

Institution **CIOT - ATT-CTA**
Course **CTA Adv Tech Cross-Border Indirect**

Event **NA**

Exam Mode **OPEN LAPTOP + NETWORK**

Count (s)	Word (s)	Char (s)	Char (s) (WS)
Section 1	800	3656	4449
Section 2	782	3565	4343
Section 3	497	2254	2747
Section 4	472	2021	2491
Section 5	506	2287	2792
Section 6	506	2235	2787
Total	3563	16018	19609

Answer-to-Question-_1_

The supply of goods for VAT is determined on where the goods are supplied, for services this depends on where the customer belongs where the supply is to another business.

For the sorting and grading the two options are discussed below:

1. French sorter.

Kitchener will be the owner of the goods in France but these are being diverted to the sorter before being sent to the UK. The French supplier will not be able to zero rate their supply as they are not delivering the goods direct to the UK. Therefore the French supplier will charge French VAT on their supply. Kitchener will need to register in France in order to reclaim the VAT charged on the supply.

The sorter in France is providing a service to Kitchener, as this is a business to business supply the place of supply will be in the UK. Kitchener will need to account for the VAT on the service under the reverse charge regime.

2. Bring to UK for sorting.

Kitchener will need to provide their UK VAT number to the French supplier, the French supplier will then zero rate their supply as it is an intra community supply to the UK. Kitchener will need to account for acquisition VAT on the purchase in box 2, 4, 6 and 8 of their VAT return

The tax point of this supply will be the earlier of either:

- 15th of the following month.
- date invoice issued.

20% sold to German customer.

This is a supply of goods, the normal rules for this supply would be that the French supplier would zero rate their supply to Kitchener as the goods are leaving France, but Kitchener would need to be registered in Germany, to account for the VAT on the supply, and the acquisition VAT.

However for these situations there is a simplified procedure called triangulation that prevents companies having to register in too many countries. Using this procedure the French supplier will zero rate their supply to Kitchener using Kitcheners VAT number, and Kitchener will not charge the German customer UK or French VAT. Kitchener must provide the French supplier with their own VAT number.

On Kitcheners invoice to the German customer it must include their VAT number, and state that the supply is under the triangulation procedure.

Kitchener will also need to include the supply on the EC sales list using indicator 2. The German customer needs to account for the acquisition VAT.

Label Design

The supply of design services falls under the general rules. with business to business transactions having the place of supply of

the customer. However with the supply of the labels included the supply is of goods as the customer is receiving physical goods, therefore the product the end customer is receiving is a labelled bottle and the rules for the supplies of goods will be followed.

The sale of labelled bottles to the EU would be a dispatch and zero rated where the customers VAT number is received and evidence held of the goods leaving the UK. For sales to non EU customers then the supply is also zero rated if evidence held of goods leaving the UK.

If the design is a separate supply then no UK VAT will be chargeable on the supply as the customer is outside of the EU, therefore the supply will be outside the scope of VAT.

The supply of only labels to the non EU customer will be an export, this can be zero rated as long as evidence is held of the products leaving the UK. If only the labels are sent to the customer then the zero rating will be available. Evidence must be held for 6 years and be the C88 export document, air postage evidence.

If the labels are also included on the bottles and shipped out then this will be the same as the above and be a zero rated export.

Agency supplies

An agent is some one who acts for or represents another business in arranging goods and services.

If the invoicing is between the principal (third party designer) and the purchaser then Kitchener is acting as a disclosed agent

and Kitchener will be supplying services to the principal.

As Kitchener is sourcing the third party designers it is acting as an undisclosed agent. Therefore Kitchener is buying in the designer services and selling these on with commission.

Kitchener would be buying the third party services, if not in the UK then these services will be subject to the reverse charge regime and Kitchener will account for the UK VAT in box 1 and 4 of their VAT return. It is fully recoverable as they are making onward supplies to their customers. The invoice to the customers would be in their own name.

-----ANSWER-1-ABOVE-----

-----DO-NOT-EDIT-THIS-DIVIDER-----

-----ANSWER-2-BELOW-----

Answer-to-Question- 2

Hire of generators:

Romania lease

The lease fees to the Romanian customer is not subject to UK VAT and will be treated as where the customer is established. The Romanian customer will need to account for the VAT under the reverse charge procedure. Globalgend will not account for any VAT on the supply but will need to report it on the EC sales list showing 3 in the indicator box. Globalgend will need to keep evidence showing the Romanian customer is in business such as a VAT number.

