

Tolley[®] Exam Training

CTA ADVANCED TECHNICAL

CROSS BORDER & ENVIRONMENTAL TAXES

PRE REVISION QUESTION BANK

FA 2024 & F(No. 2)A 2024

May and November 2025 Sittings

PQ825

Tolley[®]

Tax intelligence
from LexisNexis[®]

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INTRODUCTION

This Advanced Technical Pre Revision Question Bank contains 25 exam standard questions all with answers updated to Finance Act 2024 and Finance (No. 2) Act 2024. This question bank forms an important part of your preparation for the examination - question practice is the key to passing exams.

As you answer the questions you may refer to either a hard copy or on-screen version of the **CTA Tax Tables 2025** and your own personalised version of the approved online legislation.

Using this question bank

All the CTA Advanced Technical exams are **3.5 hours** in length.

We suggest you **allocate 2 minutes per mark** which allows for 10 minutes initial reading time.

10 mark question = 20 minutes

15 mark question = 30 minutes

20 mark question = 40 minutes

You should attempt each question as if you were in the real exam. Try to **avoid just reading the answers** to questions - it is all too easy to nod as you read the answer saying “yes I know that point, yes I understand that advice given” - the test is would you have actually put those points in your answer? You won't find this out unless you **type up the answers and we recommend you do this using the on-screen version of this QB**. Ensuring you type up “proper” answers also gives you a good idea of how long an exam standard answer will take you to produce.

Preparing your answers

Questions set on the Advanced Technical papers **do not require a specific format** of answer - all questions will require a direct answer (rather than a letter to a client or an email to the tax partner). Requirements will start with words like “Explain”, “Discuss”, “Compare” and “Calculate”.

There may be scenarios where there is no single correct answer or where the answer is not definitive. You will be expected to **make recommendations** as to actions which should be taken by the subject of the question.

You are expected to produce **full and reasoned answers** sufficient to demonstrate your knowledge and application in order to gain the available marks. **Brief bullet points are unlikely to be sufficient.**

Key **presentation considerations** include spacing your answer out, cross referencing your workings and using subheadings and short paragraphs.

The CIOT do not award “presentation and higher skills” (PHS) marks on individual questions nor will they form part of the 100 marks available on a paper. Instead, when they carry out their normal review of a script that is just below a pass, **up to two bonus PHS marks per paper** can be awarded which could therefore boost a candidate from a fail to a pass.

When awarding these bonus marks, the CIOT have stated they will consider:

- The accuracy of spelling and grammar.
- Whether full sentences have been used where appropriate (in some cases appropriately detailed lists may be appropriate, for example setting out the conditions for a relief to apply).
- Whether answers flow well and are presented in a logical order.
- Whether conclusions have been reached where it is appropriate to expect a conclusion.

Reviewing your answers

It is essential to read through your answer when you have finished typing it (within the time allocated for that question). We thought it might be useful at this stage to pass on some tips about how to review your answers effectively – **before** you look at the model answer.

Remember the first thing the marker will do is read your answer through as a whole – what overall impression are you giving of your ability? A good question to ask yourself is would the reader pay money for your advice? Have you put the marker in a good mood as soon as they see your script or are they going to be dreading marking what you have handed in?

You may be able to make some small corrections at this review stage – you may find you have missed out a vital word such as “not” or you may at this stage think of another point or two to add while reading through your answer. This approach could increase your marks much more effectively than carrying on with the point you were making before you stopped to do this final review.

Reviewing the model answer

In the advanced technical papers, it is quite likely that there is no single right answer. The model answer is only one possible solution. You may well have included valid points which are not included in the model answer. Review critically both your answer and the model answer. Are there points in the model answer which you could have included in your answer to get extra marks? Are there points you have included which, with the benefit of hindsight, you should have left out?

CONTENTS

NO	NAME	TOPIC	MARKS
1	Shaldon plc	Import of installed server, purchase of software, ESS, exports of own goods	15
2	Teignmouth Ltd	NI co, Lease of goods, Temp movement of goods, car hire, hire purchase	15
3	James Horatio	Catering supplies, supply of staff to various places, on board ferry, training v consultancy	20
4	Bantham S.A.	French business with UK supplies, services, Distance selling to NI	20
5	Hai Wai Wiel Company Ltd	Chinese co importing 'ex works' to UK	20
6	Tamburlan Investment Fund Ltd	Historic GB, financial securities, registration for VAT, PE	15
7	Bohme Industries Inc	NI company acquiring assets from EU	15
8	Joan Whitehouse	GB individual selling jewellery in EU and UK	20
9	Norske Jegorrod ASA ("NJ")	NETP, RC, Recovery of VAT	15
10	Industries Formpro (UK) Ltd	Records, Irregularities	15
11	MacRosta Group	Catering leasing repairs	20
12	Snow Cabins Ltd	DS, supply install, work performed	20
13	Time of Supply	Landfill Tax - time of supply VAT/LFT	10
14	Gravix21 Ltd	Aggregates Levy - four activities	15
15	Company A and Company B	PPT registration	10
16	Hagrid	Calculate duty, VAT on acquisitions (historic), excise duty on champagne	20
17	Just for Big Kidz Ltd	Classification GIRS, appeal, ATR	20
18	Mr Berry	IP, AEO, EORI	20
19	Lancs Ltd	CW & CFSP for a NI trader	15
20	Small consignments	Personal reliefs in GB	10
21	Valuation	Importing from sub valuation rules (Methods 1-6)	10
22	Supakarts Ltd	IP and calculation of relief	10
23	Preferences under the TCA	Preferences under the TCA for the UK and EU	10
24	Rouge Ltd	CW, DD, classification	15
25	Excise Duties Scenarios	Excise Duties Scenarios	various

Note:

Where the questions used in this bank are a real CIOT past paper question we have included the marking guides and relevant examiners reports after the answer. However some of the past paper questions used here pre date the point when the CIOT started publishing their marking guides with their model answers and so such questions do not have marking guides available.

INCOME TAX - RATES AND THRESHOLDS

	2024/25	2023/24
Rates	%	%
Starting rate for savings income only	0	0
Basic rate for non-savings and savings income only	20	20
Higher rate for non-savings and savings income only	40	40
Additional and trust rate for non-savings and savings income	45	45
Dividend ordinary rate	8.75	8.75
Dividend upper rate	33.75	33.75
Dividend additional rate and trust rate for dividends	39.35	39.35
Thresholds	£	£
Savings income starting rate band	1 – 5,000	1 – 5,000
Basic rate band	1 – 37,700	1 – 37,700
Higher rate band	37,701 – 125,140	37,701 – 125,140
Dividend allowance	500	1,000
Savings allowance		
– Taxpayer with basic rate income	1,000	1,000
– Taxpayer with higher rate income	500	500
– Taxpayer with additional rate income	Nil	Nil
Standard rate band for trusts	N/A	1,000
Scottish Tax Rates⁽¹⁾	%	%
Starter rate	19	19
Scottish basic rate	20	20
Intermediate rate	21	21
Higher rate	42	42
Advanced rate	45	N/A
Top rate	48	47
Scottish Tax Thresholds⁽¹⁾	£	£
Starter rate	1 – 2,306	1 – 2,162
Scottish basic rate	2,307 – 13,991	2,163 – 13,118
Intermediate rate	13,992 – 31,092	13,119 – 31,092
Higher rate	31,093 – 62,430	31,093 – 125,140
Advanced rate	62,431 – 125,140	N/A
Top rate	125,140+	125,140+

INCOME TAX - RELIEFS

	2024/25	2023/24
	£	£
Personal allowance ⁽²⁾	12,570	12,570
Married couple's allowance ⁽³⁾	11,080	10,375
– Maximum income before abatement of relief - £1 for £2	37,000	34,600
– Minimum allowance	4,280	4,010
Transferable Tax allowance for married couples and civil partners ⁽⁴⁾	1,260	1,260
Blind person's allowance	3,070	2,870
Enterprise investment scheme relief limit ⁽⁵⁾	1,000,000	1,000,000
Venture capital trust relief limit	200,000	200,000
Seed enterprise investment scheme relief limit	200,000	200,000
De minimis trusts amount	500	N/A

- Notes:** (1) Scottish taxpayers pay Scottish income tax on non-savings income.
- (2) The personal allowance of any individual with adjusted net income above £100,000 is reduced by £1 for every £2 of adjusted net income above the £100,000 limit.
- (3) Only available where at least one partner was born before 6 April 1935. Relief restricted to 10%.
- (4) The recipient must not be liable to tax above the basic rate. The recipient is eligible for a tax reduction of 20% of the transferred amount.
- (5) The limit is £2 million, where over £1 million is invested in knowledge intensive companies.

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ISA limits	2024/25	2023/24
Maximum subscription:	£	£
'Adult' ISAs	20,000	20,000
Junior ISAs	9,000	9,000

Pension contributions	Annual allowance ⁽¹⁾	Minimum pension age
	£	
2023/24	60,000	55
2024/25	60,000	55

Basic amount qualifying for tax relief £3,600

Lump sum allowance £268,275

Note: (1) The annual allowance is tapered by £1 for every £2 of adjusted income above £260,000 for individuals with threshold income above £200,000. It cannot be reduced below £10,000.

Employer Supported Childcare	2024/25	2023/24
Exemption – basic rate taxpayer ⁽²⁾	£55 per week	£55 per week

Note: (2) For schemes joined on or after 6 April 2011 the exempt childcare amounts for higher and additional rate taxpayers (based on the employer's earning assessment only) are £28 and £25 respectively.

ITEPA mileage rates

Car or van ⁽³⁾	First 10,000 business miles	45p
	Additional business miles	25p
Motorcycles		24p
Bicycles		20p
Passenger payments		5p

Note: (3) For NIC purposes, a rate of 45p applies irrespective of mileage.

INCOME TAX - BENEFITS

Car benefits – 2024/25

Emissions	Electric range (miles)	Car benefit % ⁽⁴⁾	
0g/km	N/A	2%	
1-50g/km	>130	2%	
1-50g/km	70-129	5%	
1-50g/km	40-69	8%	
1-50g/km	30-39	12%	
1-50g/km	<30	14%	
51-54g/km		15%	
55-59g/km		16%	
60-64g/km		17%	
65-69g/km		18%	
70-74g/km		19%	
75g/km or more		20%	+ 1% for every additional whole 5g/km above 75g/km
160g/km or more		37%	

Note: (4) 4% supplement for diesel cars excluding those that meet the Real Driving Emissions Step 2 (RDE2) standard (not to exceed maximum of 37%).

Fuel benefit base figure	2024/25	2023/24
	£	£
	27,800	27,800

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Van benefits	2024/25	2023/24
	£	£
No CO ₂ emissions	Nil	Nil
CO ₂ emissions > 0g/km	3,960	3,960
Fuel benefit for vans	757	757
Official rate of interest	2.25%	2.25%

INCOME TAX - CHARGES

Child benefit charge	Withdrawal rate
Adjusted net income >£60,000	1% of benefit per £200 of income between £60,000 and £80,000
Adjusted net income >£80,000	Full child benefit amount assessable in that tax year

CAPITAL ALLOWANCES

Annual investment allowance for plant and machinery (AIA) ⁽¹⁾	100%
WDA on plant and machinery in main pool ⁽²⁾	18%
WDA on plant and machinery in special rate pool ⁽³⁾	6%
WDA on patent rights and know-how	25%
WDA on structures and buildings (SBA) ⁽⁴⁾	3%

- Notes:** (1) On first £1,000,000 of investment in plant & machinery (not cars).
 (2) The main pool rate applies to cars with CO₂ emissions of not more than 50g/km (prior to April 2021 not more than 110g/km).
 (3) The special pool rate applies to cars with CO₂ emissions greater than 50g/km (prior to April 2021 greater than 110g/km).
 (4) A 10% rate applies in respect of special tax site expenditure.

100% First year allowances (FYA) available to all businesses

Capital expenditure incurred by a person on research and development.
 New zero-emission goods vehicles (until 1 or 6 April 2025).
 New cars that either emit 0g/km of CO₂ (50g/km prior to April 2021) or are electric (until 1 April 2025).
 Electric vehicle charging points (until 1 or 6 April 2025).

First year allowances (FYA) available to companies only

	Main pool assets	Special rate pool assets
Expenditure on new plant and machinery (other than cars) from 1 April 2023 onwards ⁽⁵⁾	100%	50%
Expenditure on new plant and machinery (other than cars) in a special tax site	100%	100%

- Notes:** (5) 130% for main pool expenditure and 50% for special rate pool expenditure between 1 April 2021 and 31 March 2023.

INCOME TAX - SIMPLIFICATION MEASURES

	2024/25	2023/24
	£	£
'Rent-a-room' limit	7,500	7,500
Property allowance/Trading allowance	1,000	1,000

Flat Rate Expenses for Unincorporated Businesses

Motoring expenses		
Cars or vans	First 10,000 business miles	45p per mile
	Additional business miles	25p per mile
Motorcycles		24p per mile
Business use of home		
	25 – 50 hours use	£10 per month
	51 – 100 hours use	£18 per month
	101+ hours use	£26 per month
Private use of business premises		
	No of persons living there:	
	1	£350 per month
	2	£500 per month
	3+	£650 per month

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NATIONAL INSURANCE CONTRIBUTIONS

Class 1 limits	2024/25			2023/24		
	Annual	Monthly	Weekly	Annual	Monthly	Weekly
Lower earnings limit (LEL)	£6,396	£533	£123	£6,396	£533	£123
Primary threshold (PT)	£12,570	£1,048	£242	£12,570	£1,048	£242
Secondary threshold (ST)	£9,100	£758	£175	£9,100	£758	£175
Upper earnings limit (UEL)	£50,270	£4,189	£967	£50,270	£4,189	£967
Upper secondary threshold for under 21 (UST)	£50,270	£4,189	£967	£50,270	£4,189	£967
Apprentice upper secondary threshold for under 25 (AUST)	£50,270	£4,189	£967	£50,270	£4,189	£967
Special tax sites upper secondary threshold	£25,000	£2,083	£481	£25,000	£2,083	£481

Class 1 primary contribution rates

Earnings between PT and UEL	8%	12%
Earnings above UEL	2%	2%

Class 1 secondary contribution rates

Earnings above ST ⁽¹⁾	13.8%	13.8%
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Note: (1) Rate of secondary NICs between the ST and the UST, AUST & special tax sites upper secondary threshold is 0%.

	2024/25	2023/24
Employment allowance		
Per year, per employer	£5,000	£5,000
Class 1A contributions	13.8%	13.8%
Class 1B contributions	13.8%	13.8%
Class 2 contributions		
Rate	£3.45 pw	£3.45 pw
Small profits threshold (SPL) ⁽²⁾	£6,725	£6,725
Lower profits limit (LPL)	N/A	£12,570

Note: (2) From 2024/25, self-employed individuals with profits below the small profits threshold can pay Class 2 NICs voluntarily to get access to contributory benefits including the State Pension.

Class 3 contributions	£17.45 pw	£17.45 pw
Class 4 contributions		
Annual lower profits limit (LPL)	£12,570	£12,570
Annual upper profits limit (UPL)	£50,270	£50,270
Percentage rate between LPL and UPL	6%	9%
Percentage rate above UPL	2%	2%

OTHER PAYROLL INFORMATION

Statutory maternity/adoption pay	First 6 weeks @ 90% of AWE Next 33 weeks @ the lower of £184.03 and 90% of AWE
Statutory shared parental pay /paternity pay/parental bereavement pay	For each qualifying week, the lower of 90% of AWE and £184.03
Statutory sick pay	£116.75 per week

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Student Loan	Plan 1:	9% of earnings exceeding £24,990 per year (£2,082.50 per month/ £480.57 per week)
	Plan 2:	9% of earnings exceeding £27,295 per year (£2,274.58 per month /£524.90 per week)
	Plan 4:	9% of earnings exceeding £31,395 per year (£2,616.25 per month /£603.75 per week)
Postgraduate Loan		6% of earnings exceeding £21,000 per year (£1,750 per month/£403.84 per week)

National living/minimum wage (April 2024 onwards)

Category of Worker	Rate per hour £	Category of Worker	Rate per hour £
Workers aged 21 and over	11.44	16–17 year olds	6.40
18–20 year olds	8.60	Apprentices	6.40

Accommodation Offset £9.99 per day

HMRC INTEREST RATES (assumed)

Late payment interest	7.75%
Interest on underpaid corporation tax instalments	6.25%
Repayment interest	4.25%
Interest on overpaid corporation tax instalments	5.00%

CAPITAL GAINS TAX

	2024/25	2023/24
Annual exempt amount for individuals	£3,000	£6,000

CGT rates for individuals, trusts and estates

Gains qualifying for business asset disposal ⁽¹⁾ /investors' relief	10%	10%
Gains for individuals falling within remaining basic rate band ⁽²⁾	10%	10%
Gains for individuals exceeding basic rate band and gains for trusts and estates ⁽³⁾	20%	20%

- Notes:** (1) Formerly called entrepreneurs' relief
(2) The rate is 18% if the gain is in respect of a residential property
(3) The rate is 24% (28% in 2023/24) if the gain is in respect of a residential property

Business Asset Disposal relief	2024/25	2023/24
Relevant gains (lifetime maximum) ⁽⁴⁾	£1 million	£1 million

Investors' relief	2024/25	2023/24
Relevant gains (lifetime maximum)	£10 million	£10 million

Note: (4) For qualifying disposals made before 11 March 2020 the lifetime limit was £10 million.

