THE CHARTERED INSTITUTE OF TAXATION

ADVANCED TECHNICAL

Domestic Indirect Taxation

May 2025

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.

- Unless otherwise indicated by the provision of additional information in the question, you may assume that 2024/25 legislation (including rates and allowances) continues to apply for 2025/26 and future years. Candidates answering by reference to more recently enacted legislation or tax cases will not be penalised.

- Additional marks may be awarded for presentation.

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

1. OfficeRite Ltd provides office space for hire and is in a VAT group with its parent company SmallStudy Ltd and other connected companies. The VAT group has a VAT return period end of March. The shares in OfficeRite Ltd are being sold with planned completion on 1 June 2025.

Before this sale of shares, OfficeRite Ltd will sell the 900 year leasehold interest in 1 NewRoad to SmallStudy Ltd in order to keep this property within the corporate group. 1 NewRoad is a commercial building set over three equal floors, built in 1890 and under strict planning consent from the Council. The top two floors are leased to SmallStudy Ltd for use as its head office at a market-based rent of £84,000 per year. The ground floor is leased to the charity Together2 at a discounted rent of £12,000 per year for use in hosting a regular wellbeing class. Given the low value of the rent to Together2, OfficeRite Ltd has not looked into opting to tax this property and uses the standard method to calculate its VAT recovery.

OfficeRite Ltd has just finished works on the property to refurbish some of the older elements, which were carried out by various specialist contractors. This comprised:

1) New glazing on the windows – £300,000.
2) Improvements to the roof – £450,000.
3) Creating new meeting rooms on the top floor – £150,000.
4) General painting and decorating – £30,000.

All costs are exclusive of VAT.

For accounting purposes, OfficeRite Ltd capitalised these costs with the exception of the painting and decorating which were expensed through the profit and loss account. The work began in May 2024 and was completed in January 2025.

The VAT group's partial exemption recovery percentage in the tax year to 31 March 2024 was 100% due to the immateriality of the leases to Together2 and the recovery percentage for the year to 31 March 2025 is also 100%.

The sale of 1 NewRoad to SmallStudy Ltd is intended to complete (Scots Law – transfer of ownership) on 31 May 2025 for a price of £1,500,000. However, the consideration for this transfer will be left outstanding, with the amount to be paid to OfficeRite Ltd in instalments from 1 July 2025 onwards. Before the sale can take place, freeholder consent is required due to the protected nature of the property. This has been applied for, however this may not be granted until after 31 May 2025 meaning legal title to the property may not transfer until after this date. If legal title does not pass on 31 May 2025, OfficeRite Ltd will remain entitled to the rents under the leases.

Discuss the VAT implications of the proposed sale of 1 NewRoad and how best to proceed.
(20)

2. DriveDifferent Ltd leases vans to insurance companies for their insured customers to use as courtesy vans while theirs are awaiting repair. The lease payments are governed by contracts which set out the rates for the type and size of each van with payment due once the van has been returned.

Leasing periods typically last between one and six months, but given the unknown length of the contract, invoices are not usually raised until after payment has been made. However, a statement of account is provided on a bi-weekly basis to show the charges accruing. Where no payment has been received within 30 days of the van being returned, DriveDifferent Ltd may raise an invoice anyway.

DriveDifferent is currently in distress, due largely to issues within its accounts department, and in many cases, has failed to raise invoices or statements and chase for payment. In particular, no invoices have been raised on contracts which have expired in the last nine months. Consequently, it is now in serious cash flow difficulties. It is therefore looking to realise cash as quickly as possible in two ways.

1) It plans to sell a number of completed but unpaid contracts to BrokerBank Ltd at a discount of approximately 50% of the face value of the contracts. This will be on a non-recourse basis. The completed contracts have been unpaid for between one and 12 months and DriveDifferent Ltd has claimed bad debt relief as set out below. The value and age of contracts where payment is outstanding can be summarised as follows:

Contracts Expiring	Invoices Raised	Payment Amount Outstanding (Net)	VAT Bad Debt Relief Claimed
		£	£
More than 12 months ago	Yes	120,000	24,000
9 – 12 months ago	Yes	360,000	30,000
6 – 9 months ago	No	200,000	10,000
Less than 6 months ago	No	480,000	0

2) Where contracts are still in progress, DriveDifferent Ltd intends to enter into an arrangement with a third-party leasing company, VanBorrow Ltd, whereby it will retain the right to receive amounts due currently from insurers, but VanBorrow Ltd will acquire the right to the future income under the contract in return for a discounted fee paid upfront. This will provide DriveDifferent Ltd with some immediate cash flow.

   In some instances, the title to the vans will pass, meaning VanBorrow Ltd acquires both the rights to receive income, as well as the obligation to provide the vehicles to the insured. In other instances, the vehicles will be retained by DriveDifferent Ltd to ensure it has some assets to continue the business if it is able to resolve its cash issues.

   VanBorrow Ltd will take over the accounting function and moving forward will adopt a standard invoicing practice. Consequently, it plans to raise invoices for all current contracts immediately upon purchasing the contracts, passing back monies due to DriveDifferent Ltd as appropriate.

   HMRC has ruled that the contract sales will not qualify as Transfers of a Going Concern.

Requirement:

Explain the VAT implications arising from DriveDifferent Ltd's proposed contract sales and its approach to Bad Debt Relief to date. (15)

3. WhyteGood Ltd is a retailer of domestic appliances including washers, fridges and personal electronics (such as computers, tablets and cameras) and is in the process of setting up a new loyalty scheme for new and existing customers where the customer signs up to WhyteGood Ltd's loyalty card.

A referral element of the loyalty scheme will allow existing customers to refer their friends to WhyteGood Ltd and receive a bonus in return. Specifically, if a new customer purchases a product, signs up for the loyalty scheme, and provides the name of their referrer, the new customer will benefit from a 5% discount on their purchase, and the existing customer will receive a £20 credit on their account against their next purchase.

Other benefits of the loyalty scheme include an extended warranty on white goods free of charge and discounted rates on maintenance programmes for electronics.

The extended warranty typically costs non-loyalty scheme customers £50. WhyteGood Ltd's contracts are clear that the insurance is provided separately by an unrelated third party, Protexxion Ltd. Under a separate agreement between Protexxion Ltd and WhyteGood Ltd, WhyteGood Ltd receives a £5 commission for every sale of a paid-for extended warranty. For freely given warranties, WhyteGood Ltd takes out an insurance policy in its own name with Protexxion Ltd, to cover any potential loyalty scheme customer making a claim.

The maintenance programme usually costs £100 per year but loyalty scheme customers will be able to purchase this for £60. It entitles customers to two inspections per year carried out by a partner business Electpair Ltd, with minor maintenance carried out during these inspections. Electpair Ltd is engaged with, and raises invoices to, WhyteGood Ltd for the work carried out. Where maintenance is required, WhyteGood Ltd has set a limit on the type of work and cost Electpair Ltd can incur.

Requirement:

1) **Discuss with reference to case law, the VAT consequences of the proposed referral bonuses and maintenance programme.** (7)

2) **Explain the Insurance Premium Tax implications of the extended warranties and maintenance programme provided under the loyalty scheme.** (8)

Total (15)

4. Shop4Lyf Ltd is a VAT registered company which operates 300 convenience stores across England with average sales of £6,000,000 (excluding VAT) per quarter. Shop4Lyf Ltd recently undertook a review and identified some products on which it is unsure of the VAT treatment. Shop4Lyf Ltd has been selling these products for the last 12 months.

<u>Product 1 – high protein flapjack</u>

This consists of an oat, syrup and fruit flapjack with 15g of added protein. It is pressed into a bar after mixing and designed to be eaten on the go from the wrapper. The labelling of the product states that this is a sports nutrition product ideal for muscle recovery. Shop4Lyf Ltd treats this product as zero-rated and total sales of this product in the last 12 months were £196,950.

<u>Product 2 – turmeric shots</u>

These 50ml health shots consist of turmeric roots pulped into liquid and have added fruit juice. The shots are designed to be taken in between meals for an energy boost. These shots aid digestive health and improve the immune system. Shop4Lyf Ltd has been treating this product as standard rated as it believes it is a beverage. The turmeric shots cost customers £3.60 each including VAT and 100,515 units have been sold in the last 12 months.

<u>Product 3 – large marshmallows</u>

This product can be used as a cake decoration, in hot chocolates or for toasting in warmer months. The marshmallows are also sold by other retailers and are usually found in their world food or barbeque section. The packaging contains an animated animal sitting over a campfire toasting the marshmallows with a speech bubble saying “Perfect for toasting and making s’mores”. The large marshmallows are sold to customers for £3.75 after a mark-up of 50%.

The marshmallows are either sold on their own or as part of a promotional pack (sold at the same price) that includes three re-usable skewers for toasting the marshmallows. Each skewer costs Shop4Lyf Ltd £0.15.

Shop4Lyf Ltd has treated both the sale of marshmallows on their own and the promotional packs as standard rated. The total gross sales of both the large marshmallows and promotional packs is £96,516 with a third of these sales relating to the promotional packs.

To stay competitive with large supermarket convenience stores, Shop4Lyf Ltd bears the burden of VAT when pricing its products and therefore accepts a lower profit margin on the sale of its goods.

Requirement:

Discuss, with reference to caselaw, the VAT implications of the supplies made by Shop4Lyf Ltd. (15)

You are NOT required to comment on penalties and interest.

5. PlanAInsurance Ltd, a UK based insurance company, is part of a group of 20 companies, all of which are in the same VAT group, with PlanAInsurance Ltd being the representative member. The VAT group is partially exempt and can recover 5% of its input tax on overheads under the standard method.

To keep up with technology advances in the insurance industry, PlanAInsurance Ltd needs a new customer service platform. The platform will be used by its customers to access their online account, amend and update their current insurance policies and get online help regarding new products.

PlanAInsurance Ltd does not have the resources to operate this new service and is looking to buy a business that is well established in this area. After some market research, PlanAInsurance Ltd has found a suitable business to buy, Here2Assist Ltd which is fully taxable and does not apply any partial exemption restrictions.

Here2Assist Ltd has recently developed an innovative customer service platform, powered by artificial intelligence, which PlanAInsurance Ltd can change to suit its business needs. Once acquired, Here2Assist Ltd will only supply its services to other members of the existing PlanAInsurance Ltd VAT group.

PlanAInsurance Ltd is considering two options to acquire Here2Assist Ltd:

1) PlanAInsurance Ltd buys the shares in Here2Assist Ltd for £5 million and Here2Assist Ltd will then join the existing PlanAInsurance Ltd VAT group; or

2) PlanAInsurance Ltd can purchase the business assets of Here2Assist Ltd for £4.75 million. This consists of goodwill, staff, internally generated intellectual property, the freehold of an office building constructed in March 2024 (valued at £600,000) and six servers purchased in April 2024 (valued at 120,000 (excluding VAT) in total). Here2Assist Ltd recovered VAT of £80,000 on the construction of its new office building. Various businesses have been acquired by the group in the past and so it is aware of the basic TOGC conditions.

Requirement:

Discuss, with supporting calculations, the VAT, Stamp Duty and Stamp Duty Land Tax implications of both options and conclude on which is the best option for PlanAInsurance Ltd. (20)

6. Ann is a successful lawyer in London and will take early retirement in the next two years. Ann enjoys visiting Cornwall and wants to build a new holiday home she can enjoy during retirement. Ann will keep her current residence in London and she does not plan on renting out her holiday home during periods she is in London.

To provide income during her retirement, Ann is thinking of starting a holiday letting business in Cornwall. Ann has found a three acre plot of land that she intends to purchase. Ann will build her holiday home on this plot of land. The land also has a large barn on it that has not been used in 15 years.

The current landowner agreed to sell the land and barn to Ann for £355,000 plus VAT as he has an option to tax in place over the land.

Once Ann has bought the land, she will convert the barn into the holiday letting accommodation which will consist of four fully furnished apartments. It is expected the furnished holiday letting business for all four apartments will generate income of £120,000 per year.

Ann has employed an architect to draw up the designs for both the retirement holiday home and furnished holiday letting accommodation. The architect has given the following costs for Ann (excluding VAT):

	Retirement holiday home	Holiday letting accommodation
	£	£
Main construction of retirement holiday home	250,000	
Contractor labour and materials for conversion of barn		200,000
Kitchen units	5,500	8,000
Bathroom units	3,000	4,500
Carpets	1,900	2,600
Architect fees	5,000	6,500
Total	£265,400	£221,600

The kitchen and bathroom units are not provided by the person constructing or converting the properties and Ann will purchase these from a third-party supplier and her husband will fit them in both the holiday home and the apartments.

The landowner has expressed an interest in buying the freehold of one of the apartments once completed for £185,000 for his own occupancy. Ann may offer the former landowner a five-year lease of the apartment instead.

Requirement:

Discuss the VAT and Stamp Duty Land Tax implications of Ann's proposed activities. (15)