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

Event **NA**

Exam Mode **OPEN LAPTOP + NETWORK**

Exam ID

Count(s)	Word(s)	Char(s)	Char(s) (WS)
Section 1	**705**	**3296**	**3999**
Section 2	**1012**	**4371**	**5382**
Section 3	**867**	**3800**	**4664**
Section 4	**1197**	**5945**	**7138**
Section 5	**739**	**3305**	**4019**
Section 6	**199**	**897**	**1094**
Total	**4719**	**21614**	**26296**

Answer-to-Question-_1_

The general B2B place of supply rule is the place of supply si where the business customer belongs. The general B2C place of supply rule is the place of supply is where the supplier belongs. Schedule 4A of VATA1994 has overrides to this. One of which is ESS.

When provided to a fitness centre this is a B2B supply and when provided directly to an indvidual this is a B2C supply.

Salafit (S) is providing pre-recorded and accessible on demand fitness classes. These fitness classes could fall within the definition of an ESS. This is an e-service with little or no human interaction. ESS includes distance teaching and the supply of sports broadcasts. The pre-recorded element does have human interaction but it is not live interaction like on a webinar or seminar.

If an ESS when provided to individuals the place of supply is where the customer belongs which in most cases will be the UK. B2B ESS rule is that the place of supply can be overriden to where the business customer uses and enjoys the service. This is unlikely to differ to the general B2B rule as both in the UK but must be monitored in case any fitness centres are established outside the UK (Zurich case). Therefore no VAT charged on the invoice and reverse charge performed by the fitness centre (mandatorily if general rule is not overrdfien which could have an impact on its VAT registration threshold if no0t VAT registered). If VAT registered it can recover the reverse charge in box 4 under the normal rules.

B2C supplies therefore have a place of supply in the UK if an ESS. Therefore, S is required to account for UK VAT on its supplies to indicviduals at the standard rate. It

must then have two-non contradictory pieces of evidence where the indicvidual is based (IP address, SIM card, etc). Manadarin Consulting case emphasises the importance of this as they were unable to obtain the evidence.

Therefore, if an ESS S will be liable to VAT register in the UK in relation to its taxable B2C supplies. It has no establishmnet in the UK and tyhe fitness centres will not create a fixed establishment for it as in the UK per Cabot Plastics and Hastings Insurance cases. Therefore, it is required to VAT register by writing to the NETPU and register under schedule 1A (Schmeltz case). It would be required to appoint a VAT representative or agent or handle its VAT affairs itself. It would be recommended to get a VAT agent to do so (64-8). It would then be able to recover its VAT via its UK VAT registration instead of the overseas VAT refund claim. It would be required to be VAT registered from the date of its first supply.

Discount

The amount paid by the fitness centre will be accounted for on the amount it actually pays thus if it does manage to achieve the discount then it will be this amount (Empire Stores and Naturally Yours cases). Therefore, the fitness centre would have accounted for reverse charge on the initial full amount and can therefore apply the reverse charge to the credit note on its next VAT return.

Nutritional coaching

S will be acting as a disclosed agent. The supplies will be from the dieticians as principal to the individuals. S is just putting the two parties together via its website. The individual knows it is chosing that dietician and paying that dietician. Agency arrangements should

be drawn up.

Commission income will be a B2B supply as the dietician is a business thus if a UK dieticina no VAT on S' supplies and a mandatory reverse charge in the UK for self employed contributing to its VAT registration threshold. If a B2C supply then US VAT charged.

Either way the commission to the US dietician will be US VAT charged whether the self employed individual is deemed to be a business customer or an individual. However as they are self-employed this is most likely a business for VAT purposes and must be checked before invoicing.

Advertuising fee is a general B2B supply thus place of supply is where the business customer belongs. Likewsie for processing of the card payments.

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

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

Answer-to-Question-_2_

Re-design services

The re-design services originally provided by pachtenon (P) to ZBUL (Z) is a general B2B supply thus place of supply is in the UK where ZBUL is established and P has no fixed establishment in the UK. Thus no VAT on the supply and a mnadatory reverse charge for Z which goes in boxes 1 and 4 (if it is fully recoverable).

Sale of Pax

The sale of Rax is a zero rated export from P in Germany. Good must have been exported within 3months, commercial or official evidence must be held and evidence of the export itself. Who will be liable for the import declaration (C88) is the question here. The import VAT must then be accounted for in the UK. The goods don't transfer to Z until they are installed therefore P is liable for the import declaration and to account for the import VAT which it must recover via an overseas VAT claim (VN723A).