Lease percentage table

Years	Percentage	Years	Percentage	Years	Percentage	Years	Percentage
50+	100.000	37	93.497	24	79.622	11	50.038
49	99.657	36	92.761	23	78.055	10	46.695
48	99.289	35	91.981	22	76.399	9	43.154
47	98.902	34	91.156	21	74.635	8	39.399
46	98.490	33	90.280	20	72.770	7	35.414
45	98.059	32	89.354	19	70.791	6	31.195
44	97.595	31	88.371	18	68.697	5	26.722
43	97.107	30	87.330	17	66.470	4	21.983
42	96.593	29	86.226	16	64.116	3	16.959
41	96.041	28	85.053	15	61.617	2	11.629
40	95.457	27	83.816	14	58.971	1	5.983
39	94.842	26	82.496	13	56.167	0	0.000
38	94.189	25	81.100	12	53.191		

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Retail Prices Index

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
1982	–	–	79.44	81.04	81.62	81.85	81.88	81.90	81.85	82.26	82.66	82.51
1983	82.61	82.97	83.12	84.28	84.64	84.84	85.30	85.68	86.06	86.36	86.67	86.89
1984	86.84	87.20	87.48	88.64	88.97	89.20	89.10	89.94	90.11	90.67	90.95	90.87
1985	91.20	91.94	92.80	94.78	95.21	95.41	95.23	95.49	95.44	95.59	95.92	96.05
1986	96.25	96.60	96.73	97.67	97.85	97.79	97.52	97.82	98.30	98.45	99.29	99.62
1987	100.0	100.4	100.6	101.8	101.9	101.9	101.8	102.1	102.4	102.9	103.4	103.3
1988	103.3	103.7	104.1	105.8	106.2	106.6	106.7	107.9	108.4	109.5	110.0	110.3
1989	111.0	111.8	112.3	114.3	115.0	115.4	115.5	115.8	116.6	117.5	118.5	118.8
1990	119.5	120.2	121.4	125.1	126.2	126.7	126.8	128.1	129.3	130.3	130.0	129.9
1991	130.2	130.9	131.4	133.1	133.5	134.1	133.8	134.1	134.6	135.1	135.6	135.7
1992	135.6	136.3	136.7	138.8	139.3	139.3	138.8	138.9	139.4	139.9	139.7	139.2
1993	137.9	138.8	139.3	140.6	141.1	141.0	140.7	141.3	141.9	141.8	141.6	141.9
1994	141.3	142.1	142.5	144.2	144.7	144.7	144.0	144.7	145.0	145.2	145.3	146.0
1995	146.0	146.9	147.5	149.0	149.6	149.8	149.1	149.9	150.6	149.8	149.8	150.7
1996	150.2	150.9	151.5	152.6	152.9	153.0	152.4	153.1	153.8	153.8	153.9	154.4
1997	154.4	155.0	155.4	156.3	156.9	157.5	157.5	158.5	159.3	159.5	159.6	160.0
1998	159.5	160.3	160.8	162.6	163.5	163.4	163.0	163.7	164.4	164.5	164.4	164.4
1999	163.4	163.7	164.1	165.2	165.6	165.6	165.1	165.5	166.2	166.5	166.7	167.3
2000	166.6	167.5	168.4	170.1	170.7	171.1	170.5	170.5	171.7	171.6	172.1	172.2
2001	171.1	172.0	172.2	173.1	174.2	174.4	173.3	174.0	174.6	174.3	173.6	173.4
2002	173.3	173.8	174.5	175.7	176.2	176.2	175.9	176.4	177.6	177.9	178.2	178.5
2003	178.4	179.3	179.9	181.2	181.5	181.3	181.3	181.6	182.5	182.6	182.7	183.5
2004	183.1	183.8	184.6	185.7	186.5	186.8	186.8	187.4	188.1	188.6	189.0	189.9
2005	188.9	189.6	190.5	191.6	192.0	192.2	192.2	192.6	193.1	193.3	193.6	194.1
2006	193.4	194.2	195.0	196.5	197.7	198.5	198.5	199.2	200.1	200.4	201.1	202.7
2007	201.6	203.1	204.4	205.4	206.2	207.3	206.1	207.3	208.0	208.9	209.7	210.9
2008	209.8	211.4	212.1	214.0	215.1	216.8	216.5	217.2	218.4	217.7	216.0	212.9
2009	210.1	211.4	211.3	211.5	212.8	213.4	213.4	214.4	215.3	216.0	216.6	218.0
2010	217.9	219.2	220.7	222.8	223.6	224.1	223.6	224.5	225.3	225.8	226.8	228.4
2011	229.0	231.3	232.5	234.4	235.2	235.2	234.7	236.1	237.9	238.0	238.5	239.4
2012	238.0	239.9	240.8	242.5	242.4	241.8	242.1	243.0	244.2	245.6	245.6	246.8
2013	245.8	247.6	248.7	249.5	250.0	249.7	249.7	251.0	251.9	251.9	252.1	253.4
2014	252.6	254.2	254.8	255.7	255.9	256.3	256.0	257.0	257.6	257.7	257.1	257.5
2015	255.4	256.7	257.1	258.0	258.5	258.9	258.6	259.8	259.6	259.5	259.8	260.6
2016	258.8	260.0	261.1	261.4	262.1	263.1	263.4	264.4	264.9	264.8	265.5	267.1
2017	265.5	268.4	269.3	270.6	271.7	272.3	272.9	274.7	275.1	275.3	275.8	278.1

CORPORATION TAX

Financial year	2024	2023
Main rate	25%	25%
Standard small profits rate	19%	19%
Augmented profit limit for standard small profits rate	£50,000	£50,000
Augmented profit limit for marginal relief	£250,000	£250,000
Standard marginal relief fraction	3/200	3/200
Marginal rate	26.5%	26.5%
Patent rate	10%	10%

EU definition of small and medium sized enterprises

	Small ⁽²⁾	Medium ⁽²⁾	Extended definition for R&D expenditure
Employees ⁽¹⁾	< 50	< 250	<500
Turnover ⁽¹⁾	≤ €10m	≤ €50m	≤ €100m
Balance sheet assets ⁽¹⁾	≤ €10m	≤ €43m	≤ €86m

Notes: (1) Must meet employees criteria and either turnover or balance sheet assets criteria.

(2) Thresholds apply for transfer pricing and distributions received by small companies.

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Research and development expenditure

Financial year	2023
Total relief for Small & medium enterprises (SMEs)	186%
R&D tax credit for SME losses	10%
Large companies – RDEC	20%
Financial year	2024
Enhanced R&D Intensive Support (ERIS) - total relief for loss making R&D intensive SMEs	186%
R&D tax credit for R&D intensive SME losses	14.5%
RDEC (merged scheme RDEC) ⁽¹⁾	20%

Note: (1) From 1 April 2024 the merged scheme RDEC is available to all companies.

VALUE ADDED TAX

	Standard rate	VAT fraction
Rate	20%	1/6
Limits	2024/25	2023/24
	£	£
Annual registration limit	90,000	85,000
De-registration limit	88,000	83,000
Thresholds	Cash accounting	Annual accounting
	£	£
Turnover threshold to join scheme	1,350,000	1,350,000
Turnover threshold to leave scheme	1,600,000	1,600,000

ADVISORY FUEL RATES (as at 1 March 2024)

Engine size	Petrol	LPG	Engine size	Diesel
1400cc or less	13p	11p	1600cc or less	12p
1401cc to 2000cc	15p	13p	1601cc to 2000cc	14p
Over 2000cc	24p	21p	Over 2000cc	19p

Electricity rate 9p

OTHER INDIRECT TAXES

	2024/25	2023/24
Insurance premium tax⁽²⁾		
Standard rate	12%	12%
Higher rate	20%	20%

Notes: (2) Premium is tax inclusive (³/₂₈ for 12% rate and ¹/₆ for 20% rate).

Landfill Tax (pro rated for part tonnes)

Standard rate	£103.70 per tonne	£102.10 per tonne
Lower rate	£3.30 per tonne	£3.25 per tonne

Landfill Communities Fund (LCF) ⁽³⁾ 5.3% x landfill tax liability 5.3% x landfill tax liability

Notes: (3) Relief for 90% of qualifying contributions

Aggregates Levy (pro rated for part tonnes) £2.03 per tonne £2 per tonne

Plastic Packaging Tax (PPT) (pro rated for part tonnes) £217.85 per tonne £210.82 per tonne

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Climate Change Levy (CCL)⁽¹⁾

Electricity	0.775p per kwh	0.775p per kwh
Natural gas	0.775p per kwh	0.672p per kwh
Liquified petroleum gas (LPG)	2.175p per kg	2.175p per kg
Any other taxable commodity	6.064p per kg	5.258p per kg

Carbon Price Support (CPS) rates

Natural gas	0.331 per kwh	0.331 per kwh
LPG	5.28p per kg	5.28p per kg
Coal & other taxable solid fossil fuels	£1.5479 per GJ on GCV	£1.5479 per GJ on GCV

Tobacco products duty

	From 22.11.2023	From 15.03.2023
Cigarettes	16.5% x retail price + £316.70 per thousand cigarettes (or £422.80 per thousand cigarettes ⁽²⁾)	16.5% x retail price + £294.72 per thousand cigarettes (or £393.45 per thousand cigarettes ⁽²⁾)
Cigars	£395.03 per kg	£367.61 per kg
Hand-rolling tobacco	£412.32 per kg	£351.03 per kg
Other smoking/chewing tobacco	£173.68 per kg	£161.62 per kg
Tobacco for heating	£325.53 per kg	£302.93 per kg

Alcohol Duty⁽³⁾

From 1 August 2023 to 1 February 2025

	Duty in £ for each litre of pure alcohol in the product		Duty in £ for each litre of pure alcohol in the product
Beer (ABV)		Spirits/Spirit based products (ABV)	
0 to 1.2%	0.00	0 to 1.2%	0.00
1.3% to 3.4%	9.27	1.3% to 3.4%	9.27
3.5% to 8.4%	21.01	3.5% to 8.4%	24.77
8.5% to 22%	28.50	8.5% to 22%	28.50
Stronger than 22%	31.64	Stronger than 22%	31.64
Cider (not sparkling) (ABV)		Wine/sparkling wine (ABV)	
0 to 1.2%	0.00	0 to 1.2%	0.00
1.3% to 3.4%	9.27	1.3% to 3.4%	9.27
3.5% to 8.4%	9.67	3.5% to 8.4%	24.77
8.5% to 22%	28.50	8.5% to 22%	28.50
Stronger than 22%	31.64	Stronger than 22%	31.64
Sparkling cider (ABV)		Other fermented products like fruit ciders (ABV)	
0 to 1.2%	0.00	0 to 1.2%	0.00
1.3% to 3.4%	9.27	1.3% to 3.4%	9.27
3.5% to 5.5%	9.67	3.5% to 8.4%	24.77
5.6% to 8.4%	24.77	8.5% to 22%	28.50
8.5% to 22%	28.50	Stronger than 22%	31.64
Stronger than 22%	31.64		

- Notes:** (1) For holders of a Climate Change agreement (CCA), the rate charged is a percentage of the main rate given in the table. For 2024/25 (2023/24 in brackets) for electricity the rate is 8% (8%), for gas it is 11% (12%), for LPG it is 23% (23%) and 11% (12%) for any other taxable commodity
- (2) The £422.80/£393.45 per thousand cigarettes is a minimum excise duty (if higher than the first calculation)
- (3) There are reduced rates for qualifying draught products

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INHERITANCE TAX

Death rate	40% ⁽³⁾	Lifetime rate	20%
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Note: (3) 36% rate if 10% or more of the deceased person's net chargeable estate is left to charity.

Nil rate bands

6 April 1996 – 5 April 1997	£200,000	6 April 2003 – 5 April 2004	£255,000
6 April 1997 – 5 April 1998	£215,000	6 April 2004 – 5 April 2005	£263,000
6 April 1998 – 5 April 1999	£223,000	6 April 2005 – 5 April 2006	£275,000
6 April 1999 – 5 April 2000	£231,000	6 April 2006 – 5 April 2007	£285,000
6 April 2000 – 5 April 2001	£234,000	6 April 2007 – 5 April 2008	£300,000
6 April 2001 – 5 April 2002	£242,000	6 April 2008 – 5 April 2009	£312,000
6 April 2002 – 5 April 2003	£250,000	6 April 2009 – 5 April 2026	£325,000

Residence nil rate bands⁽⁴⁾

6 April 2017 – 5 April 2018	£100,000	6 April 2019 – 5 April 2020	£150,000
6 April 2018 – 5 April 2019	£125,000	6 April 2020 – 5 April 2026	£175,000

Note: (4) An additional nil rate band is available where a main residence is passed on death to a direct descendant. Tapered withdrawal for estates > £2million.

Taper relief

Death within 3 years of gift	Nil%
Between 3 and 4 years	20%
Between 4 and 5 years	40%
Between 5 and 6 years	60%
Between 6 and 7 years	80%

Quick Succession relief

Period between transfers less than one year	100%
Between 1 and 2 years	80%
Between 2 and 3 years	60%
Between 3 and 4 years	40%
Between 4 and 5 years	20%

Lifetime exemptions

Annual exemption	£3,000
Small gifts	£250
Wedding gifts	
Child	£5,000
Grandchild or remoter issue or other party to marriage	£2,500
Other	£1,000

ANNUAL TAX ON ENVELOPED DWELLINGS (ATED)

Residential property value	From 1.4.24	From 1.4.23
>£0.5m - ≤ 1m	£4,400	£4,150
> £1m - ≤ 2m	£9,000	£8,450
> £2m – ≤ 5m	£30,550	£28,650
> £5m – ≤ 10m	£71,500	£67,050
> £10m – ≤ 20m	£143,550	£134,550
> £20m	£287,500	£269,450

STAMP DUTY/SDRT

Stamp duty⁽¹⁾	- On shares transferred by physical stock transfer form	0.5%
Stamp duty reserve tax (SDRT)⁽²⁾	- On agreements to transfer shares ⁽²⁾	0.5%
	- On shares transferred to depositary receipt schemes	1.5%

Notes: (1) Does not apply to UK securities traded on a recognised growth market (eg AIM).
(2) Does not apply to units in UK unit trust schemes or shares in UK OEICS bought from fund managers.

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STAMP DUTY LAND TAX (SDLT)

Qualifying purchases in a Freeport receive full SDLT relief

Stamp Duty Land Tax on purchase price / lease premium / transfer value – England & NI

Basic Rate % ⁽³⁾⁽⁴⁾⁽⁵⁾⁽⁶⁾	Residential ⁽³⁾⁽⁴⁾⁽⁵⁾⁽⁶⁾	Rate %	Non-Residential
0	£0 - £250,000	0	£0 - £150,000
5	£250,001 - £925,000	2	£150,001 - £250,000
10	£925,001 - £1,500,000	5	£250,001 +
12	£1,500,001+		

- Notes:**
- (3) The basic rates are increased by 3% (the 'higher rates') where the purchase is of an additional residential property for individuals. Companies and trusts pay the additional 3% on all purchases of residential properties, subject to Note 4 below.
 - (4) Companies (and certain other entities) pay 15% on purchases of residential property valued > £500,000 (subject to exceptions).
 - (5) First-time buyers purchasing a single dwelling as their only/main residence may benefit from a reduced rate. (This includes qualifying shared ownership properties.) SDLT will not be due on properties up to £425,000. For homes between £425,000 and £625,000, SDLT will be payable at 5% on the amount above the £425,000 threshold. Homes bought for more than £625,000 will incur the rates as per column 1 in above table.
 - (6) Non-resident individuals and companies will pay an additional 2% surcharge for purchases of residential property. This is in addition to the basic rate, the higher rate (where applicable, in Note 3), and the 15% rate (where applicable, in Note 4).

New leases – Stamp Duty Land Tax on lease rentals – England & NI

Rate (%)	Net present value of rent	
	Residential	Non-residential
0	Up to £250,000	Up to £150,000
1	Excess over £250,000	£150,001-£5m
2	N/A	Over £5m

Land and Buildings Transaction Tax (LBTT) on purchase price – Scotland

Basic Rate % ⁽¹⁾⁽²⁾⁽³⁾	Residential	Rate % ⁽¹⁾	Non-Residential
0	up to £145,000	0	£0 - £150,000
2	£145,001 - £250,000	1	£150,001 - £250,000
5	£250,001 - £325,000	5	£250,001 +
10	£325,001 - £750,000		
12	£750,001 +		

- Notes:**
- (1) Rates are charged on the portion of consideration that falls in each band. The same tax is payable for a premium granted for a land transaction, except for residential leases which are generally exempt. Special rules apply to a premium for non-residential property where the rent exceeds £1,000 a year.
 - (2) The 'Additional Dwelling Supplement' of 6% of the relevant consideration applies broadly to purchases of an additional dwelling by individuals & trusts (over which the beneficiary has substantial rights) & to purchases of a dwelling by certain businesses, companies & other trusts.
 - (3) There is a relief for first-time buyers where a 0% rate is applied to the first £175,000 of the purchase consideration.

New leases – Land and Buildings Transaction Tax (LBTT) on lease rentals - Scotland

Rate (%)	Net present value of rent ⁽⁴⁾
	Non-residential
Zero	Up to £150,000
1%	£150,001 to £2,000,000
2%	£2,000,001+

- Note:** (4) Residential leases are generally exempt

QUESTIONS

1. Shaldon plc is a large banking company established in Great Britain (GB) with branches in Germany, France, the US and Hong Kong. Shaldon plc is in the process of entering into an agreement with an Indian company called IT LiteCorp Pte, a business that is not VAT registered in the UK or anywhere in the EU. IT LiteCorp Pte's primary market is in the US; however, under this agreement its group of companies (including LiteTech Ireland Ltd, a subsidiary incorporated, and VAT registered only in the Republic of Ireland) will make a number of supplies to Shaldon plc.

You have been provided with a copy of the draft agreement which specifies the following scope of work:

- 1) IT LiteCorp Pte will sell Shaldon plc a server for £120,000. The server will be imported into GB, from India, for use by Shaldon plc at its GB data centre. IT LiteCorp Pte will be responsible for arranging the import of the server, as well as installing and configuring the server as part of Shaldon plc's existing IT network.
- 2) LiteTech Ireland Ltd will supply Shaldon plc off the shelf audit software, comprising physical media. However, Shaldon plc requires that this software is customised to provide significant additional reporting functionality. LiteTech Ireland Ltd is charging a fee of £198,000 for the physical media and a further fee of £200,000 for customising the software.
- 3) IT LiteCorp Ireland Ltd will also provide remote software support for office applications used by Shaldon's staff at all of its locations globally.

