

Institution **CIOT - CTA**
Course **Adv Tech Domestic Indirect Tax**

Event **NA**

Exam Mode **OPEN LAPTOP + NETWORK**

Exam ID

Count (s)	Word (s)	Char (s)	Char (s) (WS)
Section 1	1011	5021	6008
Section 2	201	1049	1241
Section 3	533	2406	2895
Section 4	1083	4880	5944
Section 5	633	2870	3480
Section 6	512	2385	2877
Total	3973	18611	22445

Answer-to-Question- _1_

The purchase of the properties by Miltoon can qualify as Zero rate first grant of major interest in a building to be used for relevant charitable purpose. The subsequent let to the subsidiaries would be exempt. Since no VAT is charged on the lease there's no issue of recoverability for the subsidiaries which are not registered.

Starling Retreats Ltd

Gift of shares wouldn't qualify as a supply for VAT purposes as there's no consideration. The supplies provided by Starling retreats may fall into TOMS scheme as there is a mixture of in-house and bought in supplies.

- the supply on its own of day-time retreats, making use of the facilities owned by the company is an in-house supply (made by own resources), it will be standard rated
- the supply of longer retreats including short term stay, tours and transfer from the airport could be considered a packaged TOMS supply

The TOMS scheme was created to simplify accounting for businesses operating in the travel sector. This generally applies to businesses

- buying in supplies of accomodation, transperts, tours, airport lounges
- without material alteration of the supply
- supplied by a "tour operation" from an establishment in the uk for direct benefit of the traveller

In this case the VAT amount is charged only on the profit margin calculated considering the costs directly linked to the supply and the price charged. For new business theres a need of working out a provisional percentage to use during the first relevant financial year which may be based on previous trading figures, projected costs and margin etc. Then there is an annual adjustment to be carried out considering the supplies of the whole

year.

No input VAT can be recovered "separately" in relation to TOMS supplies as the recoverability is considered in the margin calculation. Residual input can be recovered as normal. No VAT invoice can be issued under TOMS, and if invoicing businesses this would need to make reference to the application of the scheme.

A number of cases have tried to define the application of the scheme concluding this is not limited by the type of "business" generally carried out (Van Ginkel), can apply to furnished accommodations (Sonder), and supplies of transport (Bolt). This means that the application of the scheme is not generally determined by whether the supplier falls traditionally into the Tour operator definition.

TOMS doesn't apply whereby the bought in supplies form only an incidental part of the business, i.e. if all the below apply:

- business doesn't buy any supplies of accommodation or passenger transport for resale
- buy in for resale some other supplies which are normally TOMS
- do not expect gross total turnover from these to be more than 1%

Since passenger transport is purchased here this exception wouldn't apply but if they decided to exclude this supply they should look at whether the tour supply on their own isn't above 1% of the turnover.

When considering whether they should register Sterling should look at both the total margin scheme supplies and full value of taxable activities

Milton (Birmingham)

Milton Ltd development for the creation of the overnight retreat will be standard rated, so

option to tax would be beneficial considering that the business is mainly exempt at the moment and would therefore risk not recovering any vat incurred if they don't.

Making an option to tax will make Milton Ltd a partly exempt business. They will be able to use by default the standard rated method whereby costs can be attributed directly to exempt and taxable activities first, and the rest (residual) can be apportioned based on the taxable activities percentage in comparison to the total. Newly part exempt businesses are also able to use method based on usage if this is a better reflection of how the costs incurred will be employed in their activities. Special methods are also available whereby they allow a more fair and reasonable apportionment of the costs (based on sectors, floor, staff), but these would need to be specifically approved by HMRC, which would need to be provided with extensive documentation explaining how the system will work and may need time to have this approved. A special method may allow them to ringfence input VAT incurred in specific areas to increase the recoverability.

There are anti-avoidance rules in place whereby some business whose supply are mainly exempt are not allowed to recover all the input tax they incur on construction projects. This takes place where business enters into arrangements designed to increase the amount of input recoverable. To counter this the anti avoidance test is applied each time a grant is made and may invalidate the application of the option to tax.

OTT may be disapplied if a partly exempt business grants a lease in a building that they intend to occupy at a later date. This would happen in the option that Miltoon lets the whole property to Starling who then grants a peppercorn sublease to Miltoon Birmingham.

The 10% allowance doesn't apply here as Miltoon Birmingham is connected to the grantor (Miltoon Ltd controls them). Exclusive right of occupation is not a requirement. To avoid any issue the 7% area should

If OTT is disapplied this would create huge costs for Miltoon that they won't be able to recover (80,000).

