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

Answer-to-Question-_1_

ConfCo ("C")

ConfCo registration and establishment position:

ConfCo are based in Dubai as this is where they are established and have a fixed establishment. The provision of the conference will not be considered to create a fixed establishment in the UK.

They will not have a UK fixed establishment as they do not have permanent human and technical resources in order to make taxable supplies in the UK.

On this basis, they will be considered to be a non-established taxable person (NETP).

If ConfCo makes any taxable supplies in the UK they will be required to register for VAT under Sch1A.

There is no registration threshold for NETPs in the UK per the Schmelz case.

The provision of the conference will be considered to be admission to an event and will result in a UK VAT registration liability in the UK.

Agency

It is not the Dubai client that is considered to be providing the conference on the basis that ConfCo are acting as agent in their own name meaning that they are acting as an undisclosed agent. This therefore means that there will be a supply from ConfCo to the delegates and a separate supply from ConfCo to the Dubai client in respect of the event management fee as commission.

ConfCo should notify HMRC of their UK VAT registration liability in order to account for the necessary output tax.

Taxable status of delegates

UK and overseas businesses will be considered B2B sales as they will be taxable persons, this is regardless of whether or not they are registered for VAT.

Not for profit organisations with no commercial activities will be considered to be B2C supplies on the basis that they will have no commercial activity meaning that they are not a taxable person for VAT purposes and the supplies to them will fall under the B2C rules.

Place of supply

The general rule for VAT purposes for the place of supply is that

supplies are taxable where the recipient belongs for B2B supplies and taxable where the supplier belongs for B2C supplies.

There are exceptions to the general rule, such as B2B supplies of admission to an event.

This will be taxable where the event takes place.

On this basis, the place of supply of the event fee will be taxable in the UK for B2B.

For B2C this will also be taxable in the UK.

ConfCo will need to register once the first income relating to the event that is taxable is received (for example a deposit).

They will need to register for UK VAT with HMRC as a NETP within 30 days of receipt of the payment for the deposit.

As they are acting in their own name for their client they are acting as an undisclosed agent meaning that the Dubai client does not need to register for UK VAT on the income received for the conference.

Revenue from sponsorship

Depending on whether or not ConfCo are providing anything in

exchange for the sponsorship income will depend on whether or not this will be considered to be taxable or not.

If the sponsorship is given in exchange for something, for example the display of their logo on the goody bags then output tax would need to be accounted for on the sponsorship income.

If the sponsorship is not given in exchange of anything (which would seem unlikely) then this would be outside the scope of UK VAT and would not be considered to be a supply for VAT purposes.

Revenue for arranging hotel accommodation for delegates

UK VAT will be charged on the hotel accommodation by the hotel as it is a land related supply and taxable at the standard ate.

The provision of hotel accommodation and optional extras may fall under the Tour Operators Margin Scheme (TOMS) this is because they are buying and reselling travel.

This is a mandatory scheme for ConfCo to use if it does fall under TOMS.

VAT would be accounted for on the margin between the cost of the service and what they are charging the delegates.

It is recommended that ConfCo passes the costs onto delegates at

cost and that they are treated as disbursements in order for delegates to receive VAT invoices to recover the VAT on the cost of hotels etc where they are B2B supplies.

If the hotel and gala dinner are considered to be business entertainment then the VAT on this will be blocked and will not be recoverable for ConfCo.

Optional extras for delegates

The optional extras will follow the same tax rules as the accommodation services.

Goody bags

The provision of goody bags will be marketing materials provided to each of the delegates.

VAT and customs duty will be payable on the goods when they are imported assuming that the consignment is valued at more than £135 (if not, only domestic VAT will be due).

If the goody bags are less than £50 and the value given to delegates is less than £50 in a 12 month period then no output tax needs to be accounted for on the gift of the goody bags.

The VAT on the importation can be recovered using the C79 or

postponed VAT accounting when the goods are imported and the consignment is valued at more than £135.

It is therefore recommended that the goody bags are valued at less than £50 in order to avoid any output tax becoming chargeable on the goody bags.

Marketing banners and conference stands

The marketing banners and conference stands would usually be liable to import VAT and customs duty upon importation into the UK with the rates subject to the relevant commodity code of the goods.