If Z accounts for the import VAT it can do so via PVA, this will allow a cash flow benefit as it will defer the payment of the import VAT to its next VAT return and therefore included in boxes 1 and 4 (if relates to a taxable supply). It must quote its VRN on the import declaration if so.

If Pax is returned to Germany, P would be able to apply for returned goods relief in Germany to prevent it having to account for import duty (if applicable due to TCA) and VAT in Germany as the goods will be returned within 3 years in the same state and to the exporter. The evidence of the export must be retained.

The reason for this is because if Pax does not pass the tests it is returned to Germany. However, if it passes the tests

If deemed a supply and installation of equipment. The supply and installation of goods, the place of supply is where the installation is carried out. Therefore, if the installation ends up occurring the place of supply is in the UK. Supply and install? If so, include installation and tooling, freight cost etc

If the equipment is a permanantly affixed to the building and is deemed imoveable property then its installation services are deemed to be a land related supply. This will mean that the place of supply is in the UK therefore no VAT should be charged on the installation services to Z as it is VAT registered and can perform the reverse charge under its UK VAT registration. This will then be recoevrable per Z's onward supplies in the UK.

If it is not deemed to be a land related supply which is unlikely as its legs are beig screwed to the floor by engineers which should be deemed affixed to the building. However, if not thiought so it is a general B2B supply with the same VAT implications apart from the reverse charge will be mandatory for Z in the UK.

The sale of Pax to Z would then be a supply of goods installed in the UK thus domestic UK sale to Z from P. Thus UK VAT must be charged on the £120,000 sale.

P will be liable to VAT register. It has no establishmnet in the UK and Z does not create a

fixed establishment for it in the UK per Cabot Plastics and Hastings Insurance cases. Therefore, it is required to VAT register by writing to the NETPU and register udner schedule 1A. It would be required to appoint a VAT representative or agent or handle its VAT affairs itself. It would be recommended to get a VAT agent to do so (64-8). It would then be able to recover its VAT via its UK VAT registration instead of the overseas VAT refund claim. However, it would be advisable for it to VAT register as an intending trader on the basis that it intends to make taxable supplies so it can recover its import VAT via PVA above and all other supplies on its VAT return instead of requiring an overseas VAT refund claim.

Materials

Supplies of packaging materials will be incurred by P with UK VAT. VAT recovery per its VAT return but if not VAT registered then VN723A.

Additional charge

The additional charge is a separate supply which is done under a separate charge. It is not ancillary to the supply and installation above per CPP and Levob priniciples.

The servive charge which P charges Z is a B2B supply. This is a general supply however it relates to the repair of the machinery affixed to the building in the UK thus could be deemed a land related supply. Either way under general B2B rule or land related supply the place of suppy is in the UK.

No VAT should be charged by P and Z can perform the reverse charge under its UK VAT registration. Under the general B2B supply rule the reverse charge is mandatory. This will then be recoevrable per Z's onward supplies in the UK.

The UK subcontractor won't be able to use the DRC on its supplies to P unless P is VAT registered in the UK and its services fall within the Construction indistry scheme (CIS). Thus, it will charge UK VAT on its supplies which P must recover via per VN723A. If DRC was possible the subbie would only account for its supplies in box 6, no VAT charged on its supply and then P would be required to account for the output tax and recover it on the same return.

The shipment of the additional components will require import VAT to be accounted for and duty in the UK. PVA can be used as explained above if P is VAT registered otherwise must use an agent to clear the goods for customs and VAT in the UK.

Insurance

The insurance services P receives are outside the UK thus outside the scope of UK VAT. German advice should be sought. If provided in the UK they would most likely be exempt from VAT.

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

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

Answer-to-Question-_3_

It is after Brexit (01/01/21) therefore the UK follows UK law for supplies of goods. Northern Ireland follows NI Protocol. It follows EU law but uses UK duty rates unless goods are at risk and in which case it uses EU duty rates.

Imports into NI

Blendorg (B) is managing all import clearances in the UK on behalf of Supco (S). Therefore it is acting as its dislosed agent. Therefore, Supco is actually liable to the import VAT and duty in Northern Ireland. S should VAT register voluntarily prior to making supplies as an intending trader so it can recover its import VAT throug PVA. Postponed VAT accounting (PVA) allows for import VAT to be accounted for on the next VAT return and therefore provides a cash flow advantage. It must account for the import VAT on box 1 and then recover it in box 4 of the same return if its recoverable which it appears to be. It must disclose its VAT registration number on its import declaration (C88) so its clear it is using PVA.

