

THE CHARTERED INSTITUTE OF TAXATION

ADVANCED TECHNICAL

Domestic Indirect Taxation

May 2021

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.
- Except as set out below or indicated by additional information in the question, you may assume that 2020/21 legislation (including rates and allowances) continues to apply for 2021/22 and future years.

1) You MUST assume that the UK remains within the European Union.

2) You MUST ignore all temporary Covid related legislation including furlough, grants, loans and the reductions in VAT and SDLT rates.

Except in relation to points 1) and 2) above, candidates answering by reference to more recently enacted legislation or tax cases will not be penalised.

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

1. Stanley Wilks Ltd ceased to trade on 1 May 2021 and immediately went into liquidation with the liquidator being ABC LLP. Stanley Wilks Ltd was predominantly a supplier of construction machinery, however there were some exempt supplies of finance by the business.

The last VAT return filed by the company was for the quarter ended 28 February 2021. Stanley Wilks Ltd was part of a VAT group until 30 November 2020, with the representative member being SW Holdings Ltd (the parent of Stanley Wilks Ltd). Since 1 December 2020 Stanley Wilks Ltd has had a single VAT registration.

The assets of the company will be sold in order to fully pay the company's creditors, including an outstanding VAT payment owed to HMRC for the last VAT return submitted by the company. There are likely to be some costs (plus VAT) incurred by the company in the period following cessation of the business due to its staff pension plan. Whilst ABC LLP is satisfied that this VAT would be recoverable, it is uncertain whether Stanley Wilks Ltd needs to remain VAT registered in order to do so.

The company has significant outstanding debts due to a number of customers not paying their invoices, therefore an explanation is required in relation to the VAT treatment of these now that the company is in liquidation. In addition, some of the debts are over four years old so it has been suggested that credit notes are issued instead of claiming bad debt relief due to the time limits for claiming VAT bad debt relief. It is expected that the outstanding debts will be sold to a debt factor by ABC LLP, once the company's VAT bad debt relief position has been brought up to date.

It has also been identified that there has been an over declaration of output tax over the course of the past few years on some protective boots and helmets which should have been treated as zero-rated.

Requirement:

Explain the VAT implications arising from the cessation of the business of Stanley Wilks Ltd described above. (15)

2. Three Counties College is a provider of education in Greyton, UK. There is a proposed development on part of its freehold land, which is currently used as a car park. No options to tax have been made by the college.

The development will be carried out by a private developer, Riverdale Developments Ltd, which already owns a larger piece of land next to the car park. The proposal is that the college will grant Riverdale Developments Ltd a 999-year lease over the car park land and Riverdale Developments Ltd will then undertake a residential and commercial development scheme across the car park and the land which it already owns. In return for the grant of the lease, Riverdale Developments Ltd will construct a new building within the new development and will grant a 997-year sublease to the college over this building. The new building will be a standalone one which will be close to, but separate from, the existing college building.

A peppercorn rent will be charged on the lease and sublease. The college will pay an annual charge for facilities management services. The college has had an independent valuation of the car park at £1 million in its current state.

The college will also be responsible for its own fit-out of the new building, at an estimated cost of £1 million. The college may choose to use Riverdale Developments Ltd's contractor for part of this work, particularly in the early stages, but is not required to do so.

Once complete, the new building will comprise studios and a theatre, to be used for a mixture of education and ticketed performances.

The college is unaware as to whether Riverdale Developments Ltd intends to opt to tax the completed development.

Requirement:

Discuss the VAT and Stamp Duty Land Tax implications of the proposed transactions. (20)

3. Fashion Holdings Ltd is the holding company of a group in the fashion retail industry. It owns 100% of Bid Co Ltd, which in turn owns 100% of its trading subsidiary, Bargain Bags Ltd. The share capital of Fashion Holdings Ltd is entirely owned by Frank Private Equity LLP.

Frank Private Equity LLP is planning to sell Fashion Holdings Ltd and its subsidiaries.