There is however relief that is given when goods are temporary imported into the UK called temporary admission.

This is only for select goods, however, marketing materials that are used at an event where they are not relating to the sale of goods fall under the relief for full VAT and duty relief.

This means that upon entry into the UK, provided the goods are re-exported within 2 years, the goods can be imported and export without the payment of import VAT or duty.

The goods can be declared on the SAD import declaration when the goods are originally imported into the UK under temporary

admission provided the correct customs procedure code (CPC) is used.

On the assumption that this will be a one off event, it is recommended that full Sp5 authorisation is not applied for.

Security will be payable and this will be for the import VAT and duty that would have fallen due should the goods have not qualified for temporary admission or been entered into this customs procedure. The security will be refunded/cancelled when ConfCo re-exports the goods.

Alternatively, an ATA carnet can be used in order to avoid the payment of customs duty and import VAT. However, on the assumption that this is a one off event in the UK then the ATA carnet will be too costly to arrange when considering the benefit of the ATA carnet. This can most simply be thought of as a passport for the goods to travel VAT and duty free around the world.

Equipment hire

The equipment hire will be taxed in the UK on the basis that it will fall under the use and enjoyment provisions.

As it will be short term hire and will be used and enjoyed in the UK, this will be taxable in the UK.

Catering

Catering will be standard rated by the supplier.

This will be recoverable to the extent that it does not relate to the gala dinner which would be considered business entertainment with a recovery restriction.

Event management fee

The event management fee will be a B2B service.

This will be taxable under the general rule.

This does not directly relate to admission to the event itself and relates to commission.

As ConfCo are based outside the UK, this will be a supply that has a place of supply outside the scope of UK VAT as the Dubai client is outside the scope of UK VAT.

Profit

The profit itself will not be subject to VAT when the monies are held in Dubai.

Recovery of UK VAT

ConfCo will recover the relevant VAT where it is not blocked (e. g. business entertainment) on the UK VAT return once registered.

These will be quarterly returns submitted.

The VAT registration should be applied for now with HMRC on an intending basis as this will mean that VAT can be recovered on the deposit for the hotel as this will create a tax point.

There are also a number of delays at present with HMRC processing NETP VAT registrations so this will ensure that ConfCo is able to issue VAT invoices to customers with time before the conference reducing admin costs for them.

This will also minimise VAT costs if they can import any goods under postponed VAT accounting as they will benefit from the cash flow.

They should also apply for a GB EORI number as they will be importing goods into the UK.

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

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

Answer-to-Question-_2_

IFA LLP (IFA)

Financial services

IFA provide financial advice on investments to private individuals.

This is considered to be a financial service which is considered to be exempt from VAT, meaning IFA is unable to register for VAT or recover VAT on costs where services are provided to UK individuals.

UK establishment

As IFA is operating in an office in London with employees, it is considered to have permanent human and technical resource in order to make taxable supplies.

Brexit

Prior to 1 January 2021, IFA was following EU laws as the UK was part of the EU.

Following 1 January 2021, IFA follows UK law as the UK has left the EU.

Switzerland is not considered to be part of the EU for VAT purposes.

Specified services order (SSO)

Financial services fall under the specified services order 1999.

This means that the supplies to non-UK customers will be outside the scope of UK VAT with recovery on the supplies as the services are exported.

This will give the right to VAT registration and VAT recovery, subject to the partial exemption rules on the recovery of costs.

Prior to 1 January 2021, supplies to UK and EU resident customers will be considered to be exempt supplies as they are not exported. Supplies to non-EU customers will be outside the scope of UK VAT with recovery.

Post 1 January 2021, supplies made to non-UK individuals will be considered to be outside the scope of UK VAT with recovery

following due to the specified services order.

They will need to consider the transitional arrangements for supplies spanning the end of the transitional period with the EU as this will affect the partial exemption calculation and liability of supplies.

UK customer:

Supplies to the UK customer will not be considered to be exported for VAT purposes so will be considered to be exempt from VAT.

No VAT directly relating to this will be recoverable unless the business is de minimis for VAT purposes under partial exemption.

Swiss customer:

Switzerland is outside the EU and as such, supplies relating to the Swiss customer will be outside the scope of UK VAT with recovery pre and post Brexit.