In relation to the remote software support services that LiteTech Ireland Ltd will supply, the sourcing manager, who is negotiating the contract, needs to know whether the VAT treatment will be different if the contract is signed by the US branch of Shaldon plc rather than the GB Head Office (although the GB sourcing manager would remain responsible for managing the relationship with the supplier). Arrangements are being discussed that would recharge these costs to the branches (as part of the group's new transfer pricing policy) but at present the services are provided without any charge to the branches.

Separately, Shaldon plc has entered into an agreement with Pink AV Ltd, a business established in GB, to purchase Audio Visual equipment. This equipment will be built in GB and supplied to Shaldon plc which will then supply the equipment to its branches in New York and Germany; a charge will be made to each branch for the equipment.

Requirement:

Explain the UK VAT implications of the above agreements. (15)

Do NOT cover Customs/Import Duty.

2. Tina King is the new Tax Manager of Teignmouth Ltd, which is based in Northern Ireland (NI). She needs advice in relation to a number of transactions. Teignmouth Ltd is a UK VAT registered leasing business with an 'XI' prefix, and leases cash registers and related equipment in the UK, EU and outside the EU. Teignmouth Ltd also operates a car hire business in France, Italy and Spain, which it does through branches of Teignmouth Ltd. Teignmouth Ltd has no other fixed establishments. Teignmouth Ltd has expanded its operations significantly in the last few years.

Leasing of retail cash registers

Teignmouth Ltd is about to enter into a new agreement with ShopStore AB, a large Swedish retailer which has branches in Ireland, Sweden and Denmark to lease cash registers for use in the business's stores in Sweden and Denmark, for 18 months. ShopStore AB's Head Office and the Danish branch will be invoiced separately in respect of these leases.

Teignmouth Ltd's current agreement to lease cash registers to ShopStore AB is due to expire at the end of this month and Teignmouth Ltd has agreed to sell the five cash registers used in Ireland to ShopStore AB, which will continue to use them in its Irish branch. Teignmouth Ltd's lease agreements do not normally provide for the sale of assets so it will enter into a separate agreement to sell these cash registers.

Car hire business

This part of Teignmouth Ltd's business is relatively new. Within Teignmouth Ltd it already started supplying car hire to tourists in France, Italy and Spain through branches in those countries for periods of up to 28 days.

Last month Teignmouth Ltd completed the acquisition of Starcross Ltd, a new NI company which is planning to offer car hire of 30 days or more in NI and in Germany (through its branch there), as well as selling cars in NI under Hire Purchase arrangements. The cars sold under Hire Purchase arrangements are sold to NI customers but will be purchased from a German supplier (next month Teignmouth Ltd expects to bring in cars to a value of approximately £350,000). Starcross Ltd is not VAT registered in the UK or Germany.

Requirement:

Advise on the UK VAT treatment of the above transactions.

(15)

3. James Horatio is a well-known celebrity chef who needs advice on his plans to expand the business.

James is looking to expand into several new areas and would like advice on how these would be treated for VAT.

His intention at present is that all these ventures would be run through James Horatio Restaurants Ltd which currently operates the restaurants. He does not intend setting up companies in other countries.

The UK restaurant chain now has 10 outlets, all based in England, and James Horatio Restaurants Ltd has the opportunity to expand the chain by opening a couple of restaurants in Ireland. It also has the opportunity of opening restaurants on cross Channel ferry services, initially those operating from Dover to France, the Netherlands and Spain.

The company has provided the catering for some corporate events and celebrity weddings in the UK in the past. It has just been asked to do the catering for a wedding in the Caribbean and James is unsure as to whether that would attract VAT. The company has also been asked to provide some of its staff to support the wife of a celebrity resident in Jersey who herself will be undertaking the catering for his birthday party.

James Horatio Restaurants Ltd has purchased from an US company the exclusive rights to place on the menu of its UK outlets "Raunchy Ribs" for three years. It has agreed for the rights to use the name to an up-front payment of £30,000, plus 2% of orders taken.

James is also considering offering training to individuals or small groups in both cooking and catering both in the UK and Ireland and is unsure as to whether it would matter for VAT purposes whether he did this through James Horatio Restaurants Ltd or as a private individual.

Requirement:

Advise on the UK VAT implications of the transactions.

(20)

4. It is November 2025. The Bantham Group S.A. is a group of French companies. The following information has been provided by the French office and it wants confirmation on whether any of the companies need to be VAT registered in the UK.

Bantham Interiors S.A.

In the last year Bantham Interiors S.A. has started to supply interior design services to UK private individuals. To do this, it employed two interior design consultants in the UK and has leased a small office in the UK.

To date Bantham Interiors S.A. has made the following supplies to UK clients:

<u>Date in 2025</u>	<u>Fees Charged</u> (£)
27 January	2,800
15 February	5,200
1 March	9,300
21 March	3,250
14 April	12,600
29 May	10,500
31 July	11,900
18 August	3,750
7 September	6,000
5 October	4,000

Bantham Furnishings S.A.

In the last eight months Bantham Furnishings S.A., a well-established soft furnishing brand, has started to sell its soft furnishings to Northern Irish (NI) consumers through its mail order catalogue and website. The business does not have any arrangements to sell to businesses. All soft furnishings are manufactured in France and sold from its office in France. The business does not employ any UK based staff.

The turnover that Bantham Furnishings S.A. has generated from NI customers is as follows:

<u>Month in 2025</u>	<u>Value of supplies</u> (£)
March	12,350
April	32,100
May	16,800
June	43,250
July	65,500
August	69,950
September	45,150
October	52,600

Bantham Homes S.A.

Bantham Homes S.A. has also started making sales to NI consumers in recent months. Bantham Homes S.A. focuses on the sale of fine quality hard wood furniture. It has no staff in the UK. The following shows sales from Bantham Homes S.A. to NI customers:

<u>Month in 2025</u>	<u>Value of supplies</u> (£)
March	5,500
April	10,000
May	7,500
June	17,500
July	23,000
August	29,750
September	24,300
October	27,800

In addition to the above, Bantham Homes S.A. acquired four sets of dining room furniture at £6,000 each, eight sets of living room furniture at £5,000 each and six sets of bedroom furniture at £4,750 each from a Spanish VAT registered supplier on 25 January 2025. This furniture was delivered to Bantham Homes S.A. in NI (at a storage facility in which it has rented some space) where it was stored prior to being sold to customers.

Bantham Design S.A.

Bantham Design S.A supplies architectural services. The business has no UK employees, with the services undertaken from its offices in France. In recent months the business has undertaken work for a number of GB clients; details of the projects for GB clients and the fees charged have been provided as follows:

<u>Date of project</u> <u>in 2025</u>	<u>Project details</u>	<u>Fees</u> <u>charged</u> £
17 April	Preparation of plans for use by Pear Ltd (a UK VAT registered company) in respect of its Head Office	42,000
12 June	Advice relating to types of extensions that may be used by Lime Ltd (a UK VAT registered company) at any one of its GB properties	35,000
6 August	Advice to Lemon Ltd (a UK VAT registered company) on planning and surveying processes	12,000
20 October	Plans for Mr Jones in relation to an extension to his house	14,500

Requirement:

Advise on the UK VAT position of the Bantham Group S.A. (20)

5. Hai Wai Wiel Company Ltd ('HWW') is a manufacturer established exclusively in China. The company manufactures specialist carbon fibre cycles for the world market. Its main customer is Velobrad Ltd ('Velobrad'), which is established and has retail cycle centres in Great Britain. HWW sells all products 'ex works' in China, so Velobrad imports and sells on to customers. The same procedure applies if customers want parts or accessories. Consequently, HWW never registered for UK VAT. It wants confirmation that this is correct.

HWW is considering changing its arrangements for the sale of parts and accessories in two phases:

- 1) From next year (2026), customers can also order parts and accessories online direct from HWW (not from Velobrad) and pay HWW electronically. HWW will export these goods at its own risk and pay any import charges. Title to the customer will pass on delivery.
- 2) When the technology is fully developed (expected to be in 2027), parts and accessories will be printed remotely using 3-D printers.

For phase 2) HWW is looking at the following structure:

HWW will lease the 3-D printers to Velobrad (to be located at Velobrad's own cycle centres). HWW will supply, in bulk, from China, physical material (resin, polymer) for loading into the printer. When the customer orders the component from HWW and payment has been received, HWW's computer will transmit unique software to the printer, which will print out the component. Velobrad will notify the customer when it is ready for collection. HWW will pay a processing fee to Velobrad for this work (less the lease rentals and cost of the physical material).

HWW wishes to ensure they have no exposure to UK VAT.

Requirement:

- 1) **Explain whether HWW is correct that it does not need to register for UK VAT based on existing transactions.**
- 2) **Explain the VAT treatment of the proposed transactions and identify any potential exposure or savings.**

Do NOT comment on Customs/Import Duty.

(20)

6. It is November 2025.

The VAT position of Tamburlan Investment Fund Ltd ('Tamburlan'), a UK-established dealer in securities, which began trading on 1 November 2020, has recently been reviewed as the Finance Director thinks it should have registered for VAT and wants confirmation of its VAT position. From the annual accounts and discussions with the directors, the following information has been gathered:

- 1) Value of sales of securities (assume they accrue evenly over the period):

Year ended 31 October 2021

£12 million (EU customers)
£4 million (non-EU customers)

Year ended 31 October 2022

£15 million (EU customers)
£5 million (non-EU customers)

- 2) Tamburlan incurred two main types of expenditure in addition to office overheads: investment consultancy and brokers' commissions on transactions. The breakdown of expenditure was as follows:

Year ended 31 October 2021

Investment consultancy: £50,000 plus VAT, paid to Leander Ltd (a UK-established business) and £40,000 paid to Didon Participations SA (established in Belgium); and

Brokers' commissions: £165,000 paid to various UK-established brokers and £60,000 paid to Faustus Finanz GmbH, established in Germany.

Year ended 31 October 2022

Investment consultancy: £55,000 plus VAT, paid to Leander Ltd and £80,000 paid to Didon Participations SA; and

Brokers' commissions: £180,000 paid to various UK-established brokers and £75,000 paid to Faustus Finanz GmbH.

In each accounting year, VAT on office overheads was £20,000.

- 3) Tamburlan subscribes to an investment bulletin, at an annual rate of £20,000 for the purposes of its business. Tamburlan paid to renew its subscription on 1 October 2022. From that date the bulletin was no longer supplied in book form but online by Balthazar et Fils SARL from Luxembourg. Approximately 60% of the bulletin contains advertising space.
- 4) In the current accounting period (1.11.24-31.10.25), sales of securities were the same as year end 31 October 2022. Leander Ltd and Didon Participations SA have each increased their annual fees to, respectively, £80,000 and £100,000. Historically, the business did not wish to be concerned with VAT but now wishes to address this, particularly as a major office refurbishment is planned for early 2026 at a cost of £200,000 plus VAT.

Requirement:

Advise on the Tamburlan Investment Fund Ltd's VAT registration and recovery position, supporting your conclusions with appropriate calculations and noting any action required.

Do NOT explain or quantify any potential penalties. (15)

7. It is November 2025.

Bohme-Industries Inc ('BII') is the US parent of a multinational pharmaceuticals group and has provided the following information about its expansion plans.

BII is purchasing the worldwide assets of another multinational group owned by Spiegel Pharmaceutical Inc ('SPI'). The master agreement provides that, in each jurisdiction, the seller's local subsidiary will transfer its trade and assets to BII's local subsidiary at market value on the date of completion (20 December 2025). All intellectual property rights are held by SPI in the US and will be sold direct to BII in the US.

The UK subsidiary, Bohme (UK) Ltd ('BUL'), is based in Belfast, Northern Ireland. The only supplies it makes are of human blood and tissue products to a local hospital.

SPI has no UK subsidiary, but it does have a branch, Spiegel-Eire, in the Republic of Ireland which markets and distributes 'Age Away', a new anti-ageing cream. Sales in the last year were in excess of €10 million. Spiegel-Eire holds stock and employs a small workforce, but all customer supply contracts are made in the US.

On completion, operations in Ireland will cease. Assets, such as stock, will be acquired by BUL at market value and transferred to Belfast. Most of the staff will be made redundant although some will have the option to move to Belfast. Customer contracts will be novated (transferred) in the US into the name of BUL. BII will grant BUL a licence to produce and distribute 'Age Away' Europe-wide for a royalty payment on all sales.

Dublin tax advisers have advised BII that the transfer of assets by Spiegel-Eire to BUL will be treated as a supply for VAT purposes, because BUL does not intend carrying on the business in Ireland.

BII needs to understand the UK VAT implications of transferring the assets of Spiegel-Eire to BUL and how BUL should treat its intended sales of 'Age Away' to the UK and European wholesale markets.

A major customer contract is with Aureole SA. 'Age Away' will be shipped in bulk by BUL and held at Aureole SA's storage facility in Belgium. Aureole SA will remove (and pay for) batches as and when stock is needed for Aureole SA's retail outlets. BUL needs to know if this presents any VAT issues.

Requirement:

Explain the UK VAT position of the issues raised.

(15)

8. It is May 2025.

Joan Whitehouse is VAT registered in the UK. She is based in Lancashire, England, and makes and sells jewellery.

Until last summer (2024) she sold all goods at craft fairs in the UK. This summer she will take some of her jewellery (valued at a few hundred pounds) with her in her suitcase and obtain pitches at a few craft fairs in EU Member States.

She is hoping this will be successful and therefore Joan has persuaded a friend (Peter), who also makes and sells jewellery for a living, to allow her to take some of his work to sell in EU Member States. Peter will set minimum prices for each piece but beyond that, Joan will be free to negotiate prices and will receive 5% of each sale she makes. Joan will not pay anything upfront for the jewellery and all items will be sold in EU Member States.

They haven't yet decided whether to make it clear to customers that Joan is selling on behalf of Peter. Peter is not currently VAT registered.

Joan is also considering running a craft fair near to her home in the UK which would showcase crafts from EU Member States. She hopes to encourage enough crafts people from EU Member States, (both those in business and those doing it as a hobby), to come over for a weekend event to make it viable for her to hire a hall and organise the fair.

Requirement:

- 1) **Explain the VAT implications of Joan selling hers and Peter's jewellery in EU Member States, using illustrative calculations where appropriate.** (16)
 - 2) **Explain the VAT treatment of the craft fair that Joan may run in the UK.** (4)
- Total (20)

Do NOT cover in detail customs/import duty but only in so far as it relates to import VAT.

9. It is November 2025. Strom Nordheim is the Finance Director of Norske Jegerrod ASA (“NJ”), a transportation and logistics operator incorporated and established in Norway (where they also have their head office). Strom has some VAT issues.

Tromso SA

NJ is currently considering purchasing the entire share capital of Tromso SA, a small independent Norwegian company formed in July 2022 whose primary business is the leasing of shipping containers to global international shipping clients who use them to transport goods around the world on their ships.

Whilst conducting due diligence, it was established that in addition to premises in Norway, the company also took a 10 year lease in August 2022 on a secure compound in Liverpool, where containers are stored when not in use. There are no staff or other functions in the UK and all invoicing, management and administration is performed from Oslo. However, some surplus scrap containers were sold in the UK in June 2023 to local charities.

Tromso SA has not registered for VAT in the UK.

As part of the future integration of NJ’s UK activities, it anticipates that Tromso SA will sub-let part of its secure compound to NJ from 31 March 2026.

NJ

NJ is not UK VAT registered and wishes to avoid registration if possible, but anticipates that in 2026 it will be charged UK VAT on the following UK expenditure:

<u>Tax Point in 2026</u>	<u>Description</u>	<u>Amount</u>
March	Rent payment for lease of secure compound in Liverpool	£40,000 plus £8,000 VAT
June	Annual security charge to secure compound	£28,000 plus £5,600 VAT
1 st of each month	Travel expenses for visiting manager from Norway	£1,250 per month incl. VAT
1 st of each month	Accommodation rented for visiting manager	£1,500 per month no VAT
September	Car Hire for visiting manager’s wife (non-employee)	£1,000 plus £200 VAT
September	Business entertainment for existing and potential UK clients	£5,000 plus £1,000 VAT
September	Business entertainment – Norwegian and American existing clients (expenditure necessarily incurred)	£3,000 plus £600 VAT

NJ wants to know if it can recover any of the above anticipated VAT and if so how much and when claims would need to be made.

Requirement:

Advise on the VAT issues arising above and what actions Strom should take.

(15)

10. It is May 2025.

Industries Formpro (UK) Ltd (“IF Ltd”) was incorporated in 2022 as a GB subsidiary of a large Italian manufacturing group.

- 1) It is currently undergoing an HMRC Corporation Tax and PAYE review. However, last week it received a letter from the HMRC officer conducting the review asking for copies of all hotel invoices relating to the secondment of overseas personnel to the UK in 2023 on which IF Ltd has claimed UK VAT. This took IF Ltd by surprise as it thought this was a payroll review and it seems that they have completely changed their interest in the enquiries. IF Ltd is concerned that HMRC has done this.

Although the seconded staff are not on IF Ltd’s payroll, IF Ltd paid and recovered £3,000 of VAT on related hotel accommodation bills to save its parent making an EU refund claim in 2023. IF Ltd now wonders whether its deduction of input tax is likely to be accepted by HMRC and whether it matters if IF Ltd re-charges the hotel bills to its parent.

- 2) In addition, the letter asked IF Ltd to provide HMRC with some background information and invoices for some Business to Business (B2B) sales IF Ltd made to a customer in Germany in December 2020. Following a brief internal review IF Ltd noticed it had not recorded the customer’s German VAT registration number on the invoice, but the sales were zero rated.
- 3) The letter also asked IF Ltd to explain why it recovered the VAT on legal advice taken by its Italian parent from a leading UK law firm regarding options for establishing a UK presence and structure. IF Ltd reclaimed the VAT on its first VAT return in 2022.

Requirement:

Advise on the three VAT issues above.

