# THE CHARTERED INSTITUTE OF TAXATION

## ADVANCED TECHNICAL

## Domestic 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. St Jude Golf Club Ltd is a non-profit making company whose primary object is to provide facilities for, and to promote, participation in golf. It has 800 members, including 80 non-playing social members. On payment of an annual subscription, all members are admitted to the clubhouse, with playing members also receiving access to the golf course.

The golf course attracts visitors, with 50% of St Jude Golf Club Ltd's playing fee income derived from visitors' green fees. The green fee entitles a visitor access to both the course and clubhouse, with visitors typically taking lunch at an added cost.

St Jude Golf Club Ltd is a partly exempt trader applying the standard method. Results and projections are:

| | Actual | | Projections | |
|---|---|---|---|---|
| Year to 31 March: | 2024 | 2025 | 2026 | 2027 |
| | £ | £ | £ | £ |
| Exempt supplies (playing members' subscriptions, visitors' green fees, etc) | 470,000 | 510,000 | 525,000 | 575,000 |
| Taxable supplies (bar income, catering, social members' subscriptions, sponsorship, advertising, etc) | 170,000 | 181,300 | 186,600 | 249,500 |
| Total supplies | 640,000 | 691,300 | 711,600 | 824,500 |
| Recovery rate | 27% | 27% | 27% | 31% |
| Taxable input tax | 24,000 | 25,000 | 23,000 | 34,000 |
| Exempt input tax | 42,000 | 45,000 | 46,000 | 52,000 |
| Non-attribution input tax: | | | | |
| General overhead expenses | 18,000 | 20,000 | 21,000 | 26,000 |
| New clubhouse costs | 160,000 | 200,000 | 220,000 | 20,000 |
| Total | £178,000 | £220,000 | £241,000 | £46,000 |

The existing clubhouse is no longer fit for purpose. Members therefore resolved to construct a new clubhouse at a cost of £3 million, excluding VAT. Work commenced in September 2023 and completion is scheduled for May 2026. The new clubhouse will comprise:

| | $m^2$ |
|---|---|
| Ground floor | |
| 1) Players' facilities | 155 |
| 2) Common areas | 40 |
| 3) Plant room (serves the whole building) | 20 |
| 4) Administrative areas comprising meeting room (principally for use by Club committees), general office, reception, public toilets | 65 |
| 5) Bar and catering store | 20 |
| First Floor | |
| 1) Kitchen and allied areas | 65 |
| 2) Service restaurant | 60 |
| 3) Bar and associated area | 20 |
| 4) Lounge and relaxation area | 95 |
| 5) Common areas and toilet facilities | 60 |
| | 600 |

**Requirement:**

**Discuss the options for St Jude Golf Club Ltd on the recovery of input tax incurred on the construction of the new clubhouse.** (20)

2. Gary Bailey is a plumber who registered for VAT in April 2016 as a sole trader. In June 2022, he agreed to supply his services to PPSZ Ltd on the following terms:

1) He was an independent contractor, not an employee, agent, nor partner.

2) PPSZ Ltd was not required to offer Gary work; similarly, he did not have to accept work offered, but had to notify PPSZ Ltd when he was unavailable. He had full discretion on the scope, price (within company parameters) and conduct of a job. PPSZ Ltd could not supervise nor dictate how his services were performed. Except for existing PPSZ Ltd customers, Gary could contract with others.

3) At his cost, he was required to purchase personal liability insurance cover of £1 million against damage consequential upon his services, with himself and PPSZ Ltd the insured persons.

4) He had to comply with the company's internal rules and procedures; provide necessary tools, equipment, and protective boots; wear the company's branded uniform; drive the company's logoed van; carry its identity card and follow the control room's administrative instructions. Only other company operators could carry out work secured by Gary as a substitute.

5) For his services, Gary received 60% of the amount charged by the company to the client, excluding materials and other costs borne by it, with payment deferred until the client paid.