German customer:

Pre Brexit, the services supplied will not be considered to be exported on the basis that the UK was part of the UK so would be considered exempt.

Post Brexit, the services will follow the Swiss customer VAT treatment as Germany is outside the UK.

Split residence customer:

The export of services depends on where the customer belongs.

This is determined where the customer has their usual place of residence.

An individual can only have one usual place of residence.

It will usually be where they are regarded as resident, where they have set up their home and where they are in full time employment.

It therefore needs to be determined whether or not the customer is considered to be belonging to the UK or US.

If it cannot be determined, it would be more conservative to treat them as UK resident as this protects IFA from a claim from HMRC.

IFA should approach their customer to obtain further information.

Factors which may influence the place of belonging would be for example, which address was used for the letter of engagement,

whether or not a UK bank account is used for payment, where is the individual considered to be tax resident.

Is the Swiss office or London office more closely connected to the supplies?

The employee in Switzerland may be considered to create a fixed establishment for VAT purposes.

As they are providing permanent human and technical resource, they could be considered to be a fixed establishment.

However, as the Swiss employee only identifies clients in Switzerland and is not capable of making taxable supplies, it will not be considered to be a fixed establishment. This is because the Swiss office will be considered to be a representative office providing marketing services to IFA.

On this basis, supplies will only be considered to be made by the UK fixed establishment.

Swiss employee:

The Swiss employee will be making referrals to the UK office.

As contracts are signed by the UK office and advice is provided by the UK office then this will be considered to be provided by

the UK office rather than the Swiss employee.

The Swiss employee is acting as a representative office for marketing services in Switzerland.

As they are not making any taxable supplies in Switzerland, there will be no registration required for VAT purposes in Switzerland.

Donation to global charities by IFA LLP

The donation to global charities by IFA LLP will be considered to be outside the scope of UK VAT on the basis that it is freely given with nothing received in return by IFA.

This therefore means that it is not a supply as there is nothing received in respect of the consideration.

There are no VAT implications for the donations made by the customers.

Recovery of costs incurred following registration:

UK office costs:

The UK office will be directly related to land and as such, UK VAT will be charged on the office assuming that the property has been opted to tax. If not, no VAT will be charged on the office

lease. This will need to be determined by the landlord of the property as to whether or not VAT is being charged.

Swiss office costs:

The Swiss office will be a land related service and the place of supply will be Switzerland.

This will be outside the scope of UK VAT.

Client lead generation cost from Dublin:

The cost from Dublin will be a B2B service.

This will be an electronically supplied service and will be taxable in the UK under the reverse charge.

Subscription costs to global information:

This is used by UK staff and as such, will be most closely connected to the UK establishment.

On this basis, it will be taxable in the UK under the reverse charge under the general rule for the place of supply of services.

VAT will be recoverable based on the partial exemption calculation.

Commission sharing arrangement with Jersey:

As Jersey is outside the UK and EU, the customers in Jersey will be considered to be outside the scope of UK VAT.

The commission received is assumed to relate to financial intermediary services where they have provided advice relating to IFA.

The payment to the commission agent will be a B2B supply.

This will be taxed under the general rule for B2B services on the basis that it does not fall under the SSO on the basis that the supply is not made to a consumer.

On this basis, the supply to the Jersey commission broker will be outside the scope of UK VAT.

VAT registration

IFA is established in the UK meaning that they will not be considered to be a NETP and will be subject to the UK VAT registration threshold.

Additional detail would need to be provided regarding when a VAT registration would be appropriate and when a registration should

have been made.

The receipt of reverse charge services would create a compulsory registration if this was more than the VAT registration threshold of £85,000 in a 12 month period or a 30 day period.

An earlier registration (which could be up to the date of incorporation of 1 July 2020) could be applied for with HMRC on a voluntary basis.

They could appoint a VAT agent in order to submit the registration application on their behalf or could complete it themselves.

VAT can be recovered relating to taxable supplies (which are considered to be the supplies made to non-UK customers post Brexit and non-EU customers pre Brexit) and there will be a restriction on recovery of supplies to UK residents pre-Brexit.

Partial exemption calculations will need to be completed on a quarterly basis with an annual adjustment.

It is recommended that if applying for a voluntary registration the effective date of registration is considered to ensure that additional VAT is not paid where the input tax is not exceeded by the output tax on reverse charge services.