Do NOT discuss penalty procedures or time limits for raising assessments. (15)

11. MacRosta Ltd is a Belfast based international catering group. Nigel McNickel is the Group Finance Director and has been asked to advise on the various place of supply issues, and the input tax incurred by Brazil Ltd.

The MacRosta group trades through three main subsidiary companies: Almond Ltd, Hazelnut Ltd and Brazil Ltd, concentrating on catering, outsourcing and support services respectively.

Almond Ltd

Almond Ltd is a VAT registered UK established company that has café outlets in central Belfast, Dublin and Glasgow as well as at train stations in those cities. It also provides catering aboard the Belfast to Dublin train service (in both directions).

Hazelnut Ltd

Hazelnut Ltd is a British Virgin Islands registered company that franchises the MacRosta brand to independent businesses established in the Republic of Ireland, UK mainland and Gibraltar. All franchises are VAT registered in their respective member states with the exception of the one located in Gibraltar. Hazelnut Ltd also supplies coffee and other related sundries, from stocks kept in Belfast, to both Almond Ltd's outlets and to customers established in the Republic of Ireland and UK. Hazelnut Ltd arranges for goods to be delivered to customers' premises. Hazelnut Ltd is UK VAT registered with the Non-Established Taxable Persons Unit and has an 'XI' identifier.

Brazil Ltd

Brazil Ltd is a UK established company registered for VAT in the UK. It provides services to catering business clients, comprising leasing industrial coffee percolating machines to UK and Republic of Ireland restaurants, and acting as an insurance agent in arranging optional insurance for the machines. The catering business clients are the policyholders under the insurance contracts.

The insurance is underwritten by a related Guernsey established group company, Nutmeg Ltd. Brazil Ltd earns a commission of 15% of all premiums paid and takes the view that this is for providing insurance related intermediary services to the underwriter. Brazil Ltd earned £50,000 commission in the year ending 31 December 2024 and incurred £700,000 input tax relating to the importation and purchase of machines to be leased, plus £60,000 VAT incurred on administration services and general overheads attributable across all outputs.

The leased machines are manufactured in the USA and imported into the UK to be fitted with "intelligent" software that monitors the coffee being used to ensure that non-MacRosta coffee products are not used (as stipulated in the leasing contract). If breaches are identified, the contract allows for a £2,000 penalty to be charged by MacRosta.

In the event of an insurance claim requiring repairs to coffee machines, repairs are carried out by a third party UK repairer at its workshops in Holyhead. It then invoices the British Virgin Islands subsidiary, Hazelnut Ltd.

Requirement:

Advise on the matters requested by Nigel including references to relevant legislation. (20)

12. It is November 2025.

Derek Dimple is the Finance Director of Snow Cabins Ltd (“Snow”), a Northern Ireland established UK VAT registered company (with a ‘XI’ prefix) involved in the manufacture of log cabins.

Derek has some queries concerning overseas VAT. It has accounted for UK VAT on historic supplies of log cabins to private customers in EU Member States and is unsure as to whether this was correct. The following supplies were made:

Log Cabins for private customers

Snow’s log cabins are sold and delivered in kit form ready for self-assembly by customers or can be supplied and erected by Snow ready for immediate use at its customer’s chosen location. Orders to date have been taken from customers located in the UK, France, Germany and the Netherlands.

Cabins in kit form proved popular in France and Germany and since first being sold in October 2023, the following kit sales were made to private customers in those countries:

	<u>France</u>	<u>Germany</u>
	€	€
<u>2023:</u>		
October	5,000	9,000
November	7,000	16,000
December	17,000	18,000
<u>2024:</u>		
January	0	24,000
February	12,000	22,000
March	17,000	33,000
April	5,000	28,000
May	62,000	19,000

Log cabins for business customers

In addition to the above sales to private customers, Snow has supplied and erected the following for business customers located in each of the following countries:

<u>2025</u>	<u>France</u>	<u>Germany</u>	<u>Netherlands</u>
	€	€	€
January – March	0	15,000	130,000
April – June	0	22,000	59,000
July – September	29,000	19,000	55,000
October – to date	14,000	25,000	70,000

As well as the sale of cabins direct to customers, Snow also has an independent distributor in Belgium. Snow has provided them with kits on a sale or return basis. Snow delivered approximately £100,000 of stock in February 2025 to them, expecting the goods to be sold or returned before 31 August 2025. Snow received payment for £30,000 of the adopted stock in July but heard last week that the remainder of the goods have been destroyed by fire and the distributor has ceased trading. Snow wants to know what should be done in these circumstances.

Roof Trusses

As a separate activity, Snow has also developed expertise in bonding metal joints to timber to form roof trusses. Its sole customer, St Gremain SA, is a company established in France. Under Snow's arrangements with St Gremain SA, the latter delivers the timber used in manufacturing the trusses from France to Snow's NI factory and St Gremain SA also retains ownership of it. Snow invoices St Gremain SA for cutting timber and the purchase and attachment of metal fittings. St Gremain SA then collects finished products from Snow's factory in Belfast. Snow needs to know how it should treat the sales for VAT.

Requirement:

Advise on the VAT implications of the information provided, including any requirements to register in other Member States and how registration can be effected. (20)

Do NOT cover penalties or assessments.

13. **Requirement:**

Compare and contrast the “time of supply” rules for Landfill Tax and Value Added Tax in relation to a disposal of waste at a landfill site, providing statutory references.

You should make specific reference to waste deposited in an Information Area.

(10)

14. Gravix21 Ltd is registered for Aggregates Levy. It has been asked by the National Trust to excavate some land on one of its properties. The following will be carried out at the site:
1. A lake will be dredged. 50,000 tonnes of sand and gravel will be extracted. 10,000 tonnes of sand will be spread over the vegetable garden 100 metres away to adjust the pH level. 25,000 tonnes of gravel will be washed on site and used to create a path leading to the vegetable garden. 15,000 tonnes of sand and gravel will be used on site to mix with cement to construct some hideaway huts.
 2. 5,000 tonnes of large boulders of rock will be removed and will be re-used around the children's playing area for climbing on/ornamental purposes, after being shaped with a flat side to sit flat on the ground. The children's playing area is 350 metres away from where the rock will be extracted.
 3. An old building is being demolished with the stone used to re-build a new building on the same footprint.
 4. Any gravel and sand that is not used on site will be removed to Gravix21 Ltd's storage facility and sold. Some of the sand will be sold to a customer who will treat it to become children's play sand.

Requirement:

Explain the Aggregates Levy implications of the above.

(15)

15. It is May 2025.

The following two companies need to understand their Plastic Packaging Tax (PPT) obligations, if any:

1. Company A

Newly incorporated company on 4 January 2025. Imported 18 metric tonnes of finished packaging in February 2025. The order was placed on 16 January 2025, for delivery within three weeks.

The packaging is made up of 25 grams of cardboard, 10 grams of paper, 2 grams of metal and 33 grams of plastic.

The packaging will contain kitchen scissors, which are bought in the UK and the finished packaged product is assembled in Company A's warehouse. 20% of the packaged scissors were exported in March 2025, which was known when the order was placed in January.

2. Company B

Is registered for PPT. The following packaging is produced:

- i) 8 metric tonnes of hard plastic bread trays. These are hired to customers (eg large supermarkets) for a charge. The trays are used to transport the bread from factory to supermarket and returned for re-use. Their life span is estimated to be five years.
- ii) 5 metric tonnes of food containers sold to wholesalers who supply Chinese take-aways. They contain 60% recycled plastic. 25% of the recycled plastic is from recovering plastic disposed of by consumers, which is reformed in a factory. 35% is organically recycled.

Requirement:

Set out the Plastic Packaging Tax (PPT) obligations, if any, for the above two companies. (10)

Do NOT cover penalties.

16. It is May 2025.

Hagrid Ltd is based in Scotland and has been supplying plastic kits of dragons to private consumers in the UK since 2019. It is concerned that some historic transactions might not have been correctly carried out and is looking to make sure that in the future it correctly accounts for taxes on its transactions.

The plastic kits are subject to a 5% Duty rate. In early 2020, it sourced kit A from a Spanish subsidiary, Fluffy & Co, and kit B from a non-related Far East supplier, Umbridge Inc. The cost of these kits was £10 each including all transport and insurance costs. After arrival in the UK, Hagrid Ltd then sold these to members of the public for £25 each by mail order.

In late 2020, Hagrid Ltd altered the operation so that the kits were mailed direct to its customers by the Spanish subsidiary and by a Far East subsidiary set up to buy the goods from Umbridge Inc. These goods were purchased by final consumers over the internet direct from the subsidiaries. They continued to be sold for £25.

A small education entity, The Fang Education Trust, also sources these plastic kits from Fluffy & Co. The Fang Education Trust makes no supplies of kits but uses them for its non-business activities.

Hagrid Ltd has been approached by a French company which is looking to sell them a novelty pack for Christmas, for Hagrid to sell on to UK customers. This will contain a small bottle of champagne, along with a card game that can be used in conjunction with the dragon kits. Hagrid Ltd was told by the French company that there would be excise duty implications on arrival of the champagne into the UK.

Requirement:

- | | | |
|----|--|------|
| 1) | Calculate the VAT and Customs Duty position of Hagrid Ltd for each kit bought and sold in early 2020. | (6) |
| 2) | State the VAT implications in late 2020 when the Spanish subsidiary supplied the kits direct. | (5) |
| 3) | Explain whether the VAT implications in part 2 would have continued for sales from 2021. | (2) |
| 4) | Explain the excise duty implications on the purchases of the champagne in 2025. | (3) |
| 5) | State the VAT implication of The Fang Education Trust acquiring kits from Fluffy & Co in 2025. | (4) |
| | Total | (20) |

Do NOT discuss penalties or assessments and related time limits.

17. Jim Yot is the import manager for “Just for Big Kidz Ltd”. He is very excited about a new toy product that has just been developed, for which production should be starting in the next few months. To take advantage of cheaper costs abroad, the toy will be manufactured in the Far East and imported into Great Britain. ‘Toy’ is rather a loose term for this highly sophisticated electronic device. In Jim’s words it is ‘rather large’ and will be very expensive ‘but suitable for those yuppie types with more money than sense. It will change technology as we know it!’

Jim is worried that someone in the company has been leaking information to a competitor about the new product. Jim wants to make sure that the company imports the product to the correct commodity code.

Requirement:

- 1) **Explain the basic procedure for classifying a product and how a GB importer can obtain certainty from Customs that the code he is using is correct and discuss which GIR is of most relevance to this new toy product.** (14)
- 2) **Jim obtains a ruling from Customs concerning the classification of the product. However, he is unhappy with the code that Customs has chosen. He would like to appeal. Explain how he would go about this.** (6)

Total (20)

18. Mr Berry works in the tax department for a company that makes cleaning products and stain removal products for the UK and US markets. The company is based in Berkshire, England.

For the last few months, the company has been developing a new stain remover for silk products to compete with a US producer, which has started to import a similar product into the UK as well as making domestic sales. The rate of Duty on the stain remover is 3% ad valorem but, to manufacture it here in the UK, the company has to import a special chemical from China which is currently 15% ad valorem (and constitutes about 60% of the end product).

Due to the short supply of other materials it is currently taking between four and five months to get the product processed and ready for sale and the company is having to pay the Import Duty upfront. It uses Postponed VAT Accounting for the Import VAT.

The Chinese supplier is also experiencing problems with delivery and the company sometimes has to buy a much more expensive chemical from Scotland to use in production. The company stores all the stain remover together and it is unknown which chemical goes into which end product.

Mr Berry has recently changed freight agents who asked him to verify whether the company was an AEO or an EORI. Mr Berry is unsure whether he can apply any of these authorisations retrospectively to save the company cash paid in the past. The company has received advice in the past on Customs' warehouses so doesn't need any advice with that option.

Requirement:

- 1) **Explain the principal duty relief available to the company and how it works; and**
- 2) **Explain what an 'AEO' and 'EORI' are.**

As part of your answers above explain whether authorisations can be retrospective.

(20)

19. Lancs Ltd, has just signed a contract to import flat screen televisions from Korea for sale in Northern Ireland.

The company has experienced problems with imports in the past with paperwork and record-keeping errors holding up the clearance of goods through Customs and increasing the cashflow costs due to the delay between duty payment and eventual sale.

The new finance director, Mr Formby, has no experience in Customs Duties. He has heard something about warehouse arrangements and “simplified procedures” which might help but is confused about the different options, their benefits and the conditions which Lancs Ltd would need to meet.

Requirement:

Explain the options open to Mr Formby and the consequent obligations for Lancs Ltd. (15)

20. The following wish to know whether import duty and import VAT are due on the following purchases in 2025, into Great Britain:
- 1) Ruth recently married Bruce (an Australian national) and they will be arriving back in the UK shortly, bringing with them their wedding clothes and some wedding presents, including a rare bottle of wine.
 - 2) Janine has ordered a designer handbag from a retailer in Italy, which cost £120. She has been advised that freight and insurance will be £20 and will buy on CIF terms.
 - 3) 31YG Ltd has ordered a bespoke office chair online from a company in France. The CIF value on the invoice is £119.
 - 4) Adnan's aunt has sent him a birthday present from Italy, which is valued at £35.

Requirement:

Advise on the duty implications for the four scenarios above and for scenarios 3) and 4) explain whether VAT is due. (10)

21. A company based in the East Midlands is to start importing goods from a new manufacturing subsidiary in the Far East in late 2025 and is unsure of how goods are valued.

Requirement:

- | | |
|---|------|
| 1) List the methods of valuation. | (3) |
| 2) Detail restrictions on the use of method 1. | (2) |
| 3) Give four examples of 'specified matters' which would result in additions to be made to the transaction value. | (2) |
| 4) Give six exclusions or deductions to be made from the transaction value. | (3) |
| Total | (10) |

22. SupaKarts Ltd is setting up as a manufacturer and distributor of motorised shopping carts that elderly people use. 70% of its sales will be export sales to customers in Canada. The assembly of the shopping carts will take place in Humberside, in Great Britain.

SupaKarts Ltd will import all the frames for the shopping carts from a supplier in China and will pay an ad-valorem duty rate of 10% on these. Imports over a six-month period are estimated to be around £200,000. The motors will be supplied from a French company (not originating under the TCA) and the wheels will be imported from the Far East, at a cost of £750,000 per year. It is estimated that next year's duty bill for the motors and wheels will come to £35,000 (this is after claiming for any preferential/zero duty rates available). The motors and wheels will be imported into a warehouse in Hull.

Imports have been quicker than anticipated and a shipment is due to come in in a fortnight's time.

The managing director of SupaKarts Ltd has heard that it may be possible to use a special procedure to provide Import Duty relief to reduce the amount of duty payable on its imports.

Requirement:

Explain the principal relief available and:

- **set out the advantages for SupaKarts Ltd in operating this relief, and**
- **calculate how much duty the company could save.**

(10)

23. In 2020 the EU and the UK signed a Trade and Cooperation Agreement (TCA).

Under the TCA there are specific origin rules which will allow the import of goods from the EU into GB to take place with no tariffs and vice versa.

The type of preference cumulation contained in the agreement is 'bilateral' and not 'diagonal'.

Requirement:

- 1) Explain what preference is under the TCA;
- 2) Explain the conditions that need to be met for goods to be considered as originating in either party to the TCA;
- 3) Explain what 'bilateral' and 'diagonal' cumulation is; and
- 4) Who makes a statement of origin?

(10)

24. Rouge Ltd began to import cosmetics in early 2025.

Lipsticks originate in the Far East; blusher comes from Spain and eye shadow originates in China. All of the components are imported into Rouge Ltd's distribution centre in the Midlands and consolidated into a single shrink-wrapped package for sale in Superdrug and Boots. Rouge Ltd only makes wholesale supplies across England.

On average products can spend four months in the distribution centre due to timing differences between receiving all the products. Rouge Ltd does not operate any special procedures and its freight agent clears the imported components on its behalf using the commodity codes for the individual items.

Rouge Ltd would like to defer/and lower if possible the import duty it pays on the imported components.

Requirement:

Explain how Rouge Ltd can lower or defer its import duty, indicating any queries you might have for the company in order to achieve its objective. (15)

25. EXCISE DUTIES SCENARIOS

These are not exam standard stand-alone questions but are scenarios covering various aspects of the syllabus on Excise Duties to help you to understand and apply the rules. Usually Excise Duties are a small part of a larger question testing either VAT or Customs Duties.

Scenario 1

You are an Indirect Tax advisor specialising in excise duties. You have been researching a new planning regime that could reduce clients' excise duty liabilities on alcoholic products that they produce. You are about to write to several of your clients about the proposed new scheme, for which you will charge a contingent fee, based on the savings that you make.

You understand there are regulatory obligations concerning excise avoidance schemes and you want to make sure that you are compliant.

Requirement:

State what legislation governs the promotion of this scheme and describe briefly the actions you need to take to be compliant. (5)

Scenario 2

You work in the in-house tax department for a large alcoholic wholesaler. You are taking on two new joiners to work in the department who will begin studying for their CTA exams. You are going to lead a training session with them about the Alcohol Wholesaler Registration Scheme (AWRS) and its impact on your company.

Requirement:

Prepare bullet point notes about the operation of the scheme and its impact for your business. (5)

Scenario 3

You have recently joined the in-house tax team for a large alcoholic company that produces its own alcopops. In order to learn more about excise duties your manager has given you topics to research and present back your findings to him by way of a short presentation. The most recent topic he has given you is 'Excise Warehouses'.

Requirement:

Prepare bullet point notes about operating an Excise Warehouse. (10)

Scenario 4

You have recently joined the indirect tax team for a large firm of accountants. One of your clients produces tobacco. In order to learn more about excise duties on tobacco you have been given the task of researching what a tobacco manufacturer needs to do to be compliant with the law on producing tobacco.

Requirement:

Prepare bullet point notes about becoming authorised to manufacture tobacco products. (5)

Scenario 5

Northern Ireland still follows EU rules on the movement of excisable goods. Goods can move between an Excise Warehouse in the EU, to an Excise Warehouse in Northern Ireland, in excise duty suspension. The EMCS is used to record the movement of the goods.