It has no establishmnet in the UK and B does not create a fixed establishment for it in the UK per Cabot Plastics and Hastings Insurance cases. Therefore, it is required to VAT register by writing to the NETPU and register under schedule 1A (Schmeltz case). It would be required to appoint a VAT representative or agent or handle its VAT affairs itself. It would be recommended to get a VAT agent to do so (64-8). It would then be able to recover its VAT via its UK VAT registration instead of the overseas VAT refund

claim. However, it would be advisable for it to VAT register as an intending trader on the basis that it intends to make taxable supplies so it can recover its import VAT via PVA above and all other supplies on its VAT return instead of requiring an overseas VAT refund claim.

B on S' behalf must sort the import declrations into NI (c88). The goods that originate in the US will be liable to customs duty and import VAT providing the value is above £135. The customs duty will be irrecoverable cost. The packaging from Italy will be liable to import VAT but not customs duty due to the TCA.

Method 1 can be used for the valuation method as there is no relationship between the parties thus the price paid or payable should be allowed. The duty could be deferred through either S or B's duty deferment account. It must apply to HMRC for one and it will required a guarantee. It defers the payment of VAT until the 15th of the following month and therefore receives a quicker process through customs as it doesn't have to pay the duty to clear the goods are import.

Inward processing could be considereed for the goods to defer the payment of duty and if any goods are re-exported (now or in the future) it would prevent the duty or import VAT being paid. Must be authorised to use IP.

Any charges B makes to S for the management of its supplies and for its services will be a general B2B supply to its establishment in the US thus no VAT charged as it outside the scope of UK VAT with a place of supply in the US.

Sales

B2C sales in the UK will be liable to UK VAT unde excepted item 4 of group 1 chedule 8. Sports drinks advertised as sports drinks to enhance recovery or enhance perfromance are an excluded item from the zero rating for food and drink thus is a standard rated product in the UK. UK VAT will be due on UK B2C sales under its UK VAT registration.

The weight loss products appear to fall within the same category however this cannot be confirmed and a detailed review of which category these products fall into is required as they may fall into the zero rate for VAT in the UK. However, it appears they both should be standard rated. There has been a lot of recent case law in the past 6 -24 months thus a review is required.

Any import VAT incurred either way whether standrad rated or zero rated will be fully recoverable as relate to an onward taxable supply.

It will be liable to account for the duty on the customs value which should include the processing, packaging and transportation costs up to the point of entry into the UK for customs duty however for import VAT it must include transport within the UK as well.

The B2C sales from NI to ROI will be liable to UK VAT where the supplies are below the distance selling threshold of 10,000 euros. Once this is exceeded destination VAT in the ROI must be accounted for on sales. This will require S to VAT register in ROI to account for this VAT. However, if it is looking to further expland into the EU it should consider the non-union OSS. This will prevent various EU vat registrations, it is one quarterly return submitted at the end of the month. However, no VAT recovery is permitted through this OSS.

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

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

Answer-to-Question-_4_

Establishments

Wealth Corp has a business establishment in Canada. A business establishment is where the main functions of the business' central administration is carried out, usually this will be the head office, headquarters or 'seat' from which the business is run. Wealth Corp has no other establishments based on the information provided.

Per Berholtz case, fixed establishment is where the human and technical resources necessary for providing or receiving service is permanantly present. A branch is deemed to be a fixed establishement. Where there is more than one establishment in more than one country it must be decided which establishment is most closely connected with the supply.

Based on the above, Cwealth has a business or a fixed establishment in the UK as it has staff and technical resources in the UK and a fixed establishment in Luxembourg due to it having a branch there with staff and resources. Therefore, it has two establishments and it must be decided which is most closely connected to each of its supplies below as this impacts the VAT treatment.

Cweath services

Deposit accounts and financial advisory services

The provision of financial services can be exempt per Group 5, Schedule 9. Item 5 is for the supply of finnacial intermediary services which can be exempt. It does not need to involve as much additional work like the insurance intermediary exemption therefore it is much easier to fall within this exemption. The services must consist of bringing together persons providing financial services and a person seeking financial services together with the work preparatory.

