

THE CHARTERED INSTITUTE OF TAXATION

ADVANCED TECHNICAL

Cross-Border Indirect Taxation

November 2021

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.
- Except as set out below or indicated by additional information in the question, you may assume that 2020/21 legislation (including rates and allowances) continues to apply for 2021/22 and future years.
 - 1) You **MUST** assume that the UK remains within the European Union.
 - 2) You **MUST** ignore all temporary Covid related legislation including furlough, grants, loans and the reductions in VAT and SDLT rates.

Except in relation to points 1) and 2) above, candidates answering by reference to more recently enacted legislation or tax cases will not be penalised.

- You must type your answer in the space on the screen as indicated by the Exam4 guidance.

1. Mazzel Inc is a US based manufacturer of plastic components used in various household appliances. It has been supplying European based appliance manufacturers through its distribution centre based in the Netherlands. Mazzel Inc frequently engages the services of third parties and it has no employees or directors outside of the US.

Mazzel Inc imports all components to its distribution centre in the Netherlands from its Chinese subsidiary Mazzel Manufacturing LLC in its own name. It recovers the import VAT due on the components through its Dutch VAT registration. Since 15 March 2020, Mazzel Inc has been supplying three UK VAT registered customers (HW Irons Ltd, HW Kettles Ltd and X-Brooms Ltd), with each purchasing different components.

Mazzel Inc has been utilising the call-off stock simplification and delivering the required components to a UK warehouse in batches. A barcode scanner is used each time the components are taken by each customer, with the data feeding to Mazzel Inc's ERP system in real time. The warehouse is owned by Mazzel Inc and it is operated by a third-party specialist warehouse management company.

Below are Mazzel Inc's records of the UK stock:

	<u>Delivered Units</u>	<u>Delivered Value</u> £	<u>Called-off Units</u>	<u>Called-off Value</u> £
<u>Part A intended for HW Irons Ltd</u>				
Arrived 15 March 2020	25,000	375,000		
Arrived 5 September 2020	55,700	835,500		
Arrived 15 February 2021	24,850	372,750		
Stock deteriorated in warehouse flooding on 30 January 2021, discovered on 2 February 2021	(5,400)	(81,000)		
Part A Total	<u>100,150</u>	<u>1,502,250</u>	<u>92,600</u>	<u>1,389,000</u>
<u>Part B intended for HW Kettles Ltd</u>				
Arrived 28 March 2020	5,300	333,900		
Arrived 10 October 2020	8,200	516,600		
Arrived 28 May 2021	6,000	378,000		
Part B Total	<u>19,500</u>	<u>1,228,500</u>	<u>13,400</u>	<u>844,200</u>
<u>Part C intended for X-Brooms Ltd</u>				
Arrived 10 May 2020	1,200	58,800		
Arrived 12 February 2021	4,000	196,000		
Arrived 5 April 2021	1,800	88,200		
Part C Total	<u>7,000</u>	<u>343,000</u>	<u>6,500</u>	<u>318,500</u>

HW Irons Ltd and HW Kettles Ltd belong to House Whizz plc corporate group, which is ceasing to trade, and the parts ordered from Mazzel Inc will not be required, although the contracts have not yet been terminated. Mazzel Inc has been able to find buyers for the components delivered for HW Irons Ltd (Part A) and HW Kettles Ltd (Part B) but not yet called-off by them. Part A stock will be exported to the US and delivered to Mazzel Inc's warehouse and Part B stock will be sold to Madellie BV, an intermediary in the Netherlands, for an onward supply to its customer based in Germany.

Requirement:

Explain the VAT consequences for Mazzel Inc of the UK stock transactions. You are NOT required to comment on EC Sales List or Intrastat implications. (20)

2. BWAY Ltd is incorporated in the British Virgin Islands and it owns a fleet of boats, which are operated commercially in the Caribbean region through a chain of agents. It is not registered for UK VAT. BWAY Ltd's regional sales director, who resides in the UK, has identified an opportunity to expand its operations to the UK, based at the port of Liverpool. The business plan assumes the provision of four boats as set out below:

<u>Vessel</u>	<u>Tonnage</u>	<u>Passenger Capacity</u>
BWAY1	16.5	62
BWAY2	15.5	57
BWAY3	14.5	40
BWAY4	16	8

Apart from BWAY4 the boats are not designed or adapted for recreation or pleasure. Also, except for BWAY4, all boats will be provided with a helmsman and crew; for BWAY4 it will depend on customer requirements whether a helmsman and crew are provided. All vessels will be from the existing fleet and they will be moved to Liverpool to provide the services. BWAY Ltd will not employ any staff in the UK and the helmsmen and crew members will be self-employed, directly contracting with BWAY Ltd. They provide similar services to other companies unconnected to BWAY Ltd.

BWAY Ltd will keep the vessels in Liverpool, which will also be used as an overhaul base for the fleet. The maintenance and overhaul services will be provided by ABA Boats Ltd, based at the port. The use of the vessels will be restricted to day trips between Liverpool and international waters, with no stop-overs at other locations.

As BWAY Ltd has no place of business in the UK and its name is not well known, it has identified a UK based agency BO&FUN plc, which will advertise and sign up clients for events and private hire. It is expected they will be individuals and business clients. Negotiations with BO&FUN plc are still progressing and it is yet to be determined whether BWAY Ltd will operate in its own name or under the BO&FUN brand.