Requirement:

Briefly explain the operation of the EMCS for moving goods between Excise Warehouses that are governed by EU law. (5)

ANSWERS

1. SHALDON PLC

Purchase and configuration of server

The place of supply of goods is the UK if the supplier installs or assembles them in the UK. Therefore the supplier is required to charge and account for VAT. If the supplier is not registered for UK VAT it may be required to do so. However by concession (see Business Brief 1/98 & VATPOSG3400), the GB client can account for VAT on the import of the goods from the Indian established supplier if:

- The supplier has no UK VAT registration; and
- The supply in question is a one-off and the supplier does not anticipate future UK business.

Under the concession, Shaldon plc would account for import VAT on the full value of the supply and installation of the server (which includes any Duty payable). It can use Postponed VAT Accounting (PVA) to account for it as output VAT on its next VAT return. It can recover the import VAT in line with its partial exemption position on the same return. If this is possible, it could leverage this as part of its negotiations with IT LiteCorp Pte on price and commercial terms.

Purchase of audit software

As the supply comprises both goods (ie physical media) and services (ie customising the software), it is important to establish whether a single supply has taken place to which a single VAT treatment will apply, or whether a multiple supply has taken place where each element will have its own, independent VAT treatment.

Although separate prices have been quoted for the physical media and customisation, a single supply can exist, as it is the economic reality of the supply rather than the pricing that will determine the VAT treatment. Shaldon plc's purpose is to purchase customised software and not the physical media prior to customisation. This was supported in *Levob Verzekeringen BV v Staatssecretaris Financien (C-41/04)* which concluded that the supply of physical media, together with its customisation to the customers' specifications constituted a single supply of services.

As the supply in question constitutes a supply of services which takes place in the UK; it is Shaldon plc and not LiteTech Ireland Ltd that will be responsible for accounting for the VAT. Therefore, Shaldon plc should account for reverse charge VAT at 20% on £398,000. This VAT should be accounted on the earlier of the date on which the services are performed and the date Shaldon plc pays for the services. It may recover the VAT in line with its partial exemption position.

Remote Software Support

Electronically supplied services are subject to VAT where they are 'used and enjoyed'. Therefore to the extent that the services are used and enjoyed by Shaldon plc outside the UK (ie at its branches in the US and Hong Kong) UK reverse charge VAT should not be accounted for.

If the contract for these services was to be signed by Shaldon plc's New York branch and it was considered to be the establishment most closely connected with the supply, the 'use and enjoyment' rules could apply slightly differently. The place of supply would be outside the UK and in such circumstances, the services would only be subject to UK VAT to the extent that the services are used and enjoyed in the UK. However, based on the facts presented this approach will not be possible. This is because Shaldon plc's UK head office will still be regarded as the establishment most closely connected with the supply, as the contract, details of the services provided and the relationship with the supplier would still be managed by the UK head office. This is in line with the Court of Appeal's decision in the case of *Zurich Insurance Company [2007] EWCA Civ 218*.

Purchase of equipment from Pink AV Ltd

Pink AV Ltd should charge and account for VAT on its sale to Shaldon plc. The subsequent movement of the equipment from the GB head office to the branches will be exports from GB. It is unclear whether the equipment is being sold or a charge is made for hire. In either event as the goods leave GB they will not have UK VAT on them as an export of goods is zero rated. This is provided that evidence of export is obtained.

It is recommended that details and documentation concerning the shipment of the goods are retained on file should HMRC wish to validate the location of the goods.

The UK VAT incurred on the sale from Pink AV Ltd can be recovered in line with Shaldon plc's normal partial exemption method.

MARKING GUIDE

TOPIC	MARKS
Purchase and configuration of server:	
– GB POS of installed goods	½
– Registration obligation for supplier	½
– BB 1/98/VATPOSG3400 simplification available	½
– Simplification conditions	1
– Shaldon accounts for import VAT using Postponed VAT Accounting	1
– Input tax recovery on same VAT return (in line with PE)	½
– Commercial advice re leverage	½
Purchase of audit software:	
– Identification of goods and services element of supply	½
– Implications of single v multiple	1
– Economic reality key	½
– Shaldon's purpose was to buy the service	½
– Levob link	½
– Shaldon is responsible for UK VAT via reverse charge	½
– Tax point of reverse charge	½
– Input recovery on reverse charge	½
Remote software support:	
– POS where used and enjoyed	½
– No reverse charge where enjoyed outside UK	½
– Closely connected debate	1
– GB head office is establishment most closely connected with the supply	½
– Consistent with Zurich	½
Purchase of equipment from Pink:	
– UK VAT chargeable on its sale to Shaldon	½
– Both supplies to the branches the same	½
– Export of goods 0%	½
– Evidence of export	½
– Retain shipment documentation	½
– Input tax recovery	½
TOTAL	15

Examiner's report:

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CHIEF EXAMINER'S COMMENTS FROM NOVEMBER 2015Indirect Tax Papers

In my last report, I commented that candidates for the two indirect tax Advisory papers seemed ill-prepared and once again this was the case with a number of candidates performing extremely poorly. One issue may be that these candidates are sitting the paper with insufficient practical experience both in terms of length of time in practice and also the range of experience. This reveals itself in a lack of understanding of basic concepts, a narrow range of knowledge and a difficulty in constructing reasoned answers.

General comments on the CB Indirect paper

Many candidates appeared to either have not read the question properly or answered the question that they had wished the examiner had set. It is important to actually address the specifics of the question rather than produce generic information which does not answer the client's queries.

Too many candidates are either guessing at answers or are losing simple marks by failing to explain the reasoning for their answers. Simply saying that a supply will be subject to VAT in the UK, without explaining why will rarely gain the student the full marks available. Candidates appeared to have wasted a lot of time including generic statements about the place of supply rules in almost all responses which did not address the question or, in fact, offer any meaningful comment; common examples of this include setting out the B2B and B2C rules and writing comments such as "a supply of services is a supply of services for VAT purposes".

Comments on this question

This question was generally answered poorly.

Many candidates included details on Customs Duties even though this was not asked for. Candidates also failed to consider the use and enjoyment rules and many did not perform any single or multiple supply analysis in relation to the customised software. Worryingly, a number of candidates appeared to confuse the VAT compliance obligations of the recipient with those of the supplier. Also it was clear from the answers that many candidates were expecting a question on Skandia America Corp. (USA), filial Sverige (C-7/13) and answered accordingly, despite the fact that the question made no reference to VAT grouping.

2. TEIGNMOUTH LTD

Leasing of cash registers

The VAT treatment of leasing services was initially considered by the CJEU in the *Eon Aset* case (C-118/11). This case concluded that a finance lease could be a supply of goods where the lease instalments equal the value of the assets and the risks and rewards relating to the asset transfer to the lessee. However, the UK did not amend the VAT treatment of finance leases following this case. In the UK, para 1(2)(b) sch 4 VATA 1994 states that leases that expressly contemplate that the property will pass at some time in the future are treated as supplies of goods. Where no option exists there will be a supply of services. The more recent CJEU case of *Mercedes-Benz Financial Services UK Ltd* (C-164/16) is relevant as the Court ruled that if in the normal course of events title will not transfer to the customer, then the agreement should be treated as a supply of services and not a supply of goods.

As ShopStore AB cannot purchase the cash registers under the leases, the lease payments are consideration for supplies of services by Teignmouth Ltd. Although Teignmouth Ltd will enter into a single contract with ShopStore AB, the services are not supplied exclusively to the Head Office. As the cash registers will be used by the Danish branch, those leases will be more closely connected to the branch's activities. The separate supply and invoicing under the contract supports this. There is no UK VAT on the supply of services to the business customers as the place of supply will be Sweden and Denmark, respectively.

Teignmouth Ltd will need to move the cash registers to the countries to provide its services. As ownership of the assets will not transfer, this will constitute a temporary movement of own goods and not a supply for VAT purposes. This temporary movement is not a supply where:

- Teignmouth Ltd is established where the assets are dispatched from but not in the EU Member States where the assets arrive;
- The assets are moved to the EU Member State of arrival solely for Teignmouth Ltd to supply services;
- When the assets were dispatched, a contract was in place obliging Teignmouth Ltd to supply services using the assets; and
- Teignmouth Ltd must intend, and actually transfer the assets back to NI once it has ceased using them to supply the services.

Regulation 33, VAT Regulations 1995 provides that a temporary movement of goods register must be maintained. For periods under two years this must contain the date the goods were dispatched and received and descriptions of the assets.

Sale of cash registers to ShopStore AB Ireland

This transaction will constitute a supply in Ireland as the assets will not leave Ireland. It is not a UK supply, so is outside the scope of UK VAT. Local advice should be sought on registration and VAT obligations in Ireland.

Car hire

The basic VAT place of supply rules dictate that a supply of services takes place where the customer is located, where that customer is a business; and where the supplier is located, where the customer is a private individual. Car hire is an exception to both of these rules where the hire is short term (30 days or less). Short-term hire services take place where the car is put at the customer's disposal. In contrast, long-term hires (more

than 30 days) take place where the customer is ordinarily resident (if a private individual); or if the customer is a business, where it belongs.

For customers hiring cars in France, Italy or Spain, as the hire period is 30 days or less, these are not UK supplies, so outside the scope of UK VAT.

Starcross Ltd will also need to review its VAT registration obligations where its customers are private individuals hiring cars from its German branch (as the normal place of supply rules apply for periods of hire exceeding 30 days). Where its customers are businesses that are not hiring cars from a branch of Starcross Ltd in the country in which they are established and UK VAT should not be accounted for. The overseas VAT registration obligations of Teignmouth Ltd and Starcross Ltd should be reviewed.

Hire purchase

Under each hire purchase agreement separate supplies of goods and credit are made. Acquisition of cars from the German VAT registered supplier will create a liability for Starcross Ltd to register for UK VAT once the value exceeds the registration threshold. As Starcross Ltd will breach the threshold in the next 30 days, HMRC should be notified before the end of this period. Starcross Ltd will need to charge and account for UK VAT on the supply of the cars as the supply will take place in Northern Ireland, in the UK. In addition to the supply of goods, Starcross Ltd will also make a VAT exempt supply of credit and will be partially exempt; accordingly, it will not be entitled to full VAT recovery.

MARKING GUIDE

TOPIC	MARKS
Leasing:	
– EON concluded that finance leases could be a supply of goods. However consider implications of more recent <i>Mercedes Benz</i> CJEU decision	½
– UK continue to treat finance leases as services	½
– Lease of cash register is a service	½
– Services are not exclusively supplied to one location	½
– Danish branch is the most closely connected	½
– Outside the scope of UK VAT as B2B where recipient belongs (Sweden and Denmark)	1
– Temporary movement of own goods re the registers	½
– Not a supply where conditions are met	½
– Conditions	1
– Records	½
Sale to ShopStore AB:	
– Irish supply as goods remain in Ireland	½
– Outside the scope of UK VAT	½
– Local advice sought	½
Car Hire:	½
– Basic B2B and B2C rules	½
– Short term hire exception	½
– Definition of short term	½
– Long term exception for individuals	1
– No UK VAT where cars collected in EU for short term hire	½
– No UK VAT obligations where cars long term let to individuals in EU	½
Hire Purchase:	
– Separate supplies of goods and services	½
– Acquisitions registration obligations	½
– Next 30 days breach	½
– Notification	½
– VAT due on the cars	½
– Finance is exempt	½
– Input tax recovery restricted	½
TOTAL	15

Examiner's report:

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This question was answered poorly by almost all candidates. Many candidates effectively approached the question as if it were a short form question and only considered the VAT treatment of the transactions at the simplest level, with virtually no thought given to the wider VAT implications of the arrangements described. For example, very few candidates considered the VAT implications of acquiring the assets or transferring existing assets to the relevant countries to supply the leasing services. Disappointingly, hardly any candidates correctly identified the place of supply for long term leases of means of transport where the lessee is a private individual.

3. JAMES HORATIOExpansion Plans

The UK VAT treatment of the proposed supplies and the place where they are chargeable to VAT can vary according to whether they represent a supply of goods or services. These are supplies of services and the advice below follows this basis.

The basic rule for a supply of services is that if it is made to a business, it is treated as if it takes place where the customer belongs and if it is made to a consumer or individual it is treated as if it takes place where the supplier belongs; that is to say where the person lives or where a company is established. There are a number of exceptions to these rules.

Restaurants in Ireland

The provision of restaurant services is treated as taking place where they are physically carried out. These would therefore be outside the scope of UK VAT (and liable to VAT in Ireland).

Restaurants on Ferry

There used to be a special rule that covered the provision of catering or restaurant services on intra-EU ferries, when the UK followed EU rules. This rule was repealed for supplies from 1 January 2021 and the rule now is as for the Irish restaurant, above. The services are treated as taking place in the country in which the restaurant services are physically carried out. This could be the UK or elsewhere depending on when the restaurant serves food, and this will need to be determined by James in order to decide whether UK VAT needs to be charged.

Wedding Catering in Caribbean

This provision of catering is deemed to take place where the supply is actually carried out and so would be deemed to take place in the Caribbean and would be outside the scope of UK VAT. The business would need to consider whether it needs to register for any local sales taxes.

Staff at Birthday Party

Where James Horatio Restaurants Ltd supplies staff to someone else who will then determine their duties, as opposed to providing a full catering service, it is making a supply of staff. There is a special rule which covers the supply of staff to an individual customer who is based outside the UK. This deems the supply to have taken place in the customer's country and the supply is therefore outside of the scope of UK VAT as Jersey is outside the UK for VAT purposes.

Raunchy Ribs

The right to use the name would be a service that is deemed to take place in the UK where James Horatio Restaurants Ltd belongs.

As a result James Horatio Restaurants Ltd would have to account for VAT on the transaction on its VAT return under the reverse charge procedure; it pays and reclaims the VAT on the same return.

James Horatio Restaurants Ltd would need to account for the VAT on both the upfront payment and ongoing payments, which would be treated as royalties each time that the company makes a payment or receives an invoice, whichever is earlier.

Training services

The general rule for supplies of training is that it is deemed to be supplied where the training takes place, for B2C supplies. Therefore, the training provided to customers who are not relevant business customers means the place of supply is the country where the training takes place.

However, the training described is more complicated as it could fall under an exemption for education depending on whether it is carried out as an individual or as an employee of James Horatio Restaurants Ltd. James Horatio Restaurants Ltd is not an eligible body, a school etc, so any training it supplies would be standard rated if the training takes place in the UK.

The law says that private tuition in a subject ordinarily taught in school or university by an individual teacher acting independently from an employer is exempt from VAT. This means that no VAT is charged on the supply but also that the supplier cannot reclaim input tax that relates to the supply. As both cooking and catering are taught in schools and further education establishments, private tuition in these subjects may be exempted.

There is some case law on the subject, for example, *HMRC v Empowerment Enterprises Ltd [2006] CSIH 46* confirmed that what determines whether the tuition is exempt is who undertakes the teaching. So if James were to supply it personally, it would be exempt from UK VAT but a supply in the capacity of an employee of James Horatio Restaurants Ltd, would make it liable to VAT at the standard rate in the UK. It would be necessary for the position in Ireland to be checked should James decide to undertake any training there.

Another case, *Eulitz [2010] C-473/08*, confirmed that an individual carrying out tuition that the pupil had arranged through a company or organisation could not be exempt. So for the teaching to be exempt it must be both arranged with and carried out by James as an individual. If the customer books the tuition through James Horatio Restaurants Ltd, but as a private individual James provides the training, it would become a standard rated supply in the UK. As stated above, the VAT position in Ireland would need to be confirmed.

As the tuition has not started yet, James may decide how to set up this business, depending on what works best for him and would be most attractive to his potential pupils. Offering the tuition personally would mean he would not have to charge UK VAT on any UK supplies, thus reducing the cost of the tuition but this would prevent him from claiming input tax.

Offering the tuition through James Horatio Restaurants Ltd, would mean it could reclaim VAT on its costs as normal, but it would have to charge UK VAT on its UK supplies. Which option he chooses is up to him but as the clients may not be in a position to reclaim VAT, offering the tuition in a personal capacity may be best. The VAT treatment needs to be confirmed in Ireland that they do not impose further restrictions in comparison to the UK's rules.

MARKING GUIDE

TOPIC	MARKS
Must determine whether supply is of goods or services	1
Place of supply of services – basic rule B2B and B2C	1
Liability of expanding chain into Ireland	1
Liability of branch of restaurant chain on ferry	1½
Catering celebrity wedding – where carried out so outside the scope UK VAT	1
Support staff at events – Provision of staff rather than catering services	1
Liability of providing staff at birthday party	1
<u>Raunchy Ribs</u>	
Supplied where customer belongs	1
JHR Ltd must account for UK VAT under reverse charge	1
Payments are treated as royalties and time of supply, UK VAT on each payment	1½
<u>Training Services</u>	
UK VATable where carried out for B2C supplies	1
Tuition may be exempt – depends on who supplies it	1
Definition of tuition and of exempt	2
Identifying that HMRC v Empowerment Enterprises Ltd says that who provides the tuition is key	1
Explaining that involving the company would mean the training is standard rated (Eulitz)	2
Explaining his choices and what they mean (No need to name cases to gain marks)	2
TOTAL	20

Examiner's report:

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Again candidates missed some of the easy marks by not explaining the reasons for their argument. They need to consider who their response is aimed at. A layman is unlikely to understand statements such as, “the liability follows the B2B general rule”, if this is not explained further. The candidates generally did less well on the tuition element of the question; some failing to identify it could be exempt. Even some who did identify this failed to follow through on the differences in treatment depending on whether the training was delivered by the company or the individual.

4. BANTHAM S.A.UK VAT REGISTRATION RULESUK established businesses

A business with a fixed establishment in the UK may be required to register for UK VAT under Schedule 1 VATA 1994. A business has a fixed establishment when it has human and technical resources in the UK sufficient to make and receive supplies in the UK (See *Gunter Berkholz (C-168/84)*).