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

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

Answer-to-Question-_3_

MakeUp Inc (MU)

MU is selling services B2C when selling to customers.

Matching service:

The matching service is assumed to be carried out without human intervention and as such, would be considered to be an electronically supplied service (ESS) as they are providing images online.

On this basis, the matching service will be taxable where the customer belongs under the place of supply rules.

UK subsidiary:

The UK subsidiary will have permanent UK human and technical resources in order to make and receive taxable supplies.

The office will not be making taxable supplies so it is debatable as to whether or not it does create a fixed establishment, however, as it is managing the website and consumer queries, I think that this would constitute sufficient technical resource in the UK in order to be a fixed establishment.

When considering the Hastings case we need to consider if the subsidiary creates a fixed establishment for the US parent company. As the subsidiary is acting as a representative marketing office for the parent company, it contrasts with the facts of the Hastings case.

This decision in Hastings, is contrasted by the DFDS case where the subsidiary being a mere auxiliary organ of the parent company can create a fixed establishment for the parent company.

On this basis, the UK subsidiary will be considered to be a fixed establishment and UK established and will create a fixed establishment for the parent company.

Marketing services:

The marketing services will be incurred in the EU.

From 1 January 2021, the UK is no longer part of the EU for VAT purposes.

The marketing services will be most closely connected to the UK subsidiary as it is managing the EU website and customer queries.

The contracts will need to be checked to confirm this and if the marketing companies are engaged with the US company then this could cause doubt as to who the services are being provided to.

The marketing services are a general rule for place of supply.

This will be a B2B supply from France to the UK.

On this basis, it will be taxable under the reverse charge in the UK.

This will be recoverable on the basis that the UK subsidiary is providing marketing services as a representative office to the US head office which are considered to be outside the scope of UK VAT but would be taxable if provided in the UK.

Any costs relating to services where taxed in France will be recoverable via the EU 13th Directive reclaim scheme.

Inward processing:

Inward processing can be use in order to obtain relief from customs duty when processed into products that are then exported from the EU/UK (depending on where manufactured).

If the UK manufacturer is used, relief will be given on the imported goods when they are exported to the EU.

If the French manufacturer is used, relief will be given on the imported goods when they are exported to the UK.

The duty rate that will be used is that of the finished goods (which will be nil as they will qualify for preference under the TCA).

The off the shelf products will not qualify for inward processing on the assumption that the goods are not being used to be processed.

Inward processing can be used up to 3 times per year by declaring the goods under inward processing on the customs declaration.

Alternatively, Sp3 authorisation can be applied for. This requires the business to have adequate records, financial solvency and a good customs compliance (i.e. no debts outstanding)

The throughput period would be agreed with HMRC as to how long it would take for the goods to be imported and released into free circulation or re-exported.

BOD returns are required either quarterly or monthly.

A guarantee would be required in order to cover the debt that would be due had the goods not be entered into inward processing.

Records must be kept relating to this for up to four years.

UK subsidiary with French manufacturer:

If a French manufacturer is used, the goods will be imported into France by the US company, import VAT and duty will be payable when the goods enter France and are declared on the C88 (subject to inward processing being used).

MakeUp Inc will make sales when the goods are located in France which would result in a French VAT registration obligation from the date of first sale.

As these are distance sales from France, they will need to register in each member state when the goods are sold as there is no distance selling threshold post Brexit.

As they are not established they will need to use the non-union import one stop shop (IOSS) in order to account for the output tax on sales assuming that the value is less than EUR 150 per sale. If is more than EUR 150 then multiple EU registrations are required, which could be avoided by using the postal import

system.

The US entity will be invoiced by the French company which will be outside the scope of UK VAT.

When sales are made from France to the UK, they will need to register from the date of the first sale as the parent company is most closely connected to the supply made.

Duty will be payable only when the goods are shipped into France for processing (which will fall under IP) and will not be chargeable to duty when they are sold to EU customers as they will be dispatches.

UK subsidiary with UK manufacturer:

If a UK manufacturer is used the goods will be located in the UK when the goods are sold.

This means that the goods will be exports from the UK when sold to the customer.

The goods will be owned by the US company when sold.