Requirement:

Explain the VAT implications for BWAY Ltd relating to the planned new operations in the UK. (15)

3. Uniedu Foundation is a Spanish VAT registered and established charity, which provides astronomy and science training to schools and adults. It uses any surplus solely for the continuation or improvement of the educational supplies it makes. To date Uniedu Foundation has only been providing its services to schools and adults in Spanish speaking countries. The organisation does not receive government grants and it has funded its activities from private and corporate donations, supplemented with its own fundraising activities.

Uniedu Foundation has applied to the UK Charity Commissioners for its charitable status to be recognised in the UK because it wishes to expand its activities here. It will do this through offering a limited number of classroom training and web-based seminars to secondary schools, along with advanced knowledge courses and on-line activities for those who want to further develop their knowledge.

The classroom teaching will be free-of-charge and it will take place on school premises or through a web conference facility hosted at the schools, for use when face-to-face lessons are not possible. Uniedu Foundation will also provide more advanced astronomy and science knowledge courses, each made up of several evening lectures, which will be delivered at university halls or hotels. A single fee will be charged for these lectures.

In addition to the teaching activities, Uniedu Foundation wants to introduce a new online service. It will develop an English language website which will be used to provide interactive science focused online activities to individuals for a fee. This website will be developed by a UK based company and it will be hosted in the UK.

All teaching (school classes, online and lectures) will be provided by suitably qualified and experienced freelance lecturers based in the UK, who will contract with Uniedu Foundation for these services. Uniedu Foundation will produce special laminated leaflets, designed as a reference material to be used by the lecture attendees. The leaflets will be printed in Germany and delivered to the UK by the printer.

The projected costs and forecast income are shown below.

	<u>Lectures</u>	<u>School classes</u>	<u>Total</u>
<u>Costs</u>	£	£	£
Leaflets	10,500	-	10,500
Tutors	32,000	28,000	60,000
Lecturing halls	15,600	-	15,600
Web development	-	-	240,000
Annual hosting fee	-	-	15,000
<u>Projected Income</u>			
Income from online access		9,500	
Income from lectures		75,000	

Requirement:

Explain the VAT implications for Uniedu Foundation of its expansion into the UK including any obligations it is required to comply with. (15)

4. A US based manufacturer of an innovative medical device (Monitors Inc) is planning to expand its global footprint by launching a number of European websites so that European customers can purchase online. The websites will go live on 1 February 2022 and turnover generated from the websites is projected to reach \$750,000 in the first 12 months.

The device monitors blood sugar levels and will be sold with the basic embedded software included to enable users' readings to be captured and stored online. The readings can be used by users or doctors to determine whether any medical intervention is required.

Monitors Inc will initially launch websites in the UK, Germany and Switzerland, with Monitors Inc selling in its own name to the customer. Customers are expected to be medical practitioners (some VAT registered in their countries, some not) and may include certain not for profit entities that are not VAT registered. Although there will only be three websites, it is expected that customers from other European countries (including some non-EU Member States) will purchase through these. For example, it is likely Austrian and Norwegian customers will purchase from the German website. Customers will be able to purchase from any of the websites.

For the first month, beginning on 1 February 2022, devices will be shipped from the US to the EU/non-EU customer, but from 1 March 2022, stock will be shipped from the US and held in a third party warehouse in the UK to enable all European orders to be fulfilled more quickly. All transportation of devices from the US will be handled by a third party freight agent on behalf of Monitors Inc. Monitors Inc will not have any staff in the UK and all directors making key decisions in relation to the business are located in the US. In all cases, website terms and conditions confirm the Incoterms with the customer are Delivered Duty Paid.

Requirement:

Explain the UK VAT and Customs Duty considerations arising from the above proposal including the processes Monitors Inc will need to put in place to ensure it can meet its VAT and Customs Duty obligations. (20)

5. Grant Johnstone has just incorporated GraDecs Ltd to operate as a Customs Agent submitting declarations and arranging transport for the shipment of goods on behalf of others. It is VAT registered.

Grant has a basic knowledge of Customs declarations, but hopes to employ some colleagues from his old employer who ran the in-house Customs department at his previous firm.

GraDecs Ltd does not yet have a deferment account and is not an Authorised Economic Operator – Customs.

In response to its advertising material, a potential client, Crazin Ltd, has asked whether GraDecs Ltd would act for it as an Indirect Representative and whether it would apply for a Processing (Inward Processing) authorisation on its behalf. Crazin Ltd has also suggested that GraDecs Ltd need only declare the amount it is charged for transporting Crazin Ltd's goods. Crazin Ltd say that GraDecs Ltd's own mark-up could be separately invoiced and omitted from the Customs Value.

Requirement:

- 1) **Discuss the Customs Duty and Import VAT benefits for GraDecs Ltd of a deferment account and of being an Authorised Economic Operator – Customs.** (15)
- 2) **Discuss GraDecs Ltd's Customs Duty position in respect of Crazin Ltd's proposals.** (5)

You are NOT required to discuss deferring Excise Duty or Authorised Economic Operator – Security.

Total (20)

6. Washington Boats Ltd is established and VAT registered in the UK. It has traded for 20 years carrying out boat repairs, maintenance and refurbishment. In the past it has sourced all necessary boat parts from a UK-based supplier.

This supplier is now closing down and Washington Boats Ltd has decided to import parts itself. All of Washington Boats Ltd's customers are based in the UK and the parts will not be re-exported. Washington Boats Ltd will not sell parts on their own, it will only supply and fit them.

Requirement:

Explain how Washington Boats Ltd may save Customs Duty on the importation of boats parts. You are NOT required to discuss cash flow benefits. (10)