As the goods are moving within the EU and in free circulation no import VAT will be due on the movement of the generators.

The supply of the generators to the French charity would follow the rules as with the Romanian supply. However as the goods are being delivered to Southampton to be taken out of the UK to the middle east then the supply from Globalgend will be able to be zero rate the supply of the goods leaving the UK for the middle east as long as they leave within 3 months. The lease charge to the French Charity will not be a business to business supply as the use is for non business purposes. Therefore UK VAT will be chargeable on the lease costs as the place of supply will be where Globalgend is located.

Turkey Lease

The removal of generators from the UK to Turkey for leasing will require Globalgend to enter the goods into the New Export System (NES) as these are being exported from the UK to a non EU country. The supply will be zero rated for Globalgend as long as evidence is held of the goods being removed from the UK. The evidence held can be commercial or official, such as the goods

departed message generated by NES or an bill of landing.

The lease charge for the generator will be a general business to business service supply and treated as supplied where the customer is. The customer is in Turkey and therefore the supply will be outside the scope of VAT. The transaction does not need to be included in the EC sales list for Globalgend. The customer needs to be confirmed as a business for this treatment to apply.

The scraping in Turkey at the end of the lease will not be a supply for VAT. If the goods are held in a temporary movement register then they will need to be removed.

Swiss Charity

The donation of goods does not form a supply, therefore no UK VAT is due on the donation. Unless something is provided in return.

The supply of the transport services to the charity will depend on the status of the customer. As the customer is a charity it could be seen as not in business if the supply related to a non business asset. As the generator is not being supplied for business purposes the supply of the transport service will be a business to customer supply which is treated as where the supplier is located. For transports services specifically these are treated as where the transport takes place therefore a UK supply and UK VAT due.

Globalgend are paying for the export of the goods, being the transport. This will be a business to business supply of transport services which are treated as supplied where the customer is located so UK VAT will be applied. This will be standard rated apart from when related to an transportation

services related to the export from the UK which is zero rated.

Sponsorship where nothing is received in return is not viewed as a business supply. However where the sponsor is gaining something in return, such as advertising services for their name/brand then the supply is a business supply and will be chargeable to UK VAT. The supplies of the advertising services in return for the sponsorship income will result in VAT being charged on both the sponsorship income and the corresponding advertising supply. The US sponsorship income will be outside the scope of VAT and subject to the reverse charge regime, which can be recovered in full as the supply of advertising services is being provided in return which will also be outside the scope of VAT.

The supply from Germany of sponsorship will be subject to the reverse charge regime while the supply of advertising will be zero rated to the German sponsor. So full recovery on the reverse charged service.

For the UK sponsor UK VAT will be charged on the sponsorship and on the UK advertising provided in return.

Globalgend will be able to recover the TV advertising as it relates to the taxable sponsorship income received.

-----ANSWER-2-ABOVE-----

-----DO-NOT-EDIT-THIS-DIVIDER-----

-----ANSWER-3-BELOW-----

Answer-to-Question-_3_

Neckcrop Ltd

Supply of insurance is treated as a reverse charge service. Lots of businesses were setting up entities in non EU countries and routing the insurance contracts through these entities so they could obtain input VAT recovery on their purchases.

In the case of Hastings Insurance, Hastings had two entities set up, one in Gibraltar acting as the insurer (G) and one in the UK as the intermediary (H). UK customers were passed to G for the supply of insurance when they go to H's website or called them up. H was providing a service to G of insurance intermediary services and was recovering input VAT as these were specified supplies outside the EU.

The courts needed to determine if H was entitled to credit on their input VAT, which depended on if G received the services from H in their establishment in Gibraltar or at a fixed establishment in the UK. G did not have a presence in the UK so HMRC argued that H was itself a fixed establishment of G. The fixed establishment is a place where there is a permanent human and technical resource able to supply the service itself.

H was found to not be a fixed establishment of G as it had its own separate commercial enterprise and did not have the necessary resources to operate independently.