Financial services to individuals fall within para 16 sch 4a VATA94. The place of supply is where the recipient belongs (B2C supply). This overrides the general B2C place of supply rule which is that the place of supply is where the supplier belongs.

Deposit account services are exempt from VAT when providing within the UK. Where provided to individuals in the EU this will be a UK place of supply and exempt from VAT. When provided to EU individuals this will have a place of supply in the EU, no UK VAT on the supply as it is outside the scope of UK VAT. See VAT recovery section but any input tax directly atributed to this supply will be fully recoverable

The financial advisory services are unlikely to fall within the financial intermediary services categopry which is stated above as it is not facilitating the financial services at all instead providing expert advice. Thus, this will be treated as the supply of consultancy. Per the Gray & farrar case consultancy is defined as the provision of expert advice.

The place of supply of consultancy also falls within para 16 of sch4a and is where the recipient belongs. Therefore, when provided to UK individuals the place of supply is within the UK and UK VAT should be charged at the standard rate. It must consider

whether its supplies exceed the VAT registration threshold of 85k within the previous 12 months and if so it must mandatorily VAT register. Otherwise CWealth should consider volunatrily VAT registering so it can recover its input tax on the supply. It should consider whether the input tax will outweigh the administrative costs of VAT registering and filing VAT returns.

When teh advisory services are provided to EU individuals the place of supply is in the EU therefore CWealth must register for VAT in the EU countries of the individuals it supplies to account for the output tax on its supplies in the EU. Otherwise, it could register for the non-union OSS. This is a quarterly return which must be submitted by the end of the following month. This would prevent it from having to VAT register in various EU member states. Manadarin Consulting case showed that the place of supply is where the recipient belongs but it couldn't get the evidence of where the recipient belonged. Therefore, it is essential to retain and keep evidence of where the recipient belongs. This should be two non-contradictory pieces of evidence. For example, IP address, SIM card, etc.

Investment management services

Investment managing services to funds which are either held by individuals or various members of the public. Management of funds can be exempt when in the UK if meet the conditions of item 9 and 10 of group 5 and the notes following them. These services are therefore most likley exempt and will follow the treatment of the despositing services above. Either way full input tax recovery will be permitted when provided outside the UK uner s.26 (2)(b) and (c).

The services provided to the Luxembourg funds in Luxembourg should be provided by the Luxembourg branch for ease. This will be outside the scope of UK VAT and Luxembourg VAT advice should be sought.

Intercompany recharges

The branch (Lux establishment) and the UK establishment will be providing support to each other for the services in which they provide. This includes admin. These services are deemed to be disregarded for VAT purposes as the branch and UK establishment are part of ther same entity for VAT. This was shown in the FCE bank case.

Wealth Corp

The services it provdides to Cwealth are marketing support, software packages and a Loan. It would be recommended these are provided under separate contracts for VAT purposes. If provided on their own:

All services are B2B which it provides, the software package would fall within the definition of an ESS. The software package relates to the management of the collection funds thus could be argued it is used and enjoyed by both UK and Lux branches. If so, the invoice must be apportioned or separate invoices issued.

The marketing support is a general B2B supply thus no VAT charged on the supply and a mandatory reverse charge for Cwealth in the UK or Luxembourg. This will impact its VAT registration threshold. It will be able to use the VAT registration in both locations as it has establishments in both.

The loan would then be liable to reverse charge in the UK which would be exempt thus no VAT on this supply to CWealth.

It must therefore determine whether the UK establishment or teh Luxembourg establishment is most closely connected with the supplieas above.

VAT recovery

cWeath will be partially exempt for VAT purposes and therefore must directly attribute its supplies between those that are taxable in the UK, taxable if provided in the UK but provided outside the UK, or that meet the specified services order in s26 (2)(c). This inpit tax would be fully recoverable. Any input tax dircetly attributable to its exempt supplies would be irrecoverable.
Financial services provided to individuals or businesses outside the UK is eligible for VAT recovery per s.26 (2)(c) - specified services order.

Any costs which relate to both supplies will be a residual cost and must be recovered per its partial exemption calculation. This will most likelty be standrd method (income values based). It should consider looking into applying for a PESM if a more fair and reasonable method is found.

Recommendations

It would be recommended to VAT register in the UK for recovery on input tax relating to its supplies as stated above.

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

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

Answer-to-Question-_5_

1.