They should check whether the development costs may qualify as zero rated construction of building designed as dwelling, but this will depend on the characteristics of the facility. The relief for charitable use in this case is excluded as the facility would be used mainly for commercial purposes. Having the site constructed with zero rate would avoid the issue of recoverability and the necessity of opt to tax the site, which would also be a plus for Sterling that wouldn't incur input VAT on the lease

If starling retreats will be able to recover some of the input vat incurred on the rent even if applying TOMS as these costs would be attributable to the general running of the business and only partly to the TOMS supplies.

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

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

Answer-to-Question- 2

Redcoast NHS would be a partially exempt business, most of their activities would fall into the exemption for healthcare services. The D'Abrumenil case gives a definition in addition to the law to what is considered to be healthcare service.

- Needs to be provided by healthcare professional in their own area of expertise
- Needs to provide care, diagnose, prevention of illness to patients

Coffee shop

The new coffee shop will generate standard rated taxable activity. If they were to operate the coffee in house this would increase their taxable activity and ability to recover input VAT.

If they were to outsource this instead to a third party the rental payment would be exempt

Car parking

The car park extension has considerable VAT costs so attention should be given to how their supplies of parking facilities would be considered. Generally speaking provision of parking space is considered standard rated as one of the exceptions to Land exemption. However there have been recent cases such as Northumbria Healthcare services, where it was successfully proven that the supply would qualify as exempt as the hospital was subject to different regulation and not charging VAT wouldn't constitute a distortion of the

competition.

Renal Department

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

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

Answer-to-Question- 3

The sale of adult clothing is standard rated while the sale of children clothing is zero rated.

Retail schemes are simplification available for businesses making retail sales, and are used to arrive at the value of taxable retails sales and related proportion taxable at different rates.

Turnover limit is 130 million for all schemes.

Direct calculation scheme 2 requires calculating the ESP of goods for retail sale at one or more rates, and then a calculation of the proportion on which vat is due. an annual stock adjustment is required. It requires knowing the ESP and the minority goods in stock - differently than DC scheme 1 doesn't have a threshold of 1mil.

- calculate the selling price of minority goods (small propotion of sales)

There are two options of Apportionment scheme, but only the second would be available due to the same turnover limit as the direct scheme applying. AS 2 requires a calculation of the expected selling price of standard and zero rated goods received for sale. Then the ratio of these to the ESP of all goods received for sale and apply the same to the takings.

There is no annual adjustment but the scheme requires a 12 months rolling calculation.

This can be harder to operate but will provide a more accurate valuation of supplies over time. Apportionment VAT retail scheme notice 727/4 provides accurate guidance on the application of the scheme.

Calculation for Direct 2

Calculate ESP of zero rated goods and deduct from DGT

q/e 30 June 23

$$232,000 - 52,000 = 180,000 / 6 = 30,000$$

q/e Sept 23

$$350,000 - 124,000 = 226,000 / 6 = 37.667$$

q/e 31 December 23

$$254,000 - 106,000 = 148,000 / 6 = 24.667$$

Q/e 31 March 24

$$264,000 - 76,000 = 188,000 / 6 = 31.333$$

Total 123,667

Calculation for Apportionment 2

q/e 30 June 23

$$170,000 / 222,000 = 77\%$$

$$232,000 \times 77 = 178,640 / 6 = 29,773$$

q/e Sept 23

$$220,000 / 344,000 = 64\%$$

$$350,000 \times 64 = 224,000 / 6 = 37,333$$

q/e 31 December 23

$$154,000 / 260,000 = 60\%$$

$$254,000 \times 60 = 152,000 / 6 = 25,333$$

Q/e 31 March 24

Takes into account goods loss for leakage

$$181,500 / 257,000 = 71\%$$

$$264,000 \times 71 = 187,440 / 6 = 31,240$$

Total 123,639

Annual adjustment

This year runs from the first period of using the scheme, and will require to reflect the actual sales made during the year comparing movement of stock and levels of goods received.

Add up DGT for quarters = 1.100.000

total esp zero rate + opening stock

394.000

Minus closing stock 32,000 =

362,000

$$1,100,000 - 362,000 = 738,000 \times 20\% = 147,600$$

An adjustment is required for the difference as too little was paid , should be added to output tax of forth quarter (23,961)

Other notes

The cash stealing doesn't have an impact on the taking as unfortunately the sale already took place so VAT must be calculated on the full amount disregarding the loss

The stock should be adjusted to exclude the items lost due to the leakage that were disposed of.

The scheme calculation should also take into account any promotion on the stock sales

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

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

Answer-to-Question- 4

The salon lease would be regularly exempt but KZ37 has opted to tax the property so standard rated VAT will be due on the supply. Candy is VAT registered so input VAT incurred will be recoverable subject to the activities performed. The cosmeti services she performs are liable for standard rated VAT so no issue of recoverability of input VAT.