Businesses must register for UK VAT under Schedule 1 of VATA 1994 when their turnover breaches the registration threshold (currently £90,000) during a rolling 12 month period.

Overseas businesses

Schedule 1A VATA 1994 requires a business with no UK establishment to register for VAT where they make any taxable supplies in the UK. There is no registration threshold for these businesses.

Schedule 9ZC VATA 1994 requires that an EU business (with no UK establishment), which supplies goods to Northern Irish private individuals, must register for UK VAT, under the distance selling provisions. There used to be a threshold once the value of supplies exceeded £70,000 in a calendar year. This limit was removed from 1 July 2021 and all supplies made are subject to UK VAT (where the de minimis €10,000 threshold is exceeded). Prior to reaching the threshold, VAT is due in the country of origin.

A non-UK business can become liable to register for UK VAT under Schedule 9ZA VATA 1994, where it acquires goods in Northern Ireland from a VAT registered business established in an EU Member State and the value of those goods exceeds the registration threshold (Currently £90,000).

A non-UK business required to register as a Non-Established Taxable Person (NETP) may appoint a fiscal representative to administer its VAT registration obligations, but this is not a requirement.

Bantham Interiors S.A.

As Bantham Interiors S.A. has two members of staff and leased premises in the UK, it will be regarded as having a fixed establishment in the UK for VAT purposes. At present, as Bantham Interiors S.A. has made supplies in the UK totalling £69,300; it is not required to register.

Bantham Interiors S.A. may wish to register for VAT voluntarily. However, as Bantham Interiors S.A. clients are private individuals it is recommended it waits until it breaches the compulsory VAT registration limit. The company will have to add 20% to its prices once VAT registered so it is best to delay registration as long as possible. The registration limit may be breached very soon so the company will need to monitor its sales very carefully so as to ensure a timely VAT registration.

Once registered for UK VAT, HMRC will allow Bantham Interiors S.A. to claim, on its first VAT return, VAT incurred on expenses prior to registration. This will consist of VAT incurred on services received in the preceding six months and VAT on goods still held as stock or business assets incurred in the preceding four years (provided that the goods are still used in the business).

Once registered for VAT, UK VAT should be charged on future sales.

Bantham Furnishings S.A.

Bantham Furnishings S.A. has no human and technical resources in the UK, and therefore no UK fixed establishment.

As Bantham Furnishings S.A. supplies distance sales of goods to NI individuals from France, the place of supply of the goods is the UK, once the de minimis threshold is exceeded. Bantham Furnishings S.A. became liable to register for UK VAT at some point in March 2025.

Bantham Furnishings S.A. should belatedly notify HMRC of its liability to register for UK VAT at the first available opportunity. Penalties are normally levied on the VAT that should have been accounted for in the late registration period. However, if Bantham Furnishings S.A. has incorrectly accounted for French VAT on these sales, then the amount on which the penalty is charged is reduced by the VAT that Bantham Furnishings S.A. accounted for in France. FA 2008 Schedule 41 Para 8(b) states that HMRC have to be satisfied that the VAT was originally accounted on these sales in France for the reduction to apply so the company should start gathering evidence of the amount of French VAT paid over on these sales. As the French and UK VAT rates are very similar the VAT on which the penalty is calculated is likely to be very low.

Bantham Furnishings S.A. should also contact the French authorities to recover any VAT that they paid over in error. This will compensate the company for the UK VAT that it is now having to pay over to HMRC.

Bantham Homes S.A.

As this is a non-UK established business, it does not have the registration threshold available to it for supplies it makes in the UK. Therefore, under Sch 1A it would need to register and account for VAT on its first supplies made in March 2025. However, if Sch 9ZA provides an earlier registration date, then the earlier date will apply:

<u>Furniture acquired</u>	<u>Unit price (£)</u>	<u>Units purchased</u>	<u>Acquisition value</u> (£)
Dining room sets	6,000	4	24,000
Living room sets	5,000	8	40,000
Bedroom sets	4,750	6	<u>28,500</u>
<u>Total value</u>			<u>92,500</u>

The value of goods acquired by Bantham Homes S.A. totalled £92,500. Consequently, Bantham Homes S.A. breached the VAT registration threshold on 25 January 2025 and should have notified HMRC of its liability to be registered no later than 30 days from that point (ie no later than 24 February). The VAT registration of Bantham Homes S.A. will be effective from the date on which the liability to register arose (ie 25 January 2025).

In light of the above, Bantham Homes S.A. will need to belatedly register for UK VAT. Again, this process should be commenced as soon as possible to minimise potential penalties for the business.

Bantham Design S.A.

For land related services, the place of supply is where the land is physically situated. HMRC's guidance states that plans, or advice are only regarded as land related supplies if they relate to a specific site.

Although this business does not have an establishment in the UK, nevertheless it will be required to register for UK VAT if its services take place here under sch 1A.

The supply to Lime Ltd will not be regarded as land related as it consists of advice that does not relate to any specific site (this a 'general rule' supply and Lime Ltd will be

required to self-account for UK VAT using the reverse charge on the cost of the services received).

The supplies to Pear Ltd and to Mr Jones would be regarded as land related supplies, so Bantham Design S.A. has made supplies in the UK. However as Pear Ltd is registered for UK VAT, it should have accounted for reverse charge VAT on the value of the services it received from Bantham Design S.A.

Conversely as Mr Jones is receiving services from Bantham Design S.A. in a personal capacity, Bantham Design S.A. must charge and account for UK VAT. This will trigger a liability for Bantham Design S.A. to register for UK VAT under Sch 1A. Bantham Design S.A. must notify its liability to register no later than 30 days from the day on which the liability arose (ie no later than 18 November 2025). Bantham Design S.A would register as a non-established taxable person and (as outlined above) may consider appointed an agent in the UK.

MARKING GUIDE

TOPIC	MARKS
Identify that the basis of any UK VAT registration liability will depend upon whether the business has an establishment in the UK	½
Analyse and conclude that Bantham Interiors S.A. has a fixed establishment in the UK	1
Advise that VAT registration will be under Schedule 1 therefore the threshold for this schedule will apply	1
Calculate that Bantham Interiors S.A. has made supplies in the UK totalling £69,300 to date and has not breached the UK VAT registration threshold but may register for VAT voluntarily	2
Advise Bantham Interiors S.A. to wait until they breach the compulsory VAT limit	1
Pre-registration input tax recovery once registered.	1
Note that Bantham Furnishings has no UK fixed establishment and could be required to register under the distance selling rules	½
No threshold (from 1.7.21) although de minimis rule, registration sometime in March	1½
Advise on the penalty implications of Bantham Furnishing's position and the reduction of any French VAT from the penalty calculations	2
Advise on the implications of acquiring goods in NI from businesses VAT registered in EU member states	1
Calculate the value of the goods acquired by Bantham Homes in the UK and advise on the VAT registration implications (including notification and effective date)	2
Comment that Bantham Homes will need to belatedly register for VAT and that penalties could apply	1
Fixed establishment analysis and conclude that Bantham Designs will still have a requirement to register for UK VAT if it makes supplies in the UK (under Schedule 1A of the VATA 1994)	1
State that the place of supply of land related services is where the land is physically situated set out guidance on what constitutes a 'land related' service.	1
Advise on the VAT treatment of each of the supplies made by Bantham Designs.	2
Advise that the supply to Mr Jones will trigger a liability to register for VAT as Mr Jones is an individual and cannot account for the reverse charge	1
Advise on the VAT registration notification and effective date that will apply for Bantham Designs	½
TOTAL	20

Examiner's report:

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This question was answered comparatively well by candidates, with many dealing well with the fixed establishment analysis and providing good responses to the land related supply aspect of the question. However, many candidates did not read the question properly and so failed to pick up the fact that Bantham Homes S.A. had made acquisitions in the UK prior to making any sales to UK individuals, and that the value was such that the VAT registration threshold had been breached. Also, many candidates failed to pick up relatively straight-forward marks available for advising on penalties and disclosure to HM Revenue & Customs and also marks available for advising Bantham Interiors S.A. on either registering for UK VAT voluntarily or monitoring its turnover to ensure timely registration.

5. HAI WAI WIEL COMPANY LTDPart 1)

HWW does not currently carry out any transactions liable to UK VAT and therefore does not need to be VAT registered based on existing operations. Cycles, parts and accessories are goods for VAT purposes. The place of supply is China because, under the contract, the goods are supplied 'ex works'. Therefore, the customer is responsible for the import and s7(6) requires the supplier to be the importer for them to be a UK supply. They are therefore not a UK supply.

Velobrad is responsible for arranging shipment and importation and, as the importer, is liable for import VAT chargeable on importation. Velobrad on-supplies the goods to the customer and is therefore liable for UK VAT chargeable on the supply. Velobrad can use Postponed VAT Accounting (PVA) to account for Import VAT on its VAT return, as output VAT and as it is making onward VATable supplies it can recover the VAT incurred on importation as input tax on the same return.

Part 2)

From 2026, it is proposed that customers can also order parts and accessories direct from HWW online. As HWW (and not Velobrad) is to be responsible for shipping and importing the goods, the VAT treatment will be different. The supply involves the removal of goods to the UK and is treated as made in the UK. As a 'non-established taxable person' ('NETP'), HWW would become liable to register for UK VAT whatever the value of supplies. There is no registration threshold for NETPs. HWW would be required to charge and account for VAT on the sale.

Where each consignment is a maximum £135, only domestic VAT will be due (as above) although the goods will still need to be cleared for Customs purposes. Where a consignment exceeds £135 import VAT will be chargeable on importation (although the latter would be deductible as input VAT and HWW can use PVA, as above to account for this VAT as output VAT on its VAT return).

HWW would be required to register for UK VAT in its own name. For NETPs, HMRC often require the appointment of a tax representative who operates the registration but who is jointly and severally liable for any VAT due. Alternatively, HWW could make the sales through an agent established and VAT registered in the UK and acting in its own name (sometimes referred to as a 'commissionaire'). From the customer's viewpoint, he would be contracting with the agent, not HWW. Where this procedure is used, the agent is treated as importing the goods and on-supplying them. HWW would not then be required to register for VAT.

From 2027 the VAT treatment is not straightforward. There will be potentially five transactions:

- 1) HWW contracts with the customer to supply the component.
- 2) HWW supplies physical material to Velobrad.
- 3) HWW leases the 3-D printer to Velobrad.
- 4) HWW transmits the software to the 3-D printer which is located in the UK.
- 5) Velobrad prints out the component and makes it available to the customer.

It is necessary to consider each in turn.

Transaction 1) above appears to be the 'core' supply. The customer obtains title in a physical component, which is a supply of goods. There is a direct link between the customer's online payment and obtaining the goods. If the goods are in the UK at the time of supply, HWW would be liable to register for VAT and account for output tax.

If Transaction 2) involves HWW transferring title in the material to Velobrad, this is a supply of goods in China and outside the scope of UK VAT. Velobrad would be liable for import VAT, which it may recover (as above). As the cost of the material is deducted from the processing fee paid to Velobrad, it appears that this is the correct treatment: the material is being sold to Velobrad.

Transaction 3) is a supply of services by HWW to Velobrad. HWW has no fixed establishment in the UK and the supply falls within the business to business (“B2B”) rule. Where the recipient is a ‘relevant business person’ (as Velobrad is) the place of supply is where Velobrad is established (the UK). The reverse charge procedure applies. Velobrad must self-account for VAT and HWW would have no liability.

Transaction 4) is carried out for no express consideration in money or money’s worth. It is not, therefore a supply. If, however, HWW were to receive a fee for this transaction, it would be categorised as an electronically supplied service falling under the B2B rule as Velobrad uses and enjoys the service in the UK. The VAT treatment would be the same as for Transaction 3) above.

Transaction 5) appears to be a supply of services carried out by Velobrad in consideration of a ‘processing fee’. Such a service would fall within the B2B rule. The supply is treated as received by HWW in China and is outside the scope of UK VAT.

Transactions 1), 2) and 5), however, are capable of an alternative analysis. If these are considered together, it could be argued that supply of the finished component is a supply of goods in the UK by Velobrad (as Velobrad owns the raw materials and physically creates the finished component by printing it out). However, such analysis would only prevail if it was supported by the contracts and reflected economic and commercial reality: see, for example, *Aimia Loyalty Coalition UK Limited v HMRC* [2013] STC 784.

In conclusion, there is a likelihood that either of the proposed modifications could result in HWW being required to register for UK VAT. For the 2026 change, therefore, HWW may wish to continue with the existing business model to avoid the need to register. For the 2027 changes, if the contracts were to provide that Velobrad (not HWW) is supplying the component to the customer in the UK, then HWW will avoid VAT registration.

HWW could instead recover its desired margin through a combination of charges it makes for the physical materials, lease rentals, supply of the electronic software and by dispensing with the processing fee, recognising, however, that Velobrad will also wish to make a profit.

MARKING GUIDE

TOPIC	MARKS
<u>Current VAT treatment</u>	
Goods supplied in China	1
Velobrad liable for VAT at importation and onward supply	1
HWW not liable for UK VAT	½
<u>2026 Modification</u>	
Supply is in UK	1
NETP liable to register	1
No threshold	1
May need tax representative	1
Or use undisclosed agent	1
<u>2027 Modification</u>	
Core supply is the supply of goods	1
Place of supply is UK if title passes there	1
Place of supply of physical raw material is in China	1
Place of supply/liability of leasing of the 3D printer (B2B rule)	1
Velobrad liable for reverse charge	½
Transmission of software not currently a service, no consideration	1
If charged for, an electronic service	½
B2B rule/reverse charge	1
Processing: B2B rule	½
Need to reflect economic and commercial reality	1
<u>Minimising exposure</u>	
In 2026, retain old business model	1
For 2027, draft the contracts carefully	1
Up to 2 marks for suggesting restructuring (eg HWW earns profit through B2B lease rentals/software fee; and Velobrad earns profit through margin on re-sale rather than processing fee)	2
TOTAL	20

Examiner's report:

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It was pleasing that most candidates appeared to understand the place of supply rules for goods and apply them to the current and proposed business models. However, some candidates thought that the act of UK importation (not UK supply) triggered a liability to register; few understood the effect of an overseas seller trading through an undisclosed agent; and others seemed to assume that EU VAT rules apply in China!

Many candidates made a good effort, however, at grappling with the VAT treatment of goods produced using 3-D printers. Some failed, however, to keep in mind who, under the various contracts, was the maker, and who the recipient, of the supplies. Some erroneously advised that, by leasing the printer to a UK-established lessee, the lessor would create a UK fixed establishment (which they then proceeded to explain at length). A number of candidates failed altogether to address the VAT issues arising from the supply of materials, transmission of the software and processing operations, or to question whether there could be a supply without identified consideration.

It was disappointing that several candidates discussed Customs/Import Duty, despite the question requiring an answer only on VAT.

6. TAMBURLAN INVESTMENT FUND LTD

- 1) Based on the Accounts for the years 2021 and 2022, Tamburlan became liable to notify its liability to register for VAT at the end of November 2022 when its turnover exceeded the VAT registration threshold: see Calculation A in the Appendix. Voluntary registration could be backdated a maximum four years to early November 2021 (assuming action is taken quickly), and this would be advantageous (see second part of Calculation B in the Appendix).
- 2) Tamburlan's turnover consists in supplying securities to customers as principal. The value of supply is the gross proceeds of sale. VAT liability depends on where the customer belongs and is as follows:
 - a) exempt, where the customer is an individual resident in the UK or other EU member state – the latter only until 31 December 2020 (see d) below);
 - b) exempt, where the customer is a UK-established business;
 - c) outside the scope ('OS'), where the customer is a business established in another EU member state until 31 December 2020 – see d) below;
 - d) outside the scope with refund ('OSR'), where the customer is resident or established outside the EU - until 31 December 2020, or resident outside the UK from 1 January 2021.
- 3) VAT is not chargeable on any of these supplies, and they do not count towards turnover for the purposes of compulsory VAT registration. Supplies (a) to (c) give no right to recover attributable input VAT. However, (d) are supplies which are specified by the Treasury in the VAT (Input Tax) (Specified Supplies) Order 1999 ('specified supplies') in relation to which attributable input VAT is recoverable. A business making OSR supplies may apply for voluntary registration.
- 4) Tamburlan purchases services from other businesses established abroad. These count towards its turnover for registration purposes. If such services would be taxable if supplied in the UK, Tamburlan must apply the 'reverse charge' and treat them as if it had both received and made the supplies itself. Thus, by the end of October 2022, the aggregate value of Didon's consultancy and the E-Bulletin has caused Tamburlan to exceed the registration threshold. Faustus' services are not caught because they would be exempt if supplied in the UK.
- 5) Once registered, Tamburlan must account for VAT on reverse charge services and any other taxable supplies it makes. Input VAT will be recoverable to the extent Tamburlan's expenditure is used, or to be used, for taxable or OSR supplies. This calculation may be made on any fair and reasonable basis (for example, a pro rata calculation which is either value-based or transaction-based). It is recommended that Tamburlan obtains the written agreement of HMRC for the method it proposes to use assuming OSR turnover continues in the same ratio to total turnover as in previous years, recoverable input VAT (based on a value of outputs calculation) of around £100,000 would be deductible against output VAT: see Calculation B in the Appendix.
- 6) In conclusion, therefore, Tamburlan must immediately notify HMRC of its liability to be registered. This will take effect retrospectively from 1 December 2022 (or November 2021 to assist in recovery of input tax).

APPENDIX

Calculation A: liability to register

<u>Outputs</u>	<u>1.11.20-31.10.21</u>	<u>1.11.21-31.10.22</u>
	£'000	£'000
'Reverse charge' services:		
– Consultancy from Didon	40	80
– E-Bulletin	<u>N/A</u>	<u>20</u>
UK turnover (for registration purposes)	40	100

Tamburlan should have notified its liability to register by 30 November 2022, as its turnover in the period of one year ended on 31 October 2022 has exceeded the registration threshold of £85,000: paragraphs 1(1)(a) and 5(1), Schedule 1, VATA.

Tutorial Note:

Note that the registration threshold was £85,000 in 2022.

