THE CHARTERED INSTITUTE OF TAXATION

ADVANCED TECHNICAL

Cross-Border Indirect Taxation

May 2024

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 2023/24 legislation (including rates and allowances) continues to apply for 2024/25 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. Tolich Inc, a Canadian based retailer, wholly owns VAT registered and fully taxable subsidiary companies in a number of European countries, including Tolich Ltd in the UK. The subsidiaries operate retail stores in their respective countries. The group is planning to install self-service checkouts in its stores in the UK, Ireland, France and Belgium.

   The self-service checkouts will be shipped from a third party supplier in the US to Tolich Ltd's IT hub in Birmingham and its branch hub in Paris. Staff at the Birmingham hub will configure them for the stores operated by the UK and Irish subsidiaries. Staff at the Paris hub will configure them for the stores operated by the French and Belgium subsidiaries. The checkouts will then be shipped to the stores and installed by local sub-contractors who have their contract with Tolich Ltd. The US hardware supplier will also provide online training courses in the use of the systems to Tolich Ltd. A separate charge is made for this in addition to the charge for the hardware.

   Intercompany recharges for the hardware and associated installation, software and training will be made by Tolich Ltd to the subsidiaries in Ireland, France and Belgium at the end of the year and payment will be made 30 days afterwards via the intercompany account.

   Requirement:

   Explain the VAT and Customs Duty treatment of the transactions taking place. (20)

2. Lunbur Ltd is a UK incorporated and VAT registered company which has wholly owned subsidiaries in Germany (Lunbur GmbH) and the Czech Republic (Lunbur s.r.o).

   Lunbur Ltd owns the intellectual property rights to a number of baby and toddler products (not clothing) which it has been successfully selling online to UK private individuals for three years. The products are made in China.

   It is planning to exploit these rights further and has a business plan to be implemented over the next two years. This includes opening retail outlets in the UK and a branch in Italy. There will also be concessions in major department stores in London and Berlin which will act as undisclosed agents in selling the goods to customers. The department stores will also maintain a call off stock in their warehouses. The products will be shipped from China direct to Lunbur Ltd's retail outlets in the UK and Italy and to the department stores.

   Lunbur Ltd also plans to licence the intellectual property rights to Lunbur GmbH to allow it to operate a branded soft play venue in Berlin. The Chinese manufacturer will also provide the soft play equipment but this will first be shipped to the UK for testing/quality control purposes before being transported to Germany.

   Lunbur s.r.o. provides finance and other support services to Lunbur Ltd. An intercompany charge for this is made in the accounts but a VAT invoice is not raised by Lunbur s.r.o. and cash settlement has not taken place to date.

   Requirement:

   Discuss the VAT and Customs Duty treatment of Lunbur Ltd's business plan. (20)

3. Osubu Ltd is UK established VAT registered profit-making company operating a karate school in London and employing a team of instructors. It has a Japanese parent company.

Osubu Ltd runs daily classes for all ages and during the school holidays there are daily karate camps for 3-10 year olds. These camps are run by Osubu Ltd's instructors and external qualified childcare assistants.

In May 2023, Osubu Ltd established a Spanish subsidiary, Osu Espagna SA, and opened a karate school in Madrid in June 2023 running similar sessions and employing qualified instructors. Instructors from Madrid spent three months in the UK prior to the opening, shadowing the UK team to learn how to run a similar business. They incurred £15,000 of UK VAT on accommodation and subsistence costs whilst in the UK. Twice a year these instructors will travel to the UK to run specialised courses for adults. Fees of £30 per session will be charged to the student for this by Osubu Ltd. Osubu Ltd will share this revenue with Osu Espagna SA on a 50/50 basis.

The UK karate school is equipped with punch bags and other equipment sourced from a third party Japanese supplier. The kit is shipped direct to the UK karate school. It is branded with the Japanese parent company's logo and Osubu Ltd is required to pay a royalty fee to the parent company to have the logo applied to the kit by the manufacturer.