As the UK subsidiary creates a UK fixed establishment for the MakeUp Inc, sales to UK individuals, VAT registration will be required when the threshold of £85k is met.

The import of goods into the UK will have import VAT and duty payable on the goods (subject to inward processing).

Sales from the UK to EU will be exports from the UK, they will be required to hold a UK EORI number in order to export the goods with evidence retained of the export.

Origin of goods

If the goods are manufactured in the EU or UK, they will fall under the TCA for origin purposes.

This means that for sales between the UK and the EU (or vice versa), preference can be claimed in order for duty not to be payable twice.

Duty will be payable twice on goods that are shipped from the US to the UK and then to the EU to customers as it will be payable at the UK border and the EU border.

Recommendation:

It is recommended that manufacturing is located in France as the sale of goods to customers will be dispatches and will not require import and export declarations to be completed which

would add to the admin costs.

Duty would then also be payable only once on supplies that are off the shelf products as if they are shipped from the US to the UK then the EU they would be subject to duty in the UK and the EU. This is similar to issues faced by Marks and Spencer when Brexit occurred due to their Percy Pigs.

It is recommended that the IOSS is registered for, or the postal import system is used for imports.

A fiscal representative should be considered in France to deal with registration obligations.

They should seek further advice regarding their French registration obligations.

The US 20 should be converted into Sterling where this is reportable in the UK at the HMRC approved exchange rate.

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

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

Answer-to-Question-_4_

ToyCo Ltd (TC)

TC is based in NI which means that it follows UK laws for services and EU laws post Brexit.

It is assumed that they hold an XI EORI number and use the trader support service for assistance with their trade post Brexit.

Intrastat

As TC is moving more than £250,000 worth of goods to the EU from NI in a calendar year they will be required to submit intrastat declarations.

These must be submitted monthly and can be completed online.

The records relating to the declarations for TC must be kept for 6 years, this is the declaration and documents used to complete the declaration.

Sales to VAT registered customer in Ireland:

Sales by TC to the Irish company will be considered to be zero-rated exports from NI.

They will fall under EU valuation rules for import VAT.

TC will be required to complete EC Sales Lists (ECSL) in order to report the sale of the goods.

The ECSL is required to be submitted monthly assuming that there is more than £35,000 of goods sold in the current or previous 4 quarters.

ECSL can be completed online or via paper which will be due 14 and 21 days following the period end, respectively.

In order to zero-rate the sale they will need to comply with the EU quick fixes. This means that they will need to hold the Irish company's VAT number (recommended to be verified using VIES), two pieces of non-contradictory evidence of the dispatch and the ECSL completed in order to zero-rate the sale.

Sales via own website to the EU:

Sales are made to customers in the EU via their own website.

There is a de minimis limit for sales to the EU of EUR 10,000 per annum which will not apply due to the value of goods.

On this basis, sales to EU Member States via their own website will generate a registration liability in each member state that they sell.

In order to avoid multiple registration liabilities, it is recommended that TC registers for the One Stop Shop (OSS) in order to account for VAT at the rate applicable in each member state.

The OSS accounts for output tax only and would not give input tax recovery - this would need to be made via the EU cross border refund scheme, where applicable.

VAT treatment of commission from portal.com:

The commission receivable from portal.com will be a B2B supply from Switzerland to NI.

This will be taxable via the reverse charge as it will be subject to the general rule.

TC should have accounted for VAT on the commission, this would be recoverable via the VAT return.

The tax point of the supply as it would be a continuous supply of services would be the earlier of the billing period or payment period.

The error should be disclosed to HMRC via a VAT 652 form if the net tax error is greater than £10k or 1% of the turnover up to £50k. Assuming it is fully recoverable the potential lost revenue will be nil so can be adjusted for on the VAT return. Due to expected size of error, it is recommended a VAT 652 form is submitted as well to mitigate any penalties applicable.

Goods are stored in Germany and UK:

The goods that are stored in Germany and the UK would be considered to be a movement of own goods for TC assuming that they retain ownership of the goods until sale.

Assuming that portal.com takes ownership of the goods prior to sale, this would not require registration in Germany (although any relevant output tax could be accounted for via OSS).

Where they are moved to Germany this would result in acquisition tax being accounted for in Germany and a registration liability.

If the goods are sold to portal.com whilst in Germany they will

also need to register for VAT.