Gary's business accounts took account of receipts from PPSZ Ltd and associated expenses, as well as income and expenses from non PPSZ Ltd contracts. His VAT returns excluded receipts from PPSZ Ltd on the basis that he was, for these purposes, an employee, given that PPSZ Ltd's invoices to customers reflected the full amount payable, inclusive of VAT.

In October 2023, PPSZ Ltd went into liquidation, with HMRC a major creditor. In April 2024, HMRC wrote to Gary stating that his services were supplied to PPSZ Ltd as an independent contractor i.e., a taxable person; accordingly, they are subject to VAT. He was invited to make submissions on HMRC's conclusion with HMRC reserving the right to assess him for the tax due, interest and penalties.

**Requirement:**

**Discuss, with reference to relevant caselaw, Gary Bailey's VAT status.** (15)

3. In April 2018, Robert Palmer acquired 120 acres of undeveloped land. He registered for VAT as a sole trader in July 2018 and secured planning consent in January 2019 to construct 80 three bedroom dwellings on the site as part of a holiday village. The planning consent specifies that none of the dwellings can be used as a principal or primary place of residence of the owner. Construction of the properties has progressed since January 2019, as Robert Palmer's funds have permitted, using various external contractors to undertake the work.

In January 2024, having obtained external loan finance, Robert Palmer engaged his wholly owned company, ZZE Developments Ltd (a VAT-registered developer and builder) to construct one of the dwellings on the site. The loan finance is secured on this dwelling.

Robert Palmer is also the sole shareholder of a property investment company, Acorn Property Investment Ltd. To take advantage of Acorn Property Investment Ltd's accumulated tax losses, on 12 April 2024 Robert Palmer transferred the partially completed dwelling to it in consideration of it taking on the obligations of the outstanding loan finance of £80,000. By this time, work on it by ZZE Developments Ltd had progressed beyond foundation level, with a course of bricks having been laid.

Mr and Mrs Delaine (unconnected parties) agreed with Acorn Property Investment Ltd to purchase the partially completed property. On 19 April 2024, Acorn Property Investment Ltd exchanged contracts for the sale of the property to Mr and Mrs Delaine for £220,000, plus VAT. On 22 April 2024, Robert Palmer assigned the benefit of the building agreement between himself and ZZE Developments Ltd to Mr and Mrs Delaine for £1. Completion of construction of the dwelling is expected to cost a further £180,000 (payable by Mr and Mrs Delaine to ZZE Developments Ltd). Both land transactions will complete on 3 May 2024. Mr and Mrs Delaine are UK resident. This dwelling (on completion of the works) will be in addition to their current UK principal private residence.

**Requirement:**

1) **Discuss the VAT implications of the transactions**. (5)

2) **Discuss the SDLT implications of the transactions, identifying all relevant reliefs available to the parties.** (10)

Total (15)

4. CompactHome Ltd specialises in the construction of residential new-build properties, including high-rise flats. Typically, these are sold directly to private individuals and come with a two-year warranty. Following new legislation, CompactHome Ltd is required to replace all cladding on any high-rise properties it has built within the last five years. CompactHome Ltd engaged sub-contractors during the original construction to install cladding on the properties, using CladSupply Ltd in about 50% of cases. As most of the other sub-contractors have since gone out of business, CompactHome Ltd has now engaged CladSupply Ltd to undertake all of the cladding remediation work. In one block, due to safety concerns, homeowners grouped together and took legal action against CompactHome Ltd as there was disagreement as to whether remediation was required. CompactHome Ltd has conceded that it must replace the cladding and has agreed to reimburse their legal costs up to a value of £3,000 per flat.

CompactHome Ltd will also start offering roof insulation upgrades with a superior product to that installed previously. This will be a standard feature in future new builds but as a goodwill measure CompactHome Ltd will also provide it free to customers that purchased new properties within the previous 12 months. CompactHome Ltd has hired several new employees with expertise in insulation, and so it will not be required to engage with any sub-contractors and is sourcing its materials from its usual wholesaler. Customers whose houses do not qualify for the free upgrade can opt to purchase the insulation upgrade separately from CompactHome Ltd for a cost of £5,000 (including VAT where applicable).