Note that the E-bulletin is not zero rated as more than half of the space is devoted to advertising. But in any event zero rated supplies are included in taxable turnover, so the figure would not change even if the service were zero-rated.

(Note that exempt securities sales do not count towards taxable turnover for compulsory registration. However, depending on when it is registered, Tamburlan could recover VAT attributable to non-EU supplies in 2020; and both EU and non-EU supplies from 1 January 2021).

Calculation B: estimated VAT recovery

<u>Inputs 1.11.24-31.10.25</u>	<u>Estimated input VAT</u>
	£'000
Consultancy:	
– UK paid to Leander (80k x 20%)	16
– reverse charged for Didon (100k x 20%)	20
E-Bulletin (reverse charged)	4
Refurbishment (200k x 20%)	40
<u>Overheads (from point 2) in question</u>	<u>20</u>
Total input VAT	100

Using year end 31.10.22 turnover figures, the pro rata calculation (excluding “reverse charges” services) was 100% recovery of the above total input tax, as both supplies within the EU and outside the EU are subject to recovery (15,000,000 + 5,000,000):

$$20,000,000 / 20,000,000 \times 100 = 100\% \times £100,000 \text{ input tax} = £100\text{k to recover.}$$

This will exceed the output tax on the reverse charges amounting to £24,000 (on the overseas consultancy for Didon and the e-bulletin).

Note that the recovery in the current accounting period will be higher than it would be in earlier years because of the refurbishment.

A backdated registration to early November 2021 would be beneficial as it would result in full recovery of input VAT in relation to both EU and non EU sales, as above.

MARKING GUIDE

TOPIC	MARKS
<u>Liability/place of supply- Securities</u>	
UK (Ex)	½
EU (OS until 31.12.20, OSR from 1.1.21)	1
Non-EU (OSR - always)	½
Value is gross sale proceeds	½
Imported services	1
B2B, liable to reverse charge	1
Didon (Standard rated)	1
Faustus (not liable – Ex)	1
<u>Registration</u>	
Not liable for 1.11.20-31.10.21	1
Becomes liable from 31 October 2022	1
Illustrated by Calculation A	2
<u>VAT recovery</u>	
Where attributable to OSR	1
Use-based (pro rata?)	1
Illustrated by Calculation B	2½
TOTAL	15

Examiner's report:

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Most candidates appreciated the difference in VAT treatment between securities sold to EU-counterparties and to non-EU counterparties in 2020 (and, in the latter case, the availability of voluntary registration). However, a number failed to grasp that registration was compulsory once the value of all the imported services exceeded the registration threshold (as it did in October 2022). It was pleasing, however, that most spotted that on-line supply of the bulletin was an electronically-supplied service made B2B (and therefore within the reverse charge).

The question required a report with supporting calculations, but many candidates lost marks by failing to provide any.

7. BOHME INDUSTRIES INC

As BUL only supplies human blood and tissue, which are VAT exempt, it is not registered for VAT in the UK. BUL should immediately register for UK VAT as an “intending trader”. This is because the removal of stock from Ireland to Northern Ireland, following completion, will be a UK taxable acquisition. Furthermore, BUL will be making supplies of Age Away in the UK/NI. These will be taxable supplies. A VAT registration number (with ‘XI’ prefix) should be requested urgently so that BUL can issue proper VAT invoices and recover input VAT.

Registration will also ensure there is no VAT cost in the UK when the assets of Spiegel-Eire are transferred. Ireland treats this particular transfer as a supply and not as the “transfer of an undertaking” (which is normally treated as a non-supply). Transfer of goods (such as stock) from Ireland to the UK will be a supply of goods. This is treated as an intra-EU/NI “dispatch and acquisition”, provided Spiegel-Eire shows BUL’s UK VAT number (with the ‘XI’ prefix) on its invoice. This means that Spiegel-Eire should not charge Irish VAT on the dispatch. The liability to account for VAT shifts to BUL, which reports “acquisition VAT” on its UK return. As the goods are to be used by BUL in making taxable supplies, a corresponding amount of input VAT is deductible on the return, resulting in a nil net cost.

To the extent the acquisition of Spiegel-Eire involves any supply of services (such as goodwill), this may be treated as a business-to-business supply (“B2B”). BUL should self-account for VAT in the UK under the “reverse charge” mechanism. Assuming the services are used, or to be used, for BUL’s taxable supplies, the reverse charge VAT will be deductible. Whether the transfer involves goods or services, the value in either case is the agreed market value at completion.

Novation of the customer contracts into BUL’s name is a supply of services if done for consideration. This also falls under the B2B rule described above. Again, reverse charge VAT would be fully deductible. The same treatment also applies to a grant of the intellectual property licence. A supply is treated as taking place each time a royalty payment is made to the US by BUL and to the extent covered by the payment.

Supplies of product to UK business customers (whether in NI or GB) will be chargeable with UK VAT at 20%, as Age Away does not fall within zero-rating or exemption reliefs. Technically, sales to GB are ‘imports’ and liable to import VAT but this VAT is accounted for by BUL as output VAT on its VAT return. However, product dispatched to business customers established in an EU member state is zero-rated provided BUL shows the customer’s VAT number on its sales invoice. Exports to non-EU customers are also zero-rated. BUL must retain the required evidence that the goods have been dispatched or exported, as the case may be, and report these transactions on EC Sales Lists and Intrastats as appropriate.

The arrangement with sales to Auriole SA is known as “call-off stock”. There is an EU/NI wide simplification for call-off stock that alleviates the requirement for non-resident suppliers to register for VAT in EU member states where the goods are held; therefore BUL may treat shipments as zero-rated intra-EU/NI dispatches provided it shows Auriole SA’s Belgian VAT number on its invoice. The time of supply is the earlier of: (a) the 15th day of the month following the month in which the goods were despatched; or (b) the date the invoice is issued, this rule applies regardless of when payment is actually made.

MARKING GUIDE

TOPIC	MARKS
<u>UK VAT registration</u>	
UKCo not currently registered (supplies are exempt)	½
UKCo must register immediately	1
As intending trader	½
<u>Business Transfer</u>	
Registration avoids VAT cost on Irish transfer	1
Stock is goods	1
Stock treated as intra-EU/NI dispatch and acquisition	1
Input VAT deductible	1
If acquiring Spiegel-Eire involves transfer of services (eg goodwill), this is a B2B supply. In either case, value is OMV at completion as agreed.	1½
Reverse charge VAT deductible	1
Novation of contracts: a B2B supply, if done in consideration	1
IP licence, a B2B supply	1
<u>UK Supplies</u>	
Product to UK customers is standard rated	½
Product to GB is technically liable to import VAT, but accounted for as domestic VAT	1
To EU customers is zero-rated dispatch	½
To non-EU customers is zero-rated export	½
Product to Auriole SA “consignment stock” is a zero-rated dispatch	1
Time of supply: earlier of 15 th day etc. or issue of invoice (ignoring payment)	1
TOTAL	15

Examiner's report:

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Overall, candidates' performance on this question was very disappointing. This appears to have been the result of their failing to read the question carefully, or not analysing all the transactions in sufficient depth. Despite being told that advisers had already advised Spiegel-Eire that the acquisition was not a Transfer of a Going Concern (TOGC) in Ireland (and therefore gave rise to supplies to the UK), many candidates attempted to second-guess this to justify embarking on a lengthy explanation of the UK TOGC rules. In addition, although told expressly that product would be sold in the European wholesale market, many candidates wrote at length on the EU distance selling rules. Most failed to spot that 'Europe' encompasses territories that are not part of the Single Market.

The different treatment of 'call-off stock' and 'consignment stock' seemed to be well understood. This, however, formed a minor part of the question and it was a pity that candidates did not focus more carefully on the business sale itself and whether its various elements comprised supplies of goods or services. A number of candidates offered answers based on the fixed establishment rules (which were irrelevant). The question featured a royalty paid to its US parent by the UK subsidiary for an IP licence. Some candidates treated this as two separate transactions but which had no UK VAT implications.

8. JOAN WHITEHOUSEGoods sold in EU Member States

Any goods sold in EU Member States will be subject to VAT in those Member States.

When Joan takes her stock out of the UK and into the EU, she will need to complete export documentation in the UK (and must therefore apply for a GB EORI). The exports will be zero rated for UK VAT. Joan will also need to apply for an EU EORI in order to import into the EU. The goods should satisfy the origin rules of the TCA so that there is no Customs Duty on import to the EU. The goods will be liable to import VAT and a value will need to be given to the goods which accords with the valuation rules. As there will be no sale at the point of entry then market value will likely be used for this calculation under Method 6. Customs Duty is included in the value for import VAT but as the goods should be 0% for duty under the TCA, this will not increase the import VAT due.

Sales made in EU member states will have local VAT charged on them. As she has no business establishments in EU Member States, she may not benefit from VAT registration thresholds and would be required to register for VAT in those Member States as soon as she makes any taxable supplies.

If goods are not sold in the EU and returned to the UK, then Joan could use Returned Goods Relief on the re-import to Great Britain and there would be no import VAT to pay (nor duty). This is provided that the goods are in the same state in which they were exported.

Taking goods over to EU Member States to sell for a friend

The same principles about export and imports apply but in this case we need to determine who is selling the goods for domestic VAT purposes. To act as agent one needs to meet three rules for VAT purposes. These are that the agent is arranging transactions and not buying and selling in their own right; the agent must never own the goods and the agent must not alter the value of the transaction between the principal (seller) and third party (buyer).

There are two types of agency for VAT purposes, and each have different VAT treatments.

Disclosed Agency

Disclosed agency, where the agent introduces a buyer and a seller, and the agent may take a limited amount of involvement in the transaction. This may be as little as introducing the two parties but could include delivering the goods; handling the payment and even holding stock for the principal.

In a disclosed agency arrangement the seller (Peter) must invoice the buyer for the goods, which doesn't seem very practical in Joan's circumstances. The agent (Joan) then invoices the principal (Peter) for her services and no matter whether or not Peter is in business the place of supply of her services is the UK as they both belong in the UK. If Peter is not VAT registered he will bear the VAT charged.

Disclosed agent calculation:

Assuming sale price of €100 and a commission rate of 5%.

Principal (UK seller - Peter) invoices customer in the other Member State €100. This sale would be subject to local VAT. Joan would invoice the principal (UK seller - Peter) 5% of €100 = €5 plus €1 VAT @ 20%.

Peter would need to register for VAT in the other Member State. If Peter is not UK VAT registered he would not be able to recover the €1 VAT on Joan's commission and so would effectively receive less for each sale.

Joan must convert the Euro VAT amount to Sterling for inclusion in her VAT invoice using either the actual or official exchange rate.

Undisclosed Agency

Undisclosed agency is the term used where the agent (Joan) can enter into contracts on behalf of the principal (Peter) and the agent may issue invoices in their own name. It is treated as if there is one supply from the principal to the agent and another from the agent to the buyer. The commission retained by the agent is subsumed into the value or profit margin of the onward supply.

Undisclosed Agent calculation:

Joan would invoice the customer in the EU Member State at €100, plus local VAT. Joan would pay the principal (Peter) €95.

The sale to the customer would attract VAT in the EU Member State and Joan would be liable to register there, but Peter would not. As Joan's agency fee to Peter is subsumed into the supply to the end customer, she does not need to charge Peter VAT regardless of whether or not Peter is registered for VAT in the UK.

Undisclosed agency probably involves less work from a VAT point of view and simplifies any VAT requirements in the EU Member State as Joan will be the importer paying the Import VAT and be able to recover it on her EU VAT return.

Tutorial Note:

This is also called the 'Commissionaire' approach. As a result Joan is treated as buying in and selling on the goods or services in her own right. What would otherwise be Joan's commission represents the mark-up, or profit margin, and determines the difference between purchase and selling price. There is no additional supply of agency services to Peter on whose behalf Joan is acting.

Organising a Fair

This is a complicated area and Joan needs to be precise regarding the services she is providing before deciding the correct VAT liability.

She could provide just a site for a stand at a fair where the crafts sellers get the exclusive right to a defined area of the hall. For VAT purposes this is classed as a supply of services relating to land subject to VAT where the land is located - in the UK. In these circumstances, the supply would be exempt unless Joan opts to tax the land.

Alternatively, if Joan provides a space for a stand with a package of services, this will fall under the general place of supply rules for supplies to businesses which are taxed where the customer belongs using the reverse charge. The other elements supplied could include the stand itself, erection of the stand, power and publicity material.

Where the crafts people from EU Member States are not relevant business persons eg hobby crafts/not in business, the place of supply will be the UK (where Joan the supplier belongs) and VAT will be chargeable.

Following the decisions in *International Antiques and Collectors Fair Limited (TC/2013/4119)* and *Kati Zombory-Moldovan t/a Craft Carnival ([2016] UKUT 0433 (TCC))*, as Joan is also organising the event, it is more likely to be regarded as a package

of services of which the pitch is one element, and so be seen as a taxable supply rather than exempt.

MARKING GUIDE

TOPIC	MARKS
<u>Goods sold in EU Member States</u>	
Basic supply of goods – VAT due in EU Member States	1
Export – need GB EORI – zero-rate for UK VAT	1
Import to EU – no CD TCA, Import VAT calculation, EU EORI	1½
Will have to register as soon as make taxable supplies, should check with authorities in other Member States.	1
<u>Selling goods for a friend</u>	
Can act as agent for VAT if meet three rules. i arrange sale, ii don't own goods and iii don't alter value of transaction	1½
Two types for VAT – disclosed and undisclosed. Disclosed introduces the two parties	1
Disclosed – Principal must invoice buyer – impractical here. Then agent invoices principal for services	1
Undisclosed can enter into contracts in own name.	1
Treated as two supplies of goods principal to agent; agent to buyer. Supply of agency services subsumed into first.	1
Mathematical Example	
<u>Disclosed Agent</u>	
Demonstrating calc of commission plus VAT	1
Friend needs to register for VAT in EU Member State, if not registered cannot recover €1 VAT tax on commission.	1
Value of supply requires conversion from Euro to Sterling using official or actual rate applied	1
<u>Undisclosed Agent</u>	1
Demonstrating that there are two charges, €100 + VAT and €95	
Joan might need to register in EU Member State, but friend would not.	
Commission subsumed into final supply, so no VAT charged to friend.	1
Acting as undisclosed agent is simpler and removes need for friend to register in EU Member State, import VAT recoverable by Joan	1
<u>Running an exhibition</u>	
Supply of a site or part of a hall only is supply of land. Place of supply is where the land is based. Subject to VAT only if opted to tax.	1
Space for a stand with other services, it becomes normal B2B – where customer is located if in business – reverse charge.	1
UK VAT chargeable if not RBP	1
Taxable supply (not exempt) so UK VAT due	1
TOTAL	20

Examiner's report:

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Candidates need to follow through with their thinking if they wish to score well. For example, many mention two types of agency and that they would have different treatments for VAT but then only described one type. Similarly, quite a few candidates described both types of agency but did not pick up that the question had asked for an example of how the commission would work. In both cases, they lost out of marks that they appeared capable of achieving.

Many candidates answered parts of the question well only to omit whole elements of the question, such as the craft fair.

It is highly unlikely that full marks for any point will be achieved by simply saying "VAT will be due in the UK", or "this is covered by VATA S.." reasons why are almost always needed in an advisory* paper.

Many candidates approached the craft fair element of the question purely from the point of view of Joan selling admission to customers coming to the fair rather than what was asked, which was how Joan's supply to the stall holders was to be dealt with.

*Although the paper is now called 'Advanced Technical', advice still needs to be given. Regurgitating rules with no application to the scenario will not result in a pass.

9. NORSKE JEGORROD ASA (“NJ”)Tromso SA (Tromso)

From the information provided it appears that Tromso does not have a fixed establishment in the UK. The use of a storage depot in Liverpool would not be sufficient to create a fixed establishment as the company does not appear to have sufficient human and technical resources in the UK to enable it to be considered to have created a fixed establishment.

As a non-established taxable person Tromso should have registered for VAT within 30 days of making its first sale of a container to the local charities in June 2023. This is because the sale of tangible moveable property, such as freight containers, located in the UK at the time of sale are treated as a UK taxable supply for VAT purposes. There is no VAT registration threshold for a non-UK established entity and immediate registration is required.

The container leasing in the UK commenced in 2022 and this could possibly have required an earlier VAT registration date if containers were leased to non-taxable persons such as individuals, clubs and charities. However, if the only activity undertaken was to lease containers to overseas business customers, there would have been no compulsory obligation upon Tromso to register for VAT at that time because any business customers would have accounted for VAT on the leasing charge in the country in which they are established using the “reverse charge” mechanism.

In view of the strong possibility of a failure to notify penalty in respect of the belated registration, it is recommended that the vendors notify HMRC of the company’s failure to notify liability to register for VAT and provide an indemnity for NJ to address past VAT liabilities and potential penalties that may arise.

Tutorial Note:

See the marking guide for flexible marking in this area. Reasoned arguments that a fixed establishment exists and the consequences that follow as a result, will gain credit.

Recovery of VAT by NJ

NJ is established in Norway because of company incorporation and management taking place there. In a similar way to Tromso therefore there would be no UK establishment for VAT purposes. As a consequence of not having a UK establishment the company may be eligible to recover VAT under the UK VAT refund scheme, which is covered in Notice 723A. However, if it was regarded as having a UK establishment, it would be able to recover the VAT via a normal VAT return.

The scheme requires:

- the claimant to not be VAT registered or have an establishment in the UK;
- that NJ does not make supplies in the UK other than those such as leasing where the customer accounts for any VAT under the “reverse charge” arrangement; and
- the VAT should not be excluded from credit under s25 VATA 1994

Any claims must be made with accompanying invoices to HMRC within six months of the end of the “prescribed year” which runs 1 July to 30th June, ie claims to be made by 31st December 2026 and 2027.