The right to recovery of input VAT for insurance intermediaries has been restricted and only allowed where the final consumer is located outside the UK. This came into effect on 1 March 2019. Neckcrop is mainly supplying UK horse riders so the end customers

are within the EU.

Based on Hastings Insurance it will depend on if Remindon Ltd can supply the services itself, which based on the information held is unlikely. Therefore the recovery of input VAT for Remindon Ltd is not restricted.

Dowsett Ltd

The sale of assets and contracts that can be operated separately to Dowsett Ltd may fall into the rules for a transfer of a going concern.

As the sale includes all the contracts, the UK office in the UK, the employees, the supply will qualify as a TOGC.

Commission

In Royal Bank of Scotland Vs HMRC a company sold its insurance business to a Swiss co which then sold it on to a Bermuda company. RBS was to retain commission on the renewal of general insurance policies that had been in place prior to the sale. HMRC contented that VAT was chargeable on the commission as it no longer related to an insurance intermediary. The court held that RBS was not acting as an insurance intermediary therefore the commission was not exempt.

In the case of Dowsett the supply of commission is to a Bevos SARL and would be seen as a taxable supply. Although as it is a

service to an EU entity the place of supply rules will state that VAT is outside the scope of UK VAT as the place of supply is in Luxembourg.

-----ANSWER-3-ABOVE-----

-----DO-NOT-EDIT-THIS-DIVIDER-----

-----ANSWER-4-BELOW-----

Answer-to-Question- 4

Currently Oegn UK is responsible for the VAT on the materials brought in and on the sales.

Materials purchased would be subject to import VAT which would be recovered or from UK suppliers so UK VAT which would also be recovered. The sales to UK customers would be subject to UK VAT and the sales to EU businesses would be zero rated as an intra community sale.

The changes being applied by Oegn AG will result in the following:

1. Oegn GmbH sourcing raw materials.

Oegn GmbH will be importing materials into the UK which will be owned by Oegn GmbH, therefore import VAT will be payable in the UK by Oegn GmbH at 20% of the value imported. They would not be able to use the EU cross border refund scheme as the goods are then used for onward supplies in the UK so Oegn GmbH will need to register for VAT in the UK in order to recover the import VAT.

They would be charged UK VAT on transport within the UK which can be recovered once registered.

Materials sourced from the UK will incur UK VAT if not removed from the UK, therefore a UK VAT registration would enable recovery before the processing and then sale.

EU materials sourced into the UK would require Oegn GmbH to have a UK VAT number to provide to the supplier in order for these to be zero rated from the suppliers EU country. Oegn GmbH would account for acquisition VAT on the UK VAT return.

2. Oegn UK, processing work.

Oegn UK will be making a supply of services to Oegn GmbH for the processing work carried out on Oegn GmbH's goods. The place of supply rules for business to business transactions will apply and the place of supply will be where Oegn GmbH belongs. Even though the goods are in the UK and Oegn GmbH holds a UK VAT number the service is still being supplied to the Swiss establishment as no UK establishment exists.

The supply of services will be outside the scope of VAT as

Switzerland is not within the EU. Oegn UK will not need to report the transaction on their EC sales list.

3. Sale by Oegn GmbH.

The sale of the end products to UK customers will be subject to UK VAT. As Oegn GmbH already needs to register in order to reclaim the import VAT then these supplies will be included on their UK VAT return.

The sale to other EU customers from the EU will be invoiced with the UK VAT number shown. The supply will then be zero rated on the UK VAT return if the customers VAT number is held.

Oegn GmbH having a UK VAT number would enable the above transactions to flow relatively similar as the current set up.

-----ANSWER-4-ABOVE-----

-----DO-NOT-EDIT-THIS-DIVIDER-----

-----ANSWER-5-BELOW-----

Answer-to-Question-_5_

HMRC have a number of powers that they can use for the protection the revenue.

HMRC have the power to require any security to be held as a bond or guarantee to be held against any further errors by Teram Ltd.

Customs have the power to examine and remove goods, take samples, search premises, search vehicles or vessels, and to search articles. They may invoke these powers on Teram in future to ensure there are no other errors or mistakes being made.

HMRC will also likely impose a penalty on Teram Ltd as this is not their first offence of underpaying duty. The C18 shows the duty not paid but not any penalty due which will follow.