CompactHome Ltd will offer a standard one-year warranty on its roof insulation. However, it is working with UK-based insurer CertainSure Ltd to offer an extended three-year warranty at a cost of £300, which is exempt from VAT. Under the terms of the contract, CompactHome Ltd arranges the paperwork, but the customer pays £250 to CertainSure Ltd directly and the remaining £50 is paid to CompactHome Ltd. The contract states that CompactHome Ltd is not an insurer and the payment made to it is referred to as an administration fee.

**Requirement:**

1) **Discuss the VAT implications for CompactHome Ltd of these offerings.** (14)

2) **Explain the Insurance Premium Tax implications of the warranties offered by CompactHome Ltd.** (6)

Total (20)

5. Alan is a Chartered Accountant and in April 2024 qualified as a Licenced Insolvency Practitioner and took on his first administration for a small local business, LocalTrade Ltd. LocalTrade Ltd is the representative member of a VAT group which includes two subsidiaries, both of which are solvent and trading normally. The VAT group members regularly trade with each other, with LocalTrade Ltd historically acting as a group treasury and finance entity providing interest-bearing loans to its subsidiaries, in addition to its normal trading activity.

Alan has started collecting cash owed to LocalTrade Ltd in respect of supplies made in the last three to 12 months where he has found invoices have been raised but not paid by customers. Alan has also received several letters from suppliers stating that purchase invoices remain unpaid dating back to January 2024.

Alan's intention is to try and rescue the business and continue trading normally, however he is conscious that he may need to raise some additional cash. One option that he is currently considering is whether to sell the shares of one of the subsidiaries to generate some additional cash, which can be used to rescue the remaining business of LocalTrade Ltd. Alan's current plan is to use the cash to purchase some new equipment which can reduce operating costs by 20% and increase profit margins. However, depending on pressures from suppliers Alan may have no choice but to use the cash to pay existing debts. Alan has started to engage with advisors on the share sale and has already incurred costs of £20,000 (plus VAT) on preparatory work.

Alan has received a paper VAT return from HMRC covering the period from the date of appointment to the end of April 2024 but has not yet completed this.

**Requirement:**

**Explain the VAT consequences for LocalTrade Ltd of the insolvency and Alan's proposals for the business.** (15)

6. MerchToGo Ltd is an online retail company operating in the fashion industry. It wants to expand its brand visibility and so is planning on sending out various merchandise to online 'influencers' for the first time. To test the success of this proposal, it will be approaching two different types of influencers.

Firstly, it will be sending out clothing with a retail value of £150 (cost price £60) to various smaller online bloggers. All the products provided are otherwise purchasable by customers on MerchToGo Ltd’s website. To do this efficiently, MerchToGo Ltd will not be formalising any agreements with these bloggers but instead will send out the products speculatively to them together with a request that the blogger posts a review of the product(s). Bloggers can add a discount code link to their post giving readers 10% off their purchases. MerchToGo Ltd will then pay the blogger a 2% commission on all sales made by customers accessing MerchToGo Ltd’s website via the blogger’s link. Given the volume of clothing being sent out, MerchToGo Ltd has decided that the bloggers can keep the products even if they do not write a review.

Secondly, MerchToGo Ltd will target higher profile influencers. It is looking to provide this group with goods of a retail value of £1,000 (cost price £450) on the basis that the influencer agrees to post a video online wearing and commenting on the clothing provided. Given the larger value of clothing provided, MerchToGo Ltd will require signed contracts guaranteeing that the video is posted. Where influencers agree, they will also be provided with a prototype item made of an innovative new material. This product cannot be purchased by customers and MerchToGo has no intention of manufacturing these for general sale. Instead, it hopes that influencers seen wearing these will promote its design and manufacturing expertise.

**Requirement:**

**Discuss the VAT implications of MerchToGo Ltd’s proposed marketing schemes.**

(15)