

# THE ADVANCED DIPLOMA IN INTERNATIONAL TAXATION

June 2021

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## MODULE 3.02 – EU VAT OPTION

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### ADVANCED INTERNATIONAL TAXATION (THEMATIC)

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TIME ALLOWED – 3¼ HOURS

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This exam paper has **three** parts: **Part A**, **Part B** and **Part C**.

You need to answer **five** questions in total. You will **not** receive marks for any additional answers.

You must answer:

- **Both** questions in **Part A** (25 marks each)
- **The** question in **Part B** (20 marks)
- **Two** questions from **Part C** (15 marks each)

#### Further instructions

- All workings should be made to the nearest month and in appropriate monetary currency, unless otherwise stated.
- As you are using the online method to complete your exam, you must provide appropriate line breaks between each question, and clearly indicate the start of each new question using the formatting tools available.
- Marks are specifically allocated for clarity of presentation of your answers.
- The time you spend answering questions should correspond broadly to the number of marks available for that question. You should therefore aim to spend approximately half of your time answering Part A, and the other half answering questions in Parts B and C.
- There is no separate reading time, so you can start typing your answers as soon as the exam begins. However, we recommend that you set aside some time to thoroughly read each question and plan each of your answers.

## PART A

**You are required to answer BOTH questions from this Part.**

1. Gamma SA is a VAT registered company that owns and operates a music recording studio in Bordonia, the EU member state in which it was established. Gamma SA provides recording, editing and music production facilities, along with professional staff to assist its customers. The customers include VAT registered and non-VAT registered musicians in both Bordonia and a neighbouring member state, Theta.

Gamma SA also operates an indoor stage which is used by rock bands for live music performances; an admission charge is made for members of the public who attend the live performances. In addition to charging for the use of the studio, Gamma SA runs a live streaming music channel that is available throughout Europe and free to access, although a charge is made for an advertisement-free, premium service to customers. Customers using the premium service are located in all EU member states.

**You are required to write a letter to the finance director of Gamma SA, detailing the VAT treatment relevant to each aspect of the business and advising on the compliance obligations that need to be met in Bordonia and other EU member states.** (25)

2. Blunden spa is a VAT registered interior design business, established in Theta, which specialises in providing a complete, end-to-end service to wealthy individuals and corporate clients. Blunden spa has particular expertise in the interior design of large houses and yachts.

When engaged by a client, Blunden spa imports and purchases wallpaper, fabrics, furnishings, paint and lighting, and arranges for the installation of these items in the house or yacht according to the design agreed with the client.

In 2020 Blunden spa incurred some bad debts from customers for whom the business had completed work but not received payment. Work on yachts is only undertaken in Theta, although Blunden spa's owners are frequently established outside the EU.

**You are required to provide a report, identifying all relevant VAT aspects of Blunden spa's activities and the issues which need to be addressed.** (25)

**PART B**

**You are required to answer THIS question.**

3. The right to deduct input VAT exists in specific circumstances and is dependent on particular conditions being met.

**You are required to describe the legislation and case law of the Court of Justice of the European Union which determines the right to deduct input tax, and identify circumstances in which a member state's tax authority may be permitted to deny the recovery of VAT incurred.** (20)

## PART C

**You are required to answer TWO questions from this Part.**

4. A non-EU established company seeks to recover VAT which it has incurred on training courses held in Bordonia during the past two years, the earliest invoice having been received in July 2019. The company became registered for VAT in its own country of establishment in May 2020.

The company's financial controller has asked whether the company can recover any of the VAT incurred in Bordonia before it became registered for VAT in its own country, and would like to know how to proceed.

**You are required to write an email to the financial controller, addressing the points raised. (15)**

5. The EU principles of 'fiscal neutrality' and 'direct effect' are important aspects of the EU VAT system and are often the subject of judgments by the Court of Justice of the European Union (CJEU) and courts in member states.

**You are required to outline the meaning of these two terms and the circumstances in which they apply, supporting your reasoning with reference to relevant CJEU decisions. (15)**

6. Derogations to the Principal VAT Directive exist in the legislation of many EU member states.

**You are required to describe the purpose of derogations in EU VAT law, and provide an overview of the circumstances in which a member state may seek to apply them. (15)**

7. Athena GmbH is a travel agent established and registered for VAT in Mediterrania, an EU member state, where it has its largest outlet at the main rail terminus in the capital city, Le Grande.

A large proportion of the income received at this outlet relates to commission on the sale of Metro cards which can be used for travel on Mediterrania's public transport systems. Similar cards are also sold for use on public transport in Theta, a neighbouring member state.

**You are required to identify the VAT treatment that applies to the sale of Metro cards to be used solely in Mediterrania, and of those which can be used solely in Theta. (15)**