As Teram Ltd has recklessly made/signed an untrue document, being the C88. As Teram have previously had this error and know the issue but have not taken steps to mitigate and correct this going forward then HMRC may charge a penalty as below:

The goods could be seized by Customs, with the case going before the magistrates court then a fine of up to £20,000 and prison sentence up to 6 months or both could be levied against the company or officer.

If the case is heard in the crown court then there could be an unlimited fine and up to two years in prison or both.

Customs could accept a mitigation of these penalties but this is to their discretion. They could accept a larger fine rather than

sentencing an officer of the company to prison.

There are also civil penalties Teram Ltd can face, this is usually for dishonest evasion of duty and the penalty could be 100% of the duty evaded, therefore another £300,000 payable by Teram Ltd. HMRC will issue a demand notice to request any penalty amount.

Customs can reduce the penalty if Teram has been cooperative and given full disclosure to customs. However as the errors were discovered by Customs in their audit the mitigation will not be substantial compared with an unprompted disclosure. A reduction could be given up to 75% in some cases by HMRC.

Teram Ltd can appeal against any penalty notice, an appeal will need to be made within 30 days of the demand notice date. Customs then have 45 days to review the penalty and either confirm or overturn the penalty. If Teram Ltd is not happy with the outcome then you can appeal to the first tier tribunal within 30 days of customs answer. This is a costly process and is time consuming. An alternative of going through the courts is applying for an alternative dispute resolution, where you can discuss with a HMRC mediator and HMRC to come to an agreement on the issue.

The payment of the duty within 5 days after the C18 has stopped Customs charging interest on the amount outstanding as usually they allow 10 days to pay before charging interest. Under the new code the time limit is 30 days or can be put through the duty deferment account if held.

-----ANSWER-5-ABOVE-----

-----DO-NOT-EDIT-THIS-DIVIDER-----

-----ANSWER-6-BELOW-----

Answer-to-Question-_6_

Normally when a product is imported into the UK from outside the EU customs duty would be payable on the value of the goods imported. This includes EU goods returning as they would lose their EU union good status.

However in Fabrics Ltd instance as they originally exported their own product to the US and re imported this then they may be able to use Outward Processing Relief (OPR) on the goods re imported. No other scheme will result in an actual saving for Fabric Ltd.

Fabric Ltd will need to show that the coats imported were used with the products re imported.

Fabric Ltd will need to be authorised to use OPR, this will involve the following conditions to be satisfied:

1. Fabric Ltd is established in the Union - This is met as Fabrics Ltd is established in the UK.
2. A guarantee or guarantee waiver is held - Fabric Ltd will not need this as the coats are only exported for processing and then

returned in full.

3. The economic conditions are satisfied - The waterproof coating is a specialist item that cannot be sourced from within the EU, Fabric Ltd is not harming other EU producers as no other entity in the EU is providing this product. Under code 6 in the UCC the unavailability of goods in the EU is a valid reason and satisfies the economic test.

Based on Fabric Ltd meeting the above conditions they can apply to customs on the form SP4. Customs will approve the form from the date of issue and it will apply for a max of 5 years.

Fabric will also need to show they are financially solvent, have a good history of compliance and have adequate accounting records to be authorised by HMRC.

HMRC will set a time limit where the export, processing and re importation must take place and also set a rate of yield on the product.

Fabric Ltd will need to declare the OPR goods on the C88 once re imported. Any agent used must be informed of this going forward if used.

Under the UCC there is only one method of calculating the duty relief available, this looks at the value added under the processing.

The processing value is effectively deducting the UK value of goods included in the re imported value. So if no relief is provided then the 8% duty will be applicable on the following:

Value of coats	£100,000
Export costs	Not applied

Processing costs	£27,000
Insurance	£750
Freight	£3,500
Total	£131,250

At 8% duty = £10,500 due at import for Fabric Ltd

If OPR is claimed then only the value added by the processing is charged for duty. The processing cost includes the insurance and freight back to the EU.

Value under OPR = £31,250

At 8% duty rate = £2,500

Therefore under OPR a saving on the reimport of the goods will be of £8,000.

£2,500 will be due for the duty on the re imported coats and need to be paid to customs.

