

APS NOVEMBER 2023: VAT – ASSESSMENT NARRATIVE GRID

Structure

A simple pass or fail will be awarded.

In determining whether a Pass or Fail is awarded, the following will be considered:

1.	Overall format
2.	Introduction and Conclusion/Executive Summary
3.	Clear layout with headings
4.	Flow of answer
5.	Appropriate style
6.	Grammar and spelling

See detailed guidance for what will amount to a MINOR fault and a MAJOR fault.

For each of the 6 headings above, a candidate will receive a single result of NO fault, MINOR fault or MAJOR fault. Thus, 4 minor faults in one heading will not result in 4 MINOR faults. They will either be graded as 1 MINOR fault or if, cumulatively, they are sufficiently serious, as a MAJOR fault.

A candidate will pass Structure if they have either:

- 1) NO MAJOR faults; or
- 2) 1 MAJOR fault and no more than 3 MINOR faults.

A candidate will fail Structure if they have either:

- 1) Two or more MAJOR faults; or
- 2) One MAJOR fault and four or more MINOR faults.

Identification and Application

The following are the relevant topics for assessment with their weightings:

1.	VAT and Cultural Exemption 20%	Identifying cultural exemption and associated tests Identifying that the trading subsidiary would not qualify as an eligible body in Option 2 Identify revised Option 2 which would reduce exempt income Apply the tests for cultural exemption, including implications of the fact that much of the proposed activity, e.g.: “foodie” events, will not be exempt from VAT (even where supplied by an eligible body). Apply implication of trading subsidiary and potential for revised Option 2
2.	Input VAT Recovery 20%	Identifying rules for input VAT recovery, relating this to non-business activity and the making of exempt supplies. Identifying need for non-business apportionment. Identify applicable partial exemption implications, with particular reference to the Capital Goods Scheme. Identify revised Option 2 which would improve input VAT recovery Apply input VAT recovery rules, especially for non-business activity and exempt supplies. Apply a basic non-business apportionment; apply the partial exemption implications, with particular reference to the Capital Goods Scheme. Comparison of relative input tax recovered between the two options.

3.	VAT: Option to Tax and Capital Goods Scheme 20%	<p>Identifying the option to tax anti-avoidance rules in relation to Option 2.</p> <p>Identify as an alternative the VAT grouping rules for Option 2, with reference to the group's taxable supplies and therefore any changes in recovery rate (i.e.: revised Option 2).</p> <p>Identify importance of "first use" and the ownership of the asset for CGS purposes by the group or by LFL in Option 2</p> <p>Apply the option to tax anti-avoidance rules in relation to Option 2.</p> <p>Apply the VAT grouping rules for Option 2, referring to the group's taxable supplies and therefore any changes in recovery rate (i.e.: revised Option 2).</p>
4.	Corporation Tax and Charities; SBA Relief 20%	<p>Identify the rules for primary purpose trading income for the charity.</p> <p>Identifying potential claim for SBA and noting restriction for ineligible activity. Identify probable higher SBA under Option 2.</p> <p>Identify the rules governing corporate Gift Aid relief for Option 2, including the deductibility in the trading subsidiary against CT of profits gifted to the parent charity. Note timing restrictions, available profits, etc</p> <p>Apply the rules for primary purpose trading income for the charity</p> <p>Apply the rules governing corporate Gift Aid relief for Option 2, including the deductibility in the trading subsidiary against CT of profits gifted to the parent charity.</p>
5.	SDLT 10%	<p>Identify the rules for SDLT on chargeable consideration; correctly noting no SDLT issue for Option 1</p> <p>Identify potential SDLT issue for Option 2</p> <p>Identify SDLT group relief</p> <p>Apply the rules for SDLT on chargeable consideration; correctly noting no SDLT issue for Option 1</p> <p>Apply SDLT group relief</p>
6.	Grant Funding and Other Matters 10%	<p>Identifying the implications of the grant funding arrangements, especially restriction on input VAT retention under DoC grant</p> <p>Identifying the implications of the MoJ lease arrangements for Option 2; other miscellaneous commercial or compliance points</p> <p>Apply findings from identified points above.</p>

Relevant Advice and Substantiated Recommendations

The following are the relevant topics for assessment with their weightings

1.	VAT: Non-Business, Exemption, Input VAT Recovery and CGS 30%	<p>Advising on implications of non-business use of the Courthouse and making appropriate recommendations in respect of same</p> <p>Advising on availability of exemption on different sources of income, and making appropriate recommendations in respect of same</p> <p>Advising on exemption and CGS implications for VAT recovery, and making appropriate recommendations in respect of same</p>
2.	VAT: Option to Tax and VAT Grouping 20%	<p>Advising on the unavailability of input tax recovery for Option 2 where lease is made to Subco, because of OTT anti-avoidance rule, and recommending suitable means of handling this.</p> <p>Advising on use of VAT group to get around option to tax anti-avoidance rule, and possibilities of improved input VAT recovery with revised Option.</p>
3.	Corporation Tax/Gift Aid/SDLT 30%	<p>Advising on CT position, recognising that given likely trading position, CT is not a particularly live issue</p> <p>Advising that Gift Aid offers CT benefit under Option 2, but this is of very limited real value given level of profits</p> <p>Advising on limited value of SBA given level of profits</p> <p>Making appropriate recommendations re SDLT</p>
4.	Weighing up Options and Implications of Grant Funding Matters 20%	<p>Advising on commercial recommendations such as the ease of understanding and operating Option 1 over Option 2; implications of grant restrictions for any input VAT recovery at all;</p> <p>Advising on the advantages and disadvantages of Options 1 and 2, and any other reasonable options; comparing the likely costs and benefits of each; concluding Option 1 is preferable</p> <p>Advising on implications of grant funding arrangements and recommending suitable approaches to handling same. Make reference to different Options with respect to grant funding arrangements.</p>

Credit will be given for other valid recommendations supported by appropriate reasoning.