If the goods are owned up until the point of sale and sold to the customer whilst located in Germany, this will be taxable in Germany.

On this basis, the OSS should be used to account for VAT on the sales.

Sales and storage of children's bikes:

The sale of the stock where sold to the marketplace will be a deemed supply for VAT purposes.

This will be considered to be a zero-rated supply.

Input tax can be recovered relating to the sale.

As the goods are moving from GB to NI any import tax is accounted for as output tax on the VAT return for W.

Stuffed dogs:

The rights of the stuffed dogs would be a sale of intellectual property (IP).

This would be the provision of a service, B2B from NI to US.

IP falls under the general rule for VAT for B2B services, on this basis it would be taxable where the recipient belongs.

This therefore means that the sale will be outside the scope of UK VAT.

The sale of the stuffed dogs online to US customers would depend on the incoterms of the sale of goods as to what the VAT treatment would be.

If TC exported the goods, this would be a zero-rated export from NI.

TC would need to ensure that relevant commercial evidence such as the export declaration and the shipping documentation is held in order to justify the zero-rating.

TC should however seek local advice regarding sales to the US and any registration obligations that may arise.

VAT would be recoverable on the sale of the IP and exported toys from NI as these would be taxable if supplied in the UK.

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

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

Answer-to-Question-_5_

Watagua Ltd (W)

When goods are valued they are valued per the 6 methods in order.

Definition of method 1

Method 1 is the transaction value of the goods with relevant additions and deductions such as:

Additions:

- Selling commission
- Containers
- Free of charge goods/services provided
- Royalties payable as a condition of sale.

Deductions:

- Transport of goods after arriving in the EU (pre-Brexit, post Brexit in GB)
- Interest under financing

- Import duties.

Method 1 is not appropriate where the two parties in the transaction are related and the relationship has influenced the price of the goods.

Related for this purpose means where more than 5% of the voting stock/shares is held.

This therefore means that there is a significant risk that HMRC could challenge the import values of intragroup sales if the price was affected by the relationship of the two companies.

Time limits:

Customs can go back up to 3 years on matters relating to duty and 4 years for VAT.

The import VAT would be a recoverable cost so would not be as relevant, however, the duty would not be recoverable.

This means that HMRC can only look back at imports as far back as May 2019.

If HMRC request additional information then this can extend the time limit.

W will need to consider what the other charges relate to.

It is possible that as it relates to the quantity imported that it is a direct cost.

As W will hold records for up to 6 years relating to VAT they should hold detail regarding this.

If HMRC do not respond and issue an assessment relating to the imports then they may be out of time for some of the imports.

Tests to carry out where related:

As W and the parent company are related they can show that the price paid is close to the transaction value of similar goods for sales that are unrelated, the customs value of identical or similar goods per method 4 or 5 then HMRC should be unlikely to successfully challenge W.

Information could alternatively be provided to show that they are trading as if they are not related so that full market value has been charged and that the 'other charges' do not relate to the imported goods or influence the price or that the goods have been paid at an arms length price.

What information do they hold?

It is recommended that additional information is obtained from the parent company to understand what the amount of other charges relates to.

W should check their records to determine if any correspondence is held from any non-statutory clearance that was issued from HMRC in respect of their imports to agree that Method 1 was appropriate to be used for imports.

W should determine if the price has affected the cost of the imports, if it has then they should disclose this to HMRC.

If they hold evidence that the goods were sold at the market rate, for example, if records are held detailing sales to other companies in similar quantities (which follows the principles of the later methods) then this may be useful in evidencing to HMRC that the relationship did not affect the price paid for the goods.

If W can provide evidence that the other charges did not directly relate to additions for import valuation purposes then they should be able to defend the price paid of the goods.

As we are not sure if anything was agreed with HMRC that the price used was affected by the relationship between the parties there is significant risk that HMRC will challenge the import values used.

Hamamatstu case:

The Hamamatstu case should be considered when determining whether or not the charges affect the value. In this case, the transport pricing adjustment that was made did not change the customs value.

If the other charges relate to a transfer pricing agreement relating to the quantities sold then this could be successfully argued based on these principles.

HMRC's next steps:

The HMRC officer will likely seek further advice regarding the status of the imports and what information they will need to make an assessment.