Turnover is below registration threshold so likely that she registered voluntarily to recover input VAT incurred. She's within the threshold limits to join the flat rate scheme.

Option 1

The sublease of the small room would still be covered by the OTT - if Candy choses to keep it in place, as this is an option for her. If she does she would need to invoice Andi for VAT on th sublease that he wouldn't be able to recover as he's not VAT registered. The OTT should be disapplied by Candy in this eventuality to avoid extra costs for Andi. If she was to join the flat rate scheme she would need to include this income in the scheme calculations

Option 2

Subject to the fact as above on whether OTT would still apply to the sublease, in any case Jane would be able to recover the VAT incurred as she's registered and likely has a taxable activity (holistic healer doesn't qualify for medical exemption).

Attention must be paid as to whether HMRC may consider these two business intinsecally linked, due to sharing some of the same premises, landline and social media, as they may issue a direction to consider the two businesses as one. This risk is way lower in the option of sub-lease to Andi due to the fact that the spaces used would be completely separated and the two area of businesses cannot be considered realated.

At the moment Jane and Candy are both VAT registered so HMRC is not "short" of any VAT paid, however if Candy was to deregister this may be an issue. Direction can be on point generally when there are two business, whereby one is registered and another one isn't, which appear to be intrinsically linked by economical, financial and organisational links. HMRC may see this as an artificial split of a business which should be carried out as one, where part of the business (not registered) escapes the payment of VAT on their supplies. HMRC may issue a notice of direction requiring for the two business to be registered under the same VAT registration and charge VAT on all supplies moving forward. The notice of direction cannot be made retrospectively so would only have effect from when it's made.

Another risk is that HMRC may consider that the two businesses were in partnership from the start. The risk here is that HMRC may issue a retrospective assessment (going back to 4 years or 20 in case of suspected fraudulent aim) to request the payment of output VAT not charged by the unregistered business retrospectively.

Keeping this in mind there are multiple VAT cases whereby tax payers have successfully proven that two businesses weren't actually linked despite sharing some of the premises, leases, etc (see Caton case). Maintaining the registration would avoid this issue but this is not Candy's intention. Joining the flat rate scheme would as well not be beneficial in terms of keeping her price competitive as she would still need to charge SR VAT on her supplies. So it she opts for renting the smaller room to Jane it would be advisable to keep the two businesses separated as much as possible, in particular with regards to the

advertising on social media as this may have an impact on how the two businesses are perceived externally.

Candy can deregister if the expected income in the next year will not exceed 83,000 GBP. She would need to submit form VAT 7. The deregistration will take place from the date of application or later date agreed. When calculating the threshold she would need to keep into account the fact that VAT is chargeable on the sublease under OTT

Since Candy recovered VAT on the stock and other capital items at hand, an output charge would be due on deregistration based on the value that the goods would have if sold on that day (or the value it would cost to produce them if the first can't be worked out). If she wants to avoid this self charge she should try and sell the stock and equipment before the deregistration date, especially if she has a prospective buyer who would be able to purchase the van. If the total value of the assets held are less than £6000, no output charge would apply

The total self charge that may be due would be:

- Stock costs is £300 but could be sold for £100, we should look at what price the goods would be sold at today so £100 is reasonably market value we can use this amount but at the worst this item is valued £300
- Equipment cost £4300 but net book value of £200 / market value of £1200 - in this case we would use the market value
- Van open market value is £4,400 - the price her niece would be ready to pay is not relevant as it doesn't reflect the actual value of the goods.

Considering the above £300 (worst case scenario) + 1,200 + 4,400 = 5,900 so no VAT due.

IPT

Insurance premium tax is payable on premium related to contract of insurance supplied in the UK. The rate is 12% or 20% based on whether standard rate or higher rate applies. In this case standard would apply as public liability insurance doesn't fall into any of the categories for higher rate, neither is exempt. To decide whether IPT would be due we need to look at the place of supply, this is generally linked to where the risk is located.

The fact that she took it out when she was in Tenerife doesn't have an impact as both her and her business are considered "resident" in the UK. IPT would be due at 12 % and if the supplier is not accounting for this (hence the lower price) they may not be aware of the fact that they are liable to register in the UK and charge UK IPT. Candy should check this as in extreme case scenarios she may be considered responsible for the payment of IPT in lieu of the unregistered insurance business.

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

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

Answer-to-Question- 5

Contract of insurance is exempt for VAT

There's a relevant VAT case whereby the insurance company was supplying "black boxes" to be installed in the cars with the purpose of recording any possible accident happening to the driver. This was also aimed at reducing the risk for the driver and was supplied together with the contract of insurance as an incentive. There was a debate on whether the box would qualify as a separate standard rated supply or if it was an ancillary element of the supply of insurance (all exempt). In this case HMRC held that there wasn't a separate supply of "black box" but that this was covered by the exempt supply of insurance as an ancillary element.