Fashion Holdings Ltd is not registered for VAT and its only income is from dividends. Bid Co Ltd makes management charges to Fashion Holdings Ltd and Bargain Bags Ltd, and the directors of the group have their contracts of employment with Bid Co Ltd. Bargain Bags Ltd makes wholly taxable supplies for VAT purposes, with Bargain Bags Ltd and Bid Co Ltd being registered as a VAT group.

Costs in the region of £2 million (including VAT) have been incurred to date by Fashion Holdings Ltd in respect of the sale by Frank Private Equity LLP, such as professional fees for a vendor due diligence exercise in order to identify any issues which should be addressed to increase the chances of a successful sale. Additional costs are expected in the future, before the sale takes place. The contracts for these costs have been between the suppliers and Fashion Holdings Ltd. Bargain Bags Ltd has also incurred some additional costs in respect of the planned sale by Frank Private Equity LLP (to assist in preparing for the sale by clearly identifying business drivers that are critical to the future performance of the company and identifying issues likely to be raised by potential buyers). The Bargain Bags group has an interest in finding a new owner in order to secure its future as a going concern.

Requirement:

Explain the VAT implications of the above transactions. (15)

4. Petstuff Online Ltd is a UK based online retailer supplying clients in the UK with various items for pets. HMRC has recently conducted a VAT inspection into Petstuff Online Ltd's VAT period ended 31 March 2021.

Petstuff Online Ltd has been notified that HMRC are intending to raise assessments, with possible penalties, in relation to this and other periods. During the review, Petstuff Online Ltd provided HMRC with the following information from the return for that period:

Sales:	£
Food stuffs	10,000
Animal bedding	20,000
Toys	17,500
Medications/flea treatments	15,000
Cages/huts	25,000
Animal clothes	5,000
Other accessories	7,500
Total sales (excluding VAT)	<u>£100,000</u>
VAT due (box 3)	<u>£17,000</u>

Based on these figures, HMRC consider that Petstuff Online Ltd has been understating VAT due to HMRC by 15%. They have not questioned the input tax recovery.

Petstuff Online Ltd sells items for animals of all shapes and sizes including pet foods, toys, bedding, certain common medications etc. There are fluctuations in sales of the different categories throughout the year, for example sales of toys and animal clothes are higher in the build up to Christmas, and sales of flea treatments and other medications tend to be higher from February up to June.

Included on the VAT file was a review carried out by Petstuff Online Ltd's previous VAT adviser seven years ago which identified that some of the rate categorisations were incorrect as per the table below.

<u>Item Description</u>	<u>Rate applied</u>	<u>Correction</u>
Food stuffs (including packaged pet food; animal treats; dog biscuits; horse hay; bird seed etc.)	All standard rated	-
Animal bedding	All standard rated	-
Toys	All standard rated	-
Medications/flea treatments	All exempt	Standard rated
Cages/huts	All zero-rated	Standard rated
Animal clothes (practical jackets and novelty items)	All standard rated	-
Other accessories (dog leads/collars etc.)	All standard rated	-

It appears therefore that HMRC have identified that Petstuff Online Ltd failed to make the corrective change to the medications/flea treatments.

A member of the Petstuff Online Ltd tax team compiles the relevant documents and completes the VAT returns each quarter under the direction of the tax manager who always check the returns before submitting them.

Requirement:

Explain the potential assessment and penalty position for Petstuff Online Ltd in relation to the VAT inspection. (15)

5. Housebuilds Ltd is a UK incorporated, VAT registered, property development company seeking advice in relation to the proposed acquisition of a plot of land known as Blackacre from Farmer McGhee. Housebuilds Ltd plans to build single-unit family houses ranging from two to five bedrooms on Blackacre. The houses will include features such as fitted kitchen units, free standing white goods, carpets, light fittings and electric fireplaces.

Blackacre is part of a larger site of land owned by Farmer McGhee, and in respect of which he has made an option to tax. On the land to be retained by Farmer McGhee there is a commercial unit which is let out to an unrelated company.