Requirement:

Explain, with reference to VAT case law, the VAT and Customs Duty treatment of the various transactions taking place. (15)

4. Rostapa plc is a UK holding company of a group of companies operating in the hi-tech manufacturing sector. It is planning to purchase the shares in a corporate group (consisting of UK and German companies) from the Italian parent. All companies in the existing and expanded group are VAT registered in their respective countries and the operating companies are fully taxable. Within the UK, eligible companies will join the existing VAT group. The trade, assets and staff of one of the German companies will be transferred to a new UK subsidiary, Rostapa UK Ltd, which will also join the VAT group.

Professional fees will be incurred by Rostapa plc in relation to the acquisition and restructuring of the group. In addition, a German accountancy firm has been engaged by Funds GmbH, (the German company funding the acquisition by granting a loan to Rostapa plc), to carry out a due diligence exercise. Rostapa plc is required to pay this cost.

Rostapa plc will make ongoing intercompany charges to the UK and remaining German subsidiaries for strategic and back office support (accountancy and legal advice).

Requirement:

Explain the VAT and Customs Duty treatment of the transactions taking place and the ability of Rostapa plc to recover the VAT incurred on the professional fees. (15)

5. Pethars Ltd is established in GB. It manufactures and sells farm machinery and buys and sells second hand machinery. A few years ago it started selling self-contained computer controlled hydroponic pod units for growing salad products.

In January 2022 it sold three pods to Morbrash Co in the US. Morbrash Co is closing down its operations and would like to sell the equipment back to Pethars Ltd, which would involve importing the products to GB.

Morbrash Co also has some similar pods bought 18 months ago from a GB-based competitor of Pethars Ltd, Hysalcont Ltd, that has since ceased trading. Pethars Ltd would also be interested in buying and importing these units.

Both sets of equipment would attract 5% Customs Duty at import into GB. They have not been significantly altered whilst in the US but routine maintenance has been carried out.

Requirement:

Explain any Customs Duty and Import VAT reliefs that Pethars Ltd might claim in order to reduce the amounts paid including the evidence it will need to make such claims. (10)

6. Poirhast Ltd is established in Northern Ireland. It sells locks and security equipment, some of which it manufactures, to wholesalers in Northern Ireland. It has previously sourced all raw materials, parts and finished goods from Northern Ireland based suppliers but it will now buy some of these direct from suppliers based in GB, and will start importing goods from a supplier based in Canada.

Poirhast Ltd will buy the following products:

<u>Product 1 – electronic keypads – sourced from GB</u>

<u>Manufactured using GB components and third country components which were in free circulation. Product originates in GB.</u>

GB Import Duty Rate 3%
EU Customs Duty Rate 3.5%

These will be imported and processed with components manufactured in Northern Ireland into safes for domestic or hotel use and then sold on.

<u>Product 2 – security lights – sourced from Canada</u>

Manufactured and originating in Canada.

GB Import Duty Rate 2%
EU Customs Duty Rate 2%

These will be sold on in same condition as at import.

<u>Product 3 – electronic door locks – sourced from GB</u>

Manufactured and originating in US and in Free Circulation in GB.

GB Import Duty Rate 0%
EU Customs Duty Rate 2%

These will be sold on in same condition as at import.

<u>Product 4 – Padlocks – imported from Canada</u>

Manufactured and originating in Canada.

GB Import Duty Rate 1%
EU Customs Duty Rate 4%

These will be sold on in same condition as at import.

None of the products attract Anti-Dumping Duty, Countervailing Duty or Safeguard Duty in GB or the EU.

Requirement:

1) **Explain the Customs Duty implications of these transactions including any Customs Declarations that are required.** (17)

2) **Explain the Import VAT implications of these transactions and how to account for the Import VAT.** (3)

You should NOT discuss the Windsor Framework, Safety and Security declarations or any application process.

Total (20)