

APS MAY 2024: VAT – ASSESSMENT NARRATIVE

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
3.	Clear layout with headings
4.	Flow of answer
5.	Appropriate style
6.	Grammar and spelling
7.	Appropriate calculations
8.	Lack of irrelevant material

See detailed guidance on what will amount to a MINOR fault or a MAJOR fault.

For each of the 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 4 or more MINOR faults.

Identification and application

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

1.	VAT 30%	Identifying and applying the VAT treatment of different routes for acquiring the business of T Ltd, e.g., share purchase, asset purchase, TOGC; and explaining their effect.
2.	VAT 25%	Identifying and applying VAT registration rules to the position of AB Ltd and T Ltd (including voluntary/intending trader and VAT grouping) and entitlement to deduct VAT on costs relating to the above. Identifying and applying rules relating to AB Ltd pursuing T Ltd's historic VAT claims (for output VAT overpaid and input VAT underclaimed) following acquisition of the business
3.	VAT 10%	Identifying and applying the VAT place of supply rules for cross-border supply of IP rights and/ or electronic services, including OSS registration where electronic services are supplied direct to overseas non-business customers.
4.	CT 15%	Identifying and applying corporation tax treatment of the different acquisition routes and deduction rules.
5.	CT 15%	Identifying and applying rules for loss relief and group relief (including anti-avoidance).
6.	Stamp taxes 5%	Identifying and applying liability for stamp taxes/ SDLT on acquisition.

A grade of 0, 1, 2, 3 or 4 is awarded for each topic. The weighting is applied to that grade to produce a weighted average grade.

Relevant Advice and Substantiated Recommendations

1.	VAT 30%	Weighing up the advantages and disadvantages of the potential acquisition routes including advising on limiting AB Ltd's exposure and compliance and possible difficulties, e.g., of securing TOGC treatment
2.	VAT 30%	Advising on VAT-registration requirements and options and the entitlement to deduct VAT on costs; Recommending incorporation of Newco for tax and commercial reasons; recommending seeking intending trader registration to entitle deduction of VAT. Recommending future VAT grouping if intercompany supplies. Advising on place of supply rules for Project Z services, including recommending OSS registration for supplies of electronic services to EU non-business customers.
3.	CT, other taxes 40%	Advising on issues likely to arise for CT, stamp duty and SDLT and, in particular, likelihood of challenge by HMRC to a group relief claim by AB Ltd for T Ltd's losses and recommending against such a claim. Recommending the avoidance of tax pitfalls e.g., creating an employment relationship with Charlie/ Gabriela or a fixed establishment in Spain.

The final grade will be determined for this skill in the same way as for Identification and Application. Credit will be given for other valid recommendations supported by appropriate reasoning.

Credit will be given for alternatives to the Suggested Solution, provided these are realistic, commercial and supported by appropriate reasoning.