If HMRC have sufficient information in order to raise an assessment, they will issue an assessment to W for the under declared import VAT and duty which for the duty will be by way of a C18 demand.

The HMRC officer will request additional information prior to an assessment or give W a right to be heard.

It is important that the right to be heard is responded to within the 30 day timeframe as they do not have a right to appeal following this.

If additional information is requested, it is recommended that W responds to HMRC within the timeframe in order to be compliant and reduce the risk of HMRC being successful in challenging W.

Recommendation/conclusion:

It is recommended that W determines what the other charges relate to in order to determine whether or not these are correctly valued.

W should review other imports made in the period in order to determine whether a disclosure for errors identified would reduce any penalties chargeable.

If the charges relate to a transfer pricing agreement then this should be explained to HMRC with evidence provided in order to confirm the treatment.

W should consider if the relationship has influenced the price and review their documentation/advice received to determine why method 1 was used when the parties were related.

If they have incorrectly classified the goods, a disclosure should be made to HMRC at the earliest opportunity to reduce any applicable penalties that HMRC may charge.

W should comply with HMRC's enquiries in order to reduce any penalties applicable.

Any errors should be disclosed to HMRC.

Commodity codes and preference should be considered to ensure that this has been treated correctly.

Royalty payments on solar powered water pumps

The royalty payments related to the imports and were payable as a condition of sale.

It is assumed that the royalty payment directly related to the goods imported themselves as it is payable per item.

On this basis, the royalty payment should have been made as an addition for duty purposes when valuing the goods for import.

The royalty payment falls under B2B reverse charge under the general rule. On this basis, it is taxable in the UK under the reverse charge by W.

As it is taxable under the reverse charge, it is excluded from the valuation for import VAT purposes as it is taxable on the UK VAT return for W.

It is recommended that W contacts HMRC to disclose the underpaid VAT and HMRC will issue them with a C18 demand.

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

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

Answer-to-Question-_6_

Mawked Ltd (M)

As M is established in NI, it will follow EU laws for goods and UK laws for services from 1 January 2021.

The safeguarding duty is an duty that is imposed on goods that are imported in order to stop distortion of trade with UK producers of goods.

M needs to determine what the origin of the goods are of the products.

Definition of origin of goods:

The origin of goods means:

- Where goods are wholly obtained in one country then they have that origin of that country (e.g. a plant grown in one country would originate there), and

- Where goods are produced in more than one country, they will originate where they were last substantially, economically worked resulting in a new product (e.g. where a fabric is made into a Tshirt where the tshirt is manufactured is where the goods originate from).

M should understand what processing is undertaken on the goods in Mexico to determine what works are carried out. If only simple operations such as cleaning are undertaken on the steel then this is unlikely to change the country of origin and this will remain to be the US.

If operations such as smelting the steel is undertaken in Mexico then this would likely be considered to be substantial economic working and would change the country of origin to Mexico from the US.

If the goods are substantially manufactured then this would change the origin of the goods. The tariff often details further information such as regarding how much value has to be added in a country for it to originate there.

Certificate of origin

M can obtain understanding on the origin of the goods by obtaining a certificate of origin. This could be a declaration on the invoice (form A) or obtaining a EU1 certificate.

A certificate of origin will be required to be submitted alongside the C88 (SAD declaration).

This can be a Form A GSP which shows the origin of the goods.

M should approach their supplier to obtain a certificate of origin.

B**inding origin information ruling (BOI)**

It is recommended that M applies for a BOI to obtain certainty regarding the origin of the goods.

The ruling is valid for 3 years in all EU member states.

The BOI can be applied for to the UK customs authorities and detail is given to them regarding the goods and their manufacturing and processing.

M will need to provide correct information to customs or the BOI will be invalid if provided on incorrect information.

Samples can be provided to the customs authorities to provide them with information regarding the processes that the steel goes through.

The BOI decisions can be viewed on the EC Commission website, however, the BOI can only be relied upon by the authorisation holder.

There are specific rules covering the import of steel into NI which M may wish to consider. This is that where steel is imported not of UK or EU origin that it can be imported without safeguarding duties where a quota is available with capacity. It is recommended that M checks what tariff quotas are available.

M should consider seeking further advice via the Trader Support Service for NI businesses.