Customs duty is an irrecoverable cost. Greabric Ltd (G) must make sure it accounts for customs duty correctly otherwise it could be liable to penalties (Civil evasion penalties or civil penalties).

It is after Brexit (01/01/21) therefore the UK follows UK law for supplies of goods. Northern ireland follows NI Protocol. It follows EU law but uses UK duty rates unless goods are at risk and in which case it uses EU duty rates.

Greabric (G) uses its own deferment account thus it defers the payment of VAT until the 15th of the following month and therefore receives a quicker process through customs as it doesn't have to pay the duty to clear the goods are import. It will incur a cost for using the customs agent.

G and Usbric (U) are connected parties thus would not be able to use method 1 which is transactional value ie price paid for the goods. Methods 2 and 3 have already been dismissed by HMRC thus we must consider methods 4 and 5.

<u>Method 4</u>

Method 4 is the known as the sales minus method. This is the sale price of any similar or identical item in at the same time (90 days) minus the profit and loss and expenses, insurance and freight in the UK.

Benefits are that it has this information readily available as it sells a similar product within 90 days. It can agree the method with HMRC.

Calculations

Sale of similar item	75 x 1,500 units	112,500	
Less Profit and expenses	(8 x 1,500 units)	(12,000)	
Less UK transport and insurance		(1,000)	
		99,500	
CD at 4%	99,500 x 4%		
	3,980		

Method 5

Method 5 is the cost plus method. It is the cost of producing the goods and the cost of the container, packaging, and the transport, insurance, loading and packing charges (up to the point of entry into the UK). It also includes the amount of expenses usually incurred in enabling comparable goods be sold and includes the profit and loss of comparable goods.

The benefits of this is that all this information should be available for similar products it sells and thus shouldn't be difficult to extract.

Calculations

Costs				
materials	45			

profit expenses	14			
transport in US	3			
royalty	1	Could be excluded but have included		
	63			
all units	63 x 1,500	94,500		
CD at 4%		3,780		

Method 5 would be preferable as it would mean less duty would be paid.

It has been underdeclaring import duty as has been using a customs value of 320 per unit. This is way below either method 4 or 5.
It is recommened it discloses this error to HMRC to try to mitigate any penalties.

2.

Postponed VAT accounting (PVA) allows for import VAT to be accounted for on the next VAT return and therefore provides a cash flow advantage. It must account for the import VAT on box 1 and then recover it in box 4 of the same return if its recoverable which it appears to be. It must disclose its VAT registration number on its import declaration (C88) so its clear it is using PVA.

Whereas G has been declaring the import VAT on its declaration thus this a cash flow issue. This will mean that it can account for the VAT quarterly going forwards instead of having to declare it at each import. Therefore, along with its duty deferment account this will enable a quicker importing process at customs.

3.
It is likely HMRC will issue a penalty for using a nominal value as it is not really one of the methods allowed per the law. It can't be deemed as method 6 (reasonable basis) as this has not been agreed with HMRC which is must be to entitle its use.

The value of the additional payments will most likely be seen by HMRC as what should have been included in the customs duty value. This was seen in Swiss Caps case.

Therefore, it will most likely be issuing penalties on this basis or because they haven't used a clear method which is permitted.

There is therefor eunpaid duty which HMRC will assess. There are penalties whcih will be raised and charged separately to the unpaid duty. It could be liable to penalties (Civil evasion penalties or civil penalties). Most likely this will be a civil penalty. One penalty per error. This can be appealed by G if it has a satisfactory argument.

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

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

Answer-to-Question-_6_

It is after Brexit (01/01/21) therefore the UK follows UK law for supplies of goods. Northern Ireland follows NI Protocol. It follows EU law but uses UK duty rates unless goods are at risk and in which case it uses EU duty rates.

M will be transporting UK orgin goods to France under the TCA thus no duty payable in France or Spain. When shipped onto Algeria it would be liable to9 import duty in Algeria as unless there is preference in Algeria. It could apply for outward processing or potentially temporary admission into Algeria.

Customs duty is an irrecoverabvle cost thus M would like to consider how to not pay it.

McHol Ltd (M) could use outward processing (OP) which would mean that customs duty would only be payable on the value added when the goods return from Algeria. It must bve authroised to do so (SP4 application form). It would be required to be finnacially solvent, have a business establishment in tyhe UK, have a uk eori. prove to HMRC it won't be an added amdin on it.

Prove it has a busienss need. Maintain good reciords as well.
The goods must have originated in the UK.