These supplies should therefore be treated as a supply of your own goods

If you are not VAT registered in Belgium you should charge UK VAT on the supply.

(3) Cabins - Business Customers

The supply of these goods 9 supply and installation contract.

The place of supply of these goods is where the assembly of the cabin takes place.
ie in Germany, France or Netherlands

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QUESTION NUMBER	4

This means you would be liable to register for VAT in the member state of assembly, as there is a NIL registration threshold for non established businesses (Schmeltz).

However in some member states there is a simplified procedure which allows the VAT registered customer to account for the VAT due on the supply instead of you.

This prevents a VAT registration obligation in the country

We should firstly confirm whether each of those member states operates the simplification.

We also need to be aware that one of the conditions is that you are Not VAT registered in the state.

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QUESTION NUMBER	4.

This will be OK for Netherlands, as no other supples are being made there.

We have however discovered that you will have a VAT registration obligation in both Germany and France

From the date of those registrations, you cannot use the simplifaction procedure.

Looking at previous supplies, it appears you have not accounted for VAT when you should have in each of the 3 member states., from Jan 2017.

Registration is therefore required in each of the 3 countries listed.

Late registration penalties are likely to apply.

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You, again, will have incorrectly charged UK VAT on those and should contact HMRC for a refund.

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QUESTION NUMBER	4.

(4) Roof Trusses

The supply you make is a supply of services to a French customer.

Your supply is a B2B supply of services (as ownership of goods never transfers) so the place of supply is France, where customer is established.

You should not charge UK VAT on the supplies. The French co. should account for this using the reverse charge.

I hope this has been helpful.

Kind Regards

Tax Adviser.

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QUESTION NUMBER 5

To: Marlyn Gill
From: Customs Duty Adviser
Subject: Inward Processing
Date: 7th November.

Dear Marlyn.

Thank you for your previous email.

I have set out my advice below

Late returns:

I understand you have failed to submit any returns since December 2015.

You have explained that you have been charged VAT and duty on goods under IP that were exported after discharge from the procedure.

Under the procedure, duty and VAT

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QUESTION NUMBER 5

on such goods that were re-exported should never have become due

However, as you have not completed the relevant Bills of discharge, HMRC have had no evidence to suggest that this was the case

If you have evidence showing that the goods did infact get re-exported after processing there is the potential to appeal HMRC's charges on the goods that qualify under IP for customs duty relief

You have the right to appeal against HMRC's decision.

I suggest you retain all evidence of goods released from the procedure, to show and prove that they were exported.

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QUESTION NUMBER 5

You will need to be able to prove when these left to show they were exported within the 'period of discharge' agreed by HMRC.

As you have already paid the demand notices, it may be more difficult to appeal, however I suggest you try this

(2) Authorisation

Authorisation is required to operate IP as a special procedure.

There are 2 ways of applying for authorisation:

(1) Simplified authorisation – authorisation is granted when the customs import declaration is released by customs. This can only be used a maximum of 3 times per calendar year and the value of the goods must not exceed £500,000

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QUESTION NUMBER	5

(ii) Using the SP3 ie formal authorisation.

You have advised that your authorisation expired on 30th September 2016.

There is the possibility of applying for a new authorisation now using the SP3 and asking for a retroactive ~~app~~ authorisation for the past year using the same form.

A retroactive authorisation can be backdated for a maximum of one year. eg to start of November 2016

You will not be able to apply for retroactive effect if you use a simplified authorisation.

I therefore suggest you apply straight away for a new authorisation.

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QUESTION NUMBER 5

including a retrospective authorisation, using an SP3

A new authorisation shall last 5 years.

To be authorised, you will need to meet certain conditions

eg be financially solvent
have good compliance history
etc.

With your application, you should provide a cover letter stating why retrospection is required.

It is likely to be a period in which you will not be able to backdate the authorisation, but you have been treating the supplier ~~[illegible]~~ as if there was an authorisation in place.

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QUESTION NUMBER 5

This may present problems for you.

I hope this has been helpful.

Kind Regards

Tax Adviser.

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QUESTION NUMBER 6

Tax Advisors
~~XXX~~ 11 High Street
Poole
BH1 1TA

John Cook
Whole Earth Nosh
Bath Road
Bournemouth

7th November 2017

Dear John.

Thank you for your letter. I have set out my advice below

(1) Candles

Anti-dumping duty (ADD) and Countervailing duties are additional duties imposed by Customs to prevent certain

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

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Date of Examination

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

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

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☐	Human Capital Taxes		

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- For those candidates on the Indirect Tax Route you must sit the VAT on Cross-Border Transactions & Customs Duties Advisory Paper.

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QUESTION NUMBER	6

goods being imported in high quantities

They will increase the cost of importing the goods.

Customs value £1000.

Customs duty due: £1000 @ 14% = £140

ADP = 1000 @ 53% = £530
CVD = 1000 @ 17% = £170

Total value for VAT purposes = £1000 + £140 + £530 + £170

= £1840

VAT @ 20% = £368.

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QUESTION NUMBER	6

(2) food :

Common Agricultural Policy (CAP) is an agricultural levy imposed on certain goods

This will increase the cost of imports It is designed to protect the economy in the country of import to prevent too many imports of certain goods being made and damaging the UK economy for those items

CIF value 25,000 for 5000kg

customs duty = 25,000 @ 10% =
= £2500

plus £24 per 100kg

€24 = £20

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QUESTION NUMBER	6

5000/100 = 50.

50 @ £20 = £1000.

Total customs duty = £2500 + £1000
= £3500

VAT due on £25,000 + £3500
= 28,500

VAT due = 28,500 @ 20%
= £5700

I hope this has been helpful.

Yours Sincerely
Mary Gould.

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