Another relevant case is Mercedes Benz, where it was highlighted the difference between a leasing contract - whereby the final payment was expect to be above market value and buyers likely wouldn't have bought the car, making this supply taxable on each installments - and a supply of goods - whereby the final payment was expected to be below market value so the car should have been taxed from the start for it's full value.

Card protection plan is also another important case in determining whether there a single or multiple supply.

In this case some elements that qualify the supply of the cam as separate are that:

- it is sold for a separate fee (although way below MV, see below)
- it is expected that the cam will hold value at the end of the policy
- is expected that many driver will want to keep it
- the drivers can sell it second hand

On the other hand contributors of the single supply are:

- the fact that the dash cam is not available to be purchased separately
- it is sold in conjunction of the insurance at a much lower value
- it "enhances" the main supply of insurance in a way that this is aimed at reducing the risk of accidents - see option of "safe driving parameters"

All in all this supply is likley to be considered a single mixed supply whereby the whole supply would be exempt and no separate vat charge should be made for the cam.

When discounts are given they should issue credit notes to reduce the consideration paid for the premium.

IPT

For IPT purposes the motor car insurance is taxable at the standard rate of 12%. This would be subject to higher rate only if the insurance was sold by a motor car dealer or a person connected o a person that pays a commission to the first two. This is not the case here. IF Motinz is not registered for IPT, although debatable, they should do so within 30 days of forming the intention of collecting premium payments.

IPT is chargeable on the premium of the insurance, and it's due upon receipt of the premium unless different accounting methods are used.

Premiums are all payments receivable under the construct of insurance (i.e. including

interests, commissions etc).

In this case it will be chargeable on the £550 (£59)

Channel islands are not considered as part of the UK for IPT purposes so policies sold to customers on the isle of man would not be subject to UK IPT.

If th premium are discounted this is the amount due for IPT purposes. If operating a special accounting shceme where full value is written into accounts the IPT would be due on this even if there's a discount. But a claim for the credit would be available for the discounted amount.

Constract of re-insurance are exempt from IPT. This is where an insurer is indemnified by a reinsurer for a risk indertable by the original insurer. So MOTinz own insurance will be exempt

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

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

Answer-to-Question- _6_

The consultancy business would be a standard rated business, so no difficulties recovering input vat incurred.

Purchase of land will be exempt generally but the farmes has opted to tax so VAT will apply, $60,000 \times 4 \times 20\% = 48,000$

Sinc he's VAT registered the VAT incurred will be deductible based on the activities he carries out. In order to improve the recoverability of the input vat incurred on the purchase and future works he could opt to tax the land himself, and if he sold the land to a developer at some point this shouldn't consitute an issue as they would probably be able to recover any VAT incurred.

The option would be advisable as if he wanted to recover VAT incurred on the purchase he would need to have an intention to use the property for taxable business, the below activities - although some of them generating a liability due to the fact that he's already registered - may be considered borderline non-business. If his overall farming activity was seen as non-business an input VAT recovered under the current registration for consulting business a clawback of input VAT ex Reg 108 may take place.

Some of the supplies he makes may be liable for VAT, based on whether these activities may be considered or not business activities

Two acres for campsite

The provision of pitches for tent or camping facilities is standard rated

One acre for Sheep

The sale of food items (meat and eggs) is zero rated

One acre for Alpacas

The sale of children clothing is zero rated

Ride for fruit picking will qualify as well for relief rates as the vehicle is designed for the purpose of transporting less than 10 people. The place can't be qualified as transport within a place of "entertainment" which would lead to disapplication of the relief.

All these supplies will generate a fairly low income which, if Pryce wasn't registered to start with, may have not trigger the requirement to register for VAT (braching the 85,000 threshold). Since he's VAT register he should account for VAT on the Standard rated supplies

SDLT will be due on the purchase of the land 14 days after the effective dtae which usually is the completion date of the contract, this should be notified and paid by Pryce, the buyer. SDLT is chargeable as well on top of VAT which is considered part of the consideration.

The consideration for SDLT will include also any amounts related to ucertain condition of "future sale", as if these already took place. So the SDLT should be calculated on the additional 20% payable in the event, from the start

Total consideration would be $240,000 + 48,000 = 288,000 + 57,600 \text{ VAT} = 345,600$

If the condition is due to take place more than 6 months after the effective date is possible to ask for a delay of the payment but this needs to be requested explicitly to HMRC.

The rates applicable would be non residential rates

$2\% \text{ on } 100,000 = 2,000$

$5\% \text{ on } 95,600 = 4,780$

Total 6,780