

THE ADVANCED DIPLOMA IN INTERNATIONAL TAXATION

December 2023

MODULE 3.02 – EU VAT OPTION

ADVANCED INTERNATIONAL TAXATION (THEMATIC)

TIME ALLOWED – 3¼ HOURS

This exam paper has **three** parts: **Part A**, **Part B** and **Part C**.

You need to answer **five** questions in total. You will **not** receive marks for any additional answers.

You must answer:

- **Both** questions in **Part A** (25 marks each)
- **One** question from **Part B** (20 marks)
- **Two** questions from **Part C** (15 marks each)

Further instructions

- All workings should be made in appropriate monetary currency, unless otherwise stated. Any monetary calculations should be made to the nearest whole unit of currency. Any necessary time apportionments in your calculations should be made to the nearest whole month.
- You must provide appropriate line breaks between each question, and clearly indicate the start of each new question using the formatting tools available.
- Marks may be allocated for clarity of presentation of your answers.
- The time you spend answering questions should correspond broadly to the number of marks available for that question. You should therefore aim to spend approximately half of your time answering Part A, and the other half answering questions in Parts B and C.
- There is no separate reading time, so you can start typing your answers as soon as the exam begins. However, we recommend that you set aside some time to thoroughly read each question and plan each of your answers.

PART A

You are required to answer BOTH questions from this Part.

1. Green Supplies Ltd (Green Supplies) is VAT-registered and established in Alesia, an EU member state. It processes and recycles paper and plastic waste. Green Supplies collects this used paper and plastic on a door-to-door basis across Alesia, free of charge. In addition, it receives free donations of used paper and plastic from community collection points, all of which are situated in Alesia. For the collection of the used paper and plastic, Green Supplies hires trucks on an annual basis from a local company.

Green Supplies brings the collected material to its premises in Alesia for processing and packaging. The recycling of the material results in the recovery of paper and plastic, which Green Supplies sells to a major manufacturing business located in another EU member state. Green Supplies arranges transport of the recycled paper and plastic to the factory premises, using the services of a locally based logistics company in all cases.

In the last two years there was an excess of recycled plastic, but Green Supplies' management team has signed a contract with a United States-based business to sell recycled plastic. Green Supplies will be arranging the transportation of the goods to the US.

Green Supplies' finance director has asked your firm to carry out a review of the company's procedures in relation to the collection of the used paper and plastic, and the subsequent sales to the US and the EU factories, to ensure its compliance with the applicable VAT requirements. She also wishes to understand whether Green Supplies is entitled to recover the VAT it has incurred in relation to the transportation of the goods.

You are required to write a letter to the finance director identifying the VAT aspects of Green Supplies' activities, with reference to relevant EU VAT legislation, and the procedures that need to be followed to support the suggested VAT treatment. (25)

2. Mondo Ltd (Mondo) is a company established and registered for VAT purposes in Lambda, an EU member state. It is not registered for VAT purposes in any other country. Mondo operates a website from which it promotes and sells pre-recorded audiovisual media content on demand, including audio books and educational video courses.

Mondo's primary target market consists of private individual customers established in ten different countries, namely Lambda, seven other EU member states and two non-EU countries. Occasionally, other taxable persons (business customers) established in Lambda and other EU member states also purchase media content from Mondo's website. These business customers are expected to provide a valid EU VAT identification number as part of the online purchase process, although on occasion they may fail to do so.

Mondo outsources its online advertising and marketing activities to a marketing agency established in Gamma, a country outside the EU. The marketing agency invoices Mondo for its services on a monthly basis.

You are required to write a letter to Mondo's board of directors, advising them on the VAT treatment of each of the above sales and procurement transactions, including the relative EU VAT reporting and payment obligations based on the provisions of the Principal VAT Directive and EU VAT Implementing Regulation 282/2011. (25)

PART B

You are required to answer ONE question from this Part.

3. Clever Electronics Ltd (CEL) is an electric appliance retailing company established in Thebia, an EU member state. CEL sells electronic appliances through its five retail stores in Thebia. After consulting its marketing advisers, CEL's management wishes to implement a promotional scheme which will involve the award of a €10 voucher to customers who buy electric appliances at the company's stores during the month of December.

The vouchers may be used to obtain goods from five specified suppliers, which are listed on the vouchers. The vouchers are to be issued jointly by the five participating suppliers, with CEL paying the suppliers €10 for each voucher redeemed. In this respect, the suppliers will issue invoices to CEL upon the redemption of the vouchers. The marketing advisory company will invoice CEL on a quarterly basis for the operation and monitoring of the scheme.

You are required to write an email advising CEL's finance director on the VAT treatment of the proposed promotional scheme. Can CEL claim back any input tax incurred in the operation of this scheme? (20)

4. The Principal VAT Directive 2006/112 constitutes an instrument of EU law, but it is not in itself national law in any individual EU member state. Conversely, EU VAT Implementing Regulation 282/2011 is deemed to be automatically incorporated into national law. Meanwhile, the Court of Justice of the European Union (CJEU) is the supreme authority for the settlement of VAT disputes throughout the EU.

You are required to outline the requirement for implementation of the Principal VAT Directive within the national law of EU member states, in comparison to the direct applicability of EU VAT Implementing Regulation 282/2011.

You should describe the basis and circumstances in which the Principal VAT Directive has direct effect, as well as the role of the CJEU in VAT matters, specifically in preliminary ruling procedures and infringement proceedings. (20)

PART C

You are required to answer TWO questions from this Part.

5. “The supply of certain services that are closely linked to insurance and reinsurance services shall be exempt from VAT in EU member states.”

You are required to discuss the above statement, with particular reference to any relevant decisions of the Court of Justice of the European Union. (15)

6. A Ltd is a business established in Bithania, an EU member state. Its owner, Mr X, has decided to sell his business and retire after thirty years of successful trading.

You are required to describe the VAT treatment of the transfer of a business from one legal entity to another, with reference to relevant pronouncements of the Court of Justice of the European Union.

You should distinguish, as appropriate, between the VAT treatment of the transfer of individual business assets (both tangible and intangible) and the VAT treatment of the transfer of the entire, combined assets of a business on a going concern basis. (15)

7. Article 132 of the Principal VAT Directive provides that EU member states shall exempt, amongst other things:

“the provision of children's or young people's education, school or university education, vocational training or retraining, including the supply of services and of goods closely related thereto, by bodies governed by public law having such as their aim or by other organisations recognised by the member state concerned as having similar objects.”

You are required to describe the scope of the VAT exemption for education in Article 132 of the Principal VAT Directive, with reference to relevant pronouncements of the Court of Justice of the European Union.

You are also required to comment on the extent to which this VAT exemption may apply to automobile driving schools and swimming lessons. (15)

8. The VAT Capital Goods Scheme is a mechanism which was introduced to ensure that the input VAT recovered on capital goods reflects the use for which those capital goods are employed during their useful life.

You are required to describe the rationale and mechanics of the VAT Capital Goods Scheme, with reference to the appropriate provisions of the Principal VAT Directive. (15)