Recoverable VAT to 30 June 2026 is as follows:

	<u>VAT exclusive for 6 months</u> £	<u>VAT Incurred</u> £	<u>VAT Allowable</u> £
Lease premium for storage facilities.	40,000	8,000	8,000
Annual charge for depot security.	28,000	5,600	5,600
Travel expenses of visiting manager from Norway (15,000 x 5/6).	12,500 per annum x 6/12	2,500 x 6/12	1,250
Accommodation rented for visiting manager (18,000 x 6/12).	9,000	0	0
<u>Total allowable VAT reclaim</u>			<u>14,850</u>

The recoverable VAT for the remaining six months of 2026 will need to be claimed in the year to 30 June 2027 and will be:

	<u>VAT exclusive for 6 months</u> £	<u>VAT Incurred</u> £	<u>VAT Allowable</u> £
Travel expenses of visiting manager from Norway.	12,500 per annum x 6/12	2,500 x 6/12	1,250
Accommodation rented for visiting manager	18,000 per annum x 6/12	0 x 6/12	0
Car Hire for manager's wife (non-employee)	1,000	200	0
Business entertainment - existing and potential UK clients	5,000	1,000	0
Business entertainment - Norwegian and American existing clients	3,000	600	600
<u>Total allowable VAT reclaim</u>			<u>1,850</u>

All VAT except for that relating to private use Car Hire and Business entertainment of UK clients should be refundable. The total VAT recoverable for each period will be £14,850 plus £1,850 = £16,700.

Providing NJ solely makes future supplies to business customers it will not be required to register for VAT in the UK but will be able to recover VAT incurred for business purposes through HMRC's VAT refund process.

MARKING GUIDE

TOPIC	MARKS
<u>1. Liability to register for VAT (Tromso)</u>	
Tromso not established in the UK and no VAT threshold applies. A reasoned analysis that a FE exists will gain a mark.	1
Registration required within 30 days of sale of first container or B2C supply.	1
Past supplies to taxable persons don't require UK VAT registration if accounted for under the "reverse charge" procedure. A reasoned alternative analysis that Tromso has a UK fixed establishment and therefore needs to charge VAT solely to any UK established B2B customers will gain a mark.	1
Liability to register at June 2023, but potentially earlier depending on status of customers, if B2C could be one year earlier.	1
Advise vendors notify HMRC of company's belated registration liability and/or seek indemnities.	1
<u>2. Recovery of VAT incurred by NJ</u>	
No fixed establishment in the UK due to absence of human and technical resources	2
"Prescribed year" and need for two claims	1
Time limits for claims	1
<u>3. Calculation of VAT recoverable in 2026/27</u>	1
Restriction on Non-business expenditure and Business entertainment for UK clients.	1
Correct recoverable amount in total and for each claim period. (1½ marks each)	3
<u>4. NJ VAT registration position</u>	
No compulsory registration required providing all future supplies are to business customers.	1
TOTAL	15

Examiner's report:

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The question was generally well answered with candidates recognising the key points on registration and VAT recovery. Widespread reference to the fact that the Schmelz case gave no registration threshold was more prominent in many answers than the client needed and diverted attention from mark scoring in areas such as whether Tromso should remain UK VAT registered and whether indemnities should be sought.

10. INDUSTRIES FORMPRO (UK) LTD**1) Request for hotel invoices**

HMRC can request information and documents as part of their compliance checks to ensure the accuracy of tax returns or check a taxpayer's tax position. Although it is unusual for HMRC to begin a check into employment taxes and then request copies of invoices on which VAT has been recovered, legislation allows an officer to require a person to provide information, or to produce a document, if reasonably required for the purpose of checking the taxpayer's tax position. Requests must be by written notice and a person's tax position includes the person's past, present and future liability to pay tax.

Having received a written request, a taxpayer is required to provide invoices which support the VAT claimed as these are part of the statutory records which must be kept for six years (providing a shorter retention period has not been agreed with HMRC in writing). There is no right of appeal against a notice for statutory records and a person may be liable to a penalty if they do not provide them as well as having the claim disallowed.

The right to recover VAT only exists for the entity that has entered into an agreement to be supplied with hotel accommodation. If that is IF Ltd, it can recover the VAT, otherwise it cannot, and the parent company should have made an EU refund claim. If IF Ltd recharges the hotel accommodation cost now, it will need to charge UK VAT because hotel accommodation is a service related to land located in the UK and therefore the place of supply is the UK.

2) Sales to Germany

Sales invoices to German customers form part of the statutory records and should be produced to HMRC upon request as they relate to supplies made in the UK. The request for information is reasonably required to check the tax position.

IF Ltd should check that it has correctly determined the VAT liability of its supplies. It is assumed that due to the fact that IF Ltd is a manufacturing company that it supplied goods to its German customer in December 2020. This would have been prior to the UK leaving the EU and therefore to validly zero rate a supply of goods IF Ltd's invoice should have displayed the customer's VAT registration number, and IF Ltd should have completed an EC Sales List and held satisfactory evidence of removal from the UK (two forms).

However, if an error has been made it is outside the four year time limit for correction and cannot be corrected. HMRC cannot go back and recover any underpaid VAT unless there is any suggestion of fraud, which does not appear to be the case. No action is required for this.

3) Legal advice

It appears the UK law firm supply was to IF Ltd's Italian parent and was being used to determine how it might invest in the UK and what structure would be most appropriate. The fact that IF Ltd has also not been required to pay the invoices (although not completely determinative of eligibility to recover input tax) is also a strong indicator that the supply was made to its parent and not to IF Ltd. However, it is possible that UK VAT should not have been charged if the parent was "a relevant business person" who conducted business activities or was registered for VAT in Italy at the time of the supply. It is also important that it was not established in the UK at the time it received the supplies.

IF Ltd may wish to check with its parent before considering next steps. If the parent was in business and did not have an establishment in the UK when advice was taken, it is suggested that an approach is made by them to the law firm explaining its position and requesting a credit note for the VAT incorrectly charged. The incorrect VAT recovery by IF Ltd needs to be advised to HMRC as an error correction, which if a maximum £10,000 VAT or 1% of the box 6 VAT return figure (not exceeding £50,000), can be corrected on IF Ltd's next return.

MARKING GUIDE

TOPIC	MARKS
1) HMRC Information Powers	
HMRC may undertake "compliance checks" to check returns are correct and to ensure the correct amount is paid or repaid.	1
Requirement to keep Statutory VAT records, including invoices (Reg 31 SI 1995/2518 – mark will be given without reference)	1
Inability to appeal information notice request for statutory records.	1
Recommendation that invoices are produced	1
Hotel accommodation VAT recovery dependent on identification of recipient of supply.	1
Any recharge subject to VAT as service related to land in UK so POS is the UK	1
2) Invoices and information for sales to Germany	
Requirement to provide information and details which would include evidence that customer registered in Germany, removal of goods from the UK and correct documentation – irrespective of supply being zero rated.	2
Seek to establish if customer can provide a valid German VAT number belatedly	1
Four year time limit for correction of errors and this is outside that	1
HMRC will not raise an assessment (unlikely fraud) – no action required	1
3) VAT claim on legal advice	
Logical and credible analysis to determine the actual recipient of the supply.	1
Requirements for supply to be considered to be made outside the UK – 1)	
Relevant business person and 2) No UK establishment of parent at time of supply.	2
Recommended approach to law firm to gain credit for VAT incorrectly charged.	1
TOTAL	15

Examiner's report:

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This proved a technically challenging question in which those who explored the features which identify to whom supplies are made scored the highest marks. Few candidates clearly answered the client's request whether they should provide HMRC with hotel invoices and a minority suggested the client oppose such a request or offered no advice. All aspects of the question required some technical analysis followed by simple practical advice: most had the former but some lacked the latter in sufficient detail or ways that would be useful to IF Ltd.

11. MACROSTA GROUPAlmond Ltd

Under UK law the place of supply of catering services is determined according to where the service is physically carried out (para 5, Sch 4A VATA 1994). This means that Almond Ltd would be expected to have registered for VAT in both the UK in respect of Belfast and Glasgow outlets. Local advice should be sought for the Republic of Ireland in respect of any Dublin outlets.

With regard to the supply of on-board catering on the train from Belfast to Dublin, the place of supply is as above. This means sales made on trains travelling between Belfast to Dublin will need to be identified as to those which are made in the UK and these should be accounted for at UK VAT rates on the UK VAT return. Services that are treated as taking place in the Republic of Ireland should have the appropriate Irish VAT charged on them and accounted for on Almond Ltd's Irish VAT return. Local advice should be sought to ensure this is accounted for correctly.

Tutorial Note:

HMRC appears to treat a supply of catering as a supply of goods and when a journey begins or ends outside the UK, they treat the supply as outside the scope of UK VAT. See VATPOSG4200 for their view.

There does not appear to be any legal basis to this view but if you state that this is their opinion, credit would be given.

Hazelnut Ltd

Supplies of goods from Belfast to UK customers, including to Almond Ltd's Scottish outlets, are considered to have a place of supply in the UK as their supply does not involve their removal from the UK, (s7(2) VATA 1994). Technically this is an import into Great Britain from Northern Ireland, but VAT is accounted for in the same way as a domestic sale, ie UK VAT is charged by Hazelnut Ltd and accounted for on its UK VAT return.

Supplies to Almond Ltd's Dublin outlets and to customers in the Republic of Ireland are also treated as made in the UK under s7(7) VATA 1994 since the supply requires the removal of the goods to an EU member state by Hazelnut Ltd. Supplies to Republic of Ireland customers will be zero rated and will require identification of the customer's VAT number on the sales invoice, evidence of dispatch (two forms), and completion of EC Sales Lists and possibly Intrastat declarations depending on annual sales values.

The supply of rights to use the MacRosta name and associated franchisee terms is a supply of services made by the company that is established outside of the UK. Therefore the supplies are made from the British Virgin Islands to the customers based in the UK, Ireland and Gibraltar. The franchises based in the UK will be required to self-account for UK VAT using the reverse charge on the cost of the services provided. There is no requirement for UK VAT to be charged even though Hazelnut has a UK VAT registration number as it does not have an establishment here that provides the services. As the Gibraltar franchise is located outside of the UK for VAT purposes the supply never comes within the scope of UK VAT.

Tutorial Note:

Just because a company has a UK VAT number, this does not mean that the supply is being made from the UK to other companies.

Hazelnut Ltd is in the BVI and this is where the franchise supply is made from. There are no staff and technical resources in NI but only stocks of goods.

Therefore, the recipients in the UK will do a reverse charge as the supply is from an overseas business to a UK business.

Brazil Ltd

The treatment of leasing goods for hire to business customers is treated as a general rule supply of services for which the place of supply is where the relevant business customer belongs, (s7A(2)(a) VATA 1994). If this is outside the UK, there is no requirement to charge UK VAT. In contrast, all UK established customers should be charged VAT as the place of supply will be the UK.

The commission earned on insurance related intermediary services will be treated as relating to a supply made where the customer belongs, as the supplies are B2B, which in this case appears to be Guernsey, as that is where the recipient of the service is based. It is outside the scope of UK VAT. The input tax relating to such supplies is only recoverable under SI 1999/3121 where the policyholders under the insurance contract are located outside the UK (Art 3A SI 1999/3121). Therefore, where the policyholders are located in Dublin, input tax will be recoverable.

The majority of input tax incurred by Brazil Ltd appears to relate to the importation and purchase of coffee machines which are subsequently leased to customers as taxable supplies; consequently, this will be fully recoverable, s26(2) VATA 1994. The input tax on overhead costs relates to the making of taxable, exempt and specified supplies (as above). It will be recoverable according to the partial exemption percentage.

Tutorial Note:

The question didn't state who the importer is. Usually it is the customer but as Brazil is established in the UK and the machines are subsequently fitted with software, then Brazil might import them in order to have the software fitted, before being leased to the customers.

If the customers were the importers and import VAT is incurred by them, then it is not recoverable according to the *Piramal Healthcare* case in 2023, because only the owner of the goods can recover it.

The correct VAT treatment of any "penalty" charges is a difficult area because for a supply to exist there needs to be a nexus between something done by the supplier and the consideration. A statutory penalty would not usually be subject to VAT, however in this case the penalty is raised due to a breach in the contractual relationship between the parties and could be viewed as the further consideration for allowing the continuation of the leasing arrangement.

This is backed up by the CJEU case of *Vodafone, Case C-43/19* where early termination payments were seen to be part of the cost of the overall service. Alternatively, the approach of the Court of Appeal in *Vehicle Control Services Limited v HM Revenue & Customs [2013] EWCA 186* resulted in penalty charges on errant motorists being considered to be outside the scope of VAT despite a contractual relationship between the parties allowing rights to park a vehicle.

On balance, any charges raised on UK customers (for which the place of supply would be the UK under the general rule) are likely to be subject to VAT. As this is likely to be recoverable by customers it should not cause them any difficulties. For overseas customers, no VAT needs to be charged because the place of supply is outside the UK.

Repairs under Insurance contracts

The place of supply of repairs under insurance when supplied to a person other than the person insured are supplied where the repairs are used and enjoyed. In the majority of cases these will be subject to UK VAT (para 9D sch 4A VATA 1994).

MARKING GUIDE

TOPIC	MARKS
<u>1) Almond Ltd</u>	
Place of supply of catering services (para 5, Sch 4A VATA)	1
Place of supply of catering services on trains - same rule as above. Need to determine country of supply. UK VAT for supplies in UK, Irish VAT for supplies in Ireland (HMRC alternative argument gains credit)	2
<u>2) Hazelnut Ltd</u>	
Place of supply of goods supplied to GB – import VAT but accounted for as domestic VAT	1
Place of supply to Ireland - zero rate	1
Customer's VAT No, evidence, ESL and Intrastat obligations	2
Place of supply of franchise rights to UK, and non-UK businesses (Gibraltar)	2
<u>3) Brazil Ltd</u>	
Place of supply of leasing services	1
Place of supply of Insurance intermediary services	1
Input tax treatment for imported goods	1
Input tax treatment for costs associated with other "specified" supplies with reference to SI 1999/3121	1
Input tax on admin services and overheads recoverable according to PE, as outputs are either taxable, exempt or "specified" supplies	2
VAT treatment of penalty charges made under leasing contract (marks allocated according to quality of analysis and possible case law reference) Requirement is to determine whether a supply exists and if so where it is made, recognising UK and non-UK payers	3
<u>4) Repairs under Insurance</u>	
Place of supply of Insurance related supplies to place where "used and enjoyed". Most likely to be UK	2
TOTAL	20

Examiner's report:

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The majority of candidates produced a comprehensive answer on the place of supply and input tax requirements. Some did not recognise the context and wrote lengthy detail on fairly peripheral points regarding the meaning of establishments and lost the opportunity for marks accordingly. The Almond and Hazelnut Ltd aspects scored heavily. On Brazil Ltd, well prepared candidates recognised the place and not the liability of insurance intermediary services being required. A minority of candidates attempted an impossible partial exemption calculation. Few candidates explored the features which would suggest a contractual penalty could be liable to VAT or (reverse charge) and preferred a "no supply answer". Many candidates were aware of the use and enjoyment of insurance repair services rule.

12. SNOW CABINS LTDCabins sold in kit form to private customers in 2023 and 2024

Assuming that Snow was not responsible for erecting the kit at the customer's premises, sales of cabins in kit form for which Snow was responsible for delivery to private individuals in France and Germany would have been distance sales of goods. Snow would have been required to register in each member state once its total EU sales exceeded the de minimis €10,000 limit. Sales made before the threshold was reached would have been subject to UK VAT (which is how all sales were treated). The €10,000 limit would have been exceeded at some point in October 2023 (5,000 in France and 9,000 in Germany.).

Snow would have been required to notify its liability to register for VAT in France and Germany no later than 30 days following the date on which it exceeded the threshold. Registration would have been effective from the date the liability to register arose.

Snow has two options to account for the VAT due in the two Member States. Either it can belatedly register for VAT in each of the two Member States, or it can choose to use the One-Stop-Shop (OSS) to account for the VAT.

If it wishes to make VAT returns in Germany and France it will need to consider how it can meet those obligations including dealing with any enquiries from tax authorities. Snow's options are to appoint a company or personal representative located in each of these countries to act on its behalf to meet its VAT obligations. Alternatively, subject to any language considerations, it might be possible for Snow to handle all overseas VAT matters from the UK by correspondence and email.

If Snow wishes to use the OSS, it can register with HMRC in the UK, via its portal and a single quarterly return needs to be completed, which will show VAT due in each member state. The return is due within one month of the filing date. The downside of the OSS is that it does not have the facility to recover VAT incurred in member states, whereas registering for VAT in a member state and completing a return there allows both output VAT and input VAT to be on the same return.

Snow would therefore need to use the Electronic Cross Border Refund (ECBR) scheme to recover VAT incurred on goods. VAT incurred on services would need to be claimed via a 13th Directive claim to the member state concerned as Northern Ireland does not follow EU VAT rules for services.

Cabins supplied and erected in business customers' location

When goods are removed from NI with the intention of them being assembled and installed in an EU member state there is an obligation for the NI supplier to register for VAT in the country to which they are removed. However, some member states allow a simplification arrangement in which the overseas relevant business customer accounts for any VAT due. To use this procedure, each member state has its own rules. Snow would need to apply to the relevant tax authority, and usually in advance of the first supply, for every customer who will account for the VAT on its supply. The details that need to be provided include Snow's name, address and UK VAT number, the name, address and EU VAT number of its customers and the date on which it will begin installation. It is also a requirement that Snow's invoice displays appropriate wording to notify its customer of their reporting obligations. For supplies which have already been made Snow should have VAT registered in the member states concerned unless the member state allows a retroactive request (however see paragraph below).

VAT registration requirements

The simplification for assembled and installed goods is only available if Snow is not otherwise required to be registered in a member state. Since registration is required in

France and Germany in October 2023 because of Distance selling obligations (above), Snow will only be able to potentially use the simplification procedure for sales to the Netherlands. It could have used the simplification for the Netherlands as it was not currently required to register as distance sales to individuals have not been made but it is likely that it should have notified the Dutch authorities before the first supply.

Sale or return, including destroyed goods

Goods sent to an EU member state on sale or return terms from NI should be treated as a movement of Snow's own goