

THE CHARTERED INSTITUTE OF TAXATION

ADVANCED TECHNICAL

Domestic Indirect Taxation

May 2023

TIME ALLOWED

3 HOURS 30 MINUTES

- All workings should be shown and made to the nearest month and pound unless the question specifies otherwise.
- Candidates who answer any law elements in this paper in accordance with Scots law or Northern Ireland law should indicate this where relevant.
- Scots law candidates may provide answers referring to Land and Buildings Transaction Tax rather than Stamp Duty Land Tax.
- Unless otherwise indicated by the provision of additional information in the question, you may assume that 2022/23 legislation (including rates and allowances) continues to apply for 2023/24 and future years. Candidates answering by reference to more recently enacted legislation or tax cases will not be penalised.
- Additional marks may be awarded for presentation.
- You must type your answer in the space on the screen as indicated by the Exam4 guidance.

1. Yeldon Ltd operates a VAT registered travel vaccination clinic. The travel vaccinations are administered on-site by a registered nurse. It also offers a malaria prevention service; an individual can be prescribed preventative medicine by Yeldon Ltd's registered pharmacist, to take at home in the weeks prior to travel. The clinic is popular because customers can also opt to pay £25 for a 'Vaccination Guarantee', for which Yeldon Ltd is regulated. The guarantee is a form of protection for the traveller, whereby if the travelling individual contracts a disease that Yeldon Ltd had vaccinated them against within three months, it will pay for all overseas medical treatment and transportation back to the UK.

In September 2020, Yeldon Ltd was approached by a laboratory, Consitest Ltd, that can process up to 2,000 pathology tests per day. Consitest Ltd sought a partner to deliver Covid testing services aimed at travellers, and Yeldon agreed to work in partnership with it. As a result, individuals can pay £30 to Yeldon Ltd to attend a clinic and provide a swab sample which is performed under the instruction and supervision of a registered nurse. Alternatively, for an additional £7.50 charge to cover postage costs, an individual can order a test kit online. The kit contains detailed instructions on how to self-swab, with pre-paid return postage to Consitest Ltd, which tests the sample and provides a report of the results back to Yeldon Ltd, where a registered nurse will review the result before providing a copy to the patient. Consitest Ltd acts as a sub-contractor to Yeldon Ltd in delivering pathology services. Consitest Ltd does not employ any medical professionals, but its testing operation is managed and overseen by biomedical scientists.

The demand for travel tests increased significantly in the summer of 2022, and Yeldon Ltd engaged with another larger laboratory, Laralab Ltd, to increase availability. Although this laboratory also uses biomedical scientists and no medical professionals to manage and oversee the service offering, it is charging VAT on the services to Yeldon Ltd whereas Consitest Ltd is not. Yeldon Ltd therefore believes it may have an option to charge VAT on its own onward testing services which would allow it to recover the VAT charged by Laralab Ltd and could result in increased recovery of VAT on overhead costs.

Requirement:

- 1) **Explain the VAT implications of Yeldon Ltd's services.** (17)
- 2) **Explain the Insurance Premium Tax implications of Yeldon Ltd's Vaccination Guarantee.** (3)

Total (20)

2. Markdeen Ltd, a company limited by guarantee, is a charity that operates a fee-paying college. It also set up a wholly owned subsidiary company in 2016, Markdeen Trading Ltd, to handle its commercial activities, and generate more income to fund the college's activities. Markdeen Trading Ltd distributes profits to its parent company, which reinvests them back into its education services. Markdeen Trading Ltd is VAT registered but Markdeen Ltd is not. All land and buildings are owned by Markdeen Ltd, and no options to tax have been made by either company.

Markdeen Ltd has an on-campus shop that has operated since 2011, which is staffed mainly by employees of the charity. The shop primarily sells notebooks and stationery, as well as some confectionary products. Trade has increased significantly since Markdeen Trading Ltd's facility management team started to oversee the day-to-day operation of the shop in 2016. In this role, Markdeen Trading Ltd collects the income generated by the shop activities and retains 5% of the income collected as a management fee which has previously amounted to between £5,000 and £10,000 per annum, on which it accounts for VAT. The remaining income is passed back to the charity, to pay for the other staff and stock. No formal agreement exists between the parties for this arrangement.

Markdeen Trading Ltd has an agreement with a local language school, Lang4U Ltd, for occupation of the college buildings to deliver classes run by Lang4U Ltd. Although this arrangement is made in Markdeen Trading Ltd's name, no formal superior lease agreement exists between Markdeen Trading Ltd and Markdeen Ltd and there is no direct consideration paid for any land/building occupation. However, charges of £20,000 per annum are levied by Markdeen Ltd to Markdeen Trading Ltd for utilities and back-office services. Markdeen Ltd believes a peppercorn lease was drawn up in 2016 to allow Markdeen Trading Ltd's occupation of the school buildings out of school hours, but the agreement cannot be located.

Markdeen Ltd has recently been approached by a car boot fair operator, offering £5,000 for the use of the college grounds and associated facilities on Sundays for 20 weeks a year. Markdeen Trading Ltd has suggested instead, that it could operate the car boot fairs on behalf of Markdeen Ltd. As the grounds could accommodate 100 cars, at £10 per car this could generate significantly more income than renting the grounds to a commercial operator.

Requirement:

Discuss, with reference to case law, the VAT implications of the supplies made by Markdeen Ltd and Markdeen Trading Ltd. (15)

3. HWE Ltd offers individuals the opportunity to study for professional qualifications from home. Currently it provides a single package comprising access to online course material, tutor support, marking of mock examinations and the examination fee for a single price on which VAT is charged. No discount is offered if certain elements of the package are unused, and there is no option to buy the elements individually. HWE Ltd pay the examination fee to a third-party professional body.

A firm of UK based specialist tax advisers have approached HWE Ltd saying it can mitigate some of the VAT due on its supplies by selling the package elements separately and also setting the component element prices charged for some of the supplies to make them more VAT advantageous. A detailed and convincing presentation with an accompanying proposal document has been provided to HWE Ltd outlining potential tax savings of £50,000 per annum. The advisers have suggested that HWE Ltd would need to notify HMRC of its proposed arrangements, but that it has successfully achieved the desired result with many other organisations since April 2019 and is therefore acceptable practice as far as HMRC are concerned. The advisers will charge a contingent fee based on 10% of the savings generated.

Requirement:

- 1) **Discuss whether HWE Ltd can achieve the VAT savings suggested by the adviser, including potential challenges that may be made by HMRC.** (11)
- 2) **Explain any reporting requirements HWE Ltd and the tax advisers may have in respect of the proposed arrangements under The Disclosure of Tax Avoidance Schemes: VAT and other indirect taxes.** (4)

Total (15)

4. Rupert is a VAT registered sole trader who owns a number of commercial properties in the UK. He has been VAT registered since 2005 when he purchased Unit A of a small commercial park close to the town centre of Padston for £300,000 plus VAT. Rupert immediately opted to tax the property and leases this as an empty space for use as a photography studio.

On 1 March 2023, Rupert purchased two additional units, Unit B and Unit C, on the same industrial estate for £500,000 each. The sellers did not charge VAT on the sale of the properties. Rupert spent £150,000 (plus VAT) per unit on new fixtures. He then opted to tax and recovered this input tax, but these properties have not yet been rented out.

Rupert has just come into a large inheritance and has decided that he would now like to retire and move overseas. He is therefore looking to rationalise his property portfolio over the next few months. He has started to make some plans to sell and has an interested party, Arts Helps Hands, for Units A and B. Based on current valuations, each unit is now worth £600,000.

Arts Helps Hands is a charitable organisation specialising in the use of art to support people in need. Whilst it is VAT registered due to some small levels of commercial activity, most of its supplies are VAT exempt. For Unit A, it would like to run some new photography classes to further its charitable offerings, but realistically it expects this to be on a one day a week trial basis for the foreseeable future. For the remaining time it will lease the property out to other photography businesses, allowing it to generate some income. Upon purchase, Arts Helps Hands intends to undertake some small refurbishment work costing in the region of £20,000, before leasing the property.

Arts Helps Hands would like to occupy Unit B as a head office. Arts Helps Hands has made it clear however that it cannot afford a 20% VAT charge on top of the £600,000 valuation for either unit as it will not be able to recover this as input tax.

Finally, upon his retirement Rupert is considering keeping Unit C for himself, to use as storage for his private collection of classic cars so he still has access to these when he visits the UK.

Discuss the VAT implications for Rupert of his proposals.

(20)

5. CellMan Ltd is a relatively new player in the energy market. To date, it has been operating solely as a supplier to business customers.

Due to the rising price of gas, a number of business customers who are on annual contracts have been in touch to request to cancel their contracts early and to sign up to smaller consumption contracts as many of their staff often work from home and so their office energy usage has fallen. CellMan Ltd has a standard clause in most of its contracts allowing it to charge customers a compensation fee of 25% of the expected value of the remainder of the contract where a customer cancels early. If a customer cancels with more than six months of their contract remaining, an additional charge equal to 20% of the total contract value is imposed on top of the 25% compensation fee. Given the challenges of finding new business customers at the moment, CellMan Ltd is keen to charge these sums where possible.

The reduction in the number of customers was seen as an opportunity to expand elsewhere, and CellMan Ltd has purchased parts of other smaller providers' customer debt books. Consequently, CellMan Ltd not only picks up the ongoing supply to these customers, but also is entitled to any outstanding payments due.

One of these new customers, Studhome Ltd, has provided CellMan Ltd with a certificate that their supply should not be subject to VAT as they are a student accommodation provider. The building in question houses a number of students and also contains a restaurant, small grocery shop, and barbers which Studhome Ltd leases to various operators. It has informed CellMan Ltd that 55% of the property is used for the student accommodation.

Discuss, with reference to caselaw, the VAT implications for CellMan Ltd of the above proposals. You are NOT required to consider any Transfer of Going Concern issues in respect of the acquisition of debt books. (15)

6. Sally has owned a house and lived in France for many years but following a six month visit to the UK in 2020, she is looking to move back and set up a property rental business in the UK. Over the past year she has spent three months in the UK looking at properties and has now sold her home in France.

Sally has found a property to become her main home, which has an asking price of £920,000. She has made an offer of £900,000 for the property.

Sally has also found a property that she could purchase to rent out, which is a corner shop with a flat above that is on the market for £500,000. However, the owner is currently undertaking some remediation works and so the property will not be available for six months. Sally feels that she can carry out the works much quicker and so she is considering offering the seller a deal under which she would pay the seller a total of £400,000 and carry out the works herself at cost of £50,000. The payment to the seller would comprise:

- 1) £50,000 immediately as a deposit;
- 2) £300,000 when she completes the work; and
- 3) £50,000 when she finds a tenant for the property.

She would have full and exclusive rights of occupation whilst she completes the works and would gain full title to the property when she pays the £300,000.

Explain, with calculations, the Stamp Duty Land Tax implications of Sally's proposals. (15)