There is a partly built access road across the entire site. The access road will connect both the commercial unit and Blackacre to the main road south of the retained land. Part of the agreement is that Farmer McGhee will finish the construction of this access road, at a cost of £40,000. The cost will then be recharged to Housebuilds Ltd.

The relevant rights of way/easements will be granted, under a separate agreement, for nominal consideration so that the access road can be built, and then used by Housebuilds Ltd (and successors in title), Farmer McGhee and users of the commercial unit.

The immediate consideration for the acquisition will be £1.2 million, plus the £40,000 for the construction of the road. In addition, there will be further consideration equal to 5% of the future sales proceeds of the dwellings, payable on a quarterly basis.

All figures given above are exclusive of VAT.

Requirement:

Explain:

- 1) **The Stamp Duty Land Tax consequences of the proposals, including any further information required. (11)**
- 2) **The VAT implications of the proposals. You are NOT required to comment on the application of the VAT reverse charge for construction services. (4)**

Total (15)

6. White Goods and Beyond Ltd is a retailer of various white goods such as washing machines and fridges. It also sells mechanical breakdown insurance for such goods as an optional extra for customers. White Goods and Beyond Ltd has multiple stores across England and Wales. All sales staff are capable of selling the insurance. The main store has an office space dedicated to the insurance team, which is 3% of the total square footage of the whole business.

White Goods and Beyond Ltd also has a website. However, customers are not able to actually purchase any of the white goods on the website, merely browse products and check availability for particular stores. Customers who have purchased items from a store, but opted not to buy insurance at that time, have a two week window where they can go to the website, fill in the relevant forms and acquire the insurance, using a reference number included on their receipt for the goods. The forms are quite involved, and the IT department estimates this accounts for approximately 90% of the site's usage.

The company pays a retainer to a law firm for their legal services. This is a fixed amount each month, unless the work undertaken exceeds a set number of hours, in which case a further invoice at hourly rates is issued. The normal monthly invoice for the retainer amount merely states "hours worked" with no breakdown of the type of work undertaken, or the cost of it. However, typically, approximately 85% of the work done relates to the insurance side of the business. The other 15% relates to the business as a whole, such as reviewing the general sales contracts, property leases etc.

White Goods and Beyond Ltd produces its own marketing leaflets, which are included in relevant local magazines and papers. These can be between six and ten pages and contain details of different products on offer. The insurance is not referred to in these leaflets.

White Goods and Beyond Ltd has a dedicated call centre in relation to the insurance aspect of the business, which is 8% of the total square footage of the whole business.

Following a VAT visit in February 2021, there has been recent communications from HMRC questioning the company's input tax recovery, stating too much has potentially been claimed.

White Goods and Beyond Ltd incurred the following total input tax subject to the standard rate in the VAT quarter 12/20, which were fairly typical, although some aspects, such as stock, can fluctuate and there are sometimes also other 'one-off' costs that are dealt with and attributed accordingly as they arise. The input tax costs for the property, website, legal services and call centre are the same each quarter.

<u>Item</u>	<u>Input Tax</u>
	£
Purchase of stock	125,000
Rent of opted property	100,000
Other overheads	38,000
Marketing leaflets production	7,500
Website costs	1,000
Legal services retainer	13,000
Call centre costs	<u>4,000</u>
Total Input Tax	<u>£288,500</u>

Continued

6. Continuation

The accounts and VAT returns provide the following information:

<u>VAT Quarter</u>	<u>Total income</u>	<u>White goods income</u>	<u>Insurance income</u>	<u>Input tax claimed</u>
	£	£	£	£
12/20	1,500,000	1,000,000	500,000	234,340
09/20	1,650,000	1,100,000	550,000	246,170
06/20	1,230,000	940,000	290,000	241,270
03/20	1,400,000	980,000	420,000	235,700
12/19	1,700,000	1,175,000	525,000	260,075
09/19	1,525,000	1,025,000	500,000	238,305
06/19	1,110,000	830,000	250,000	232,780

Requirement:

Explain the VAT and Insurance Premium Tax issues facing White Goods and Beyond Ltd. You should provide calculations to support your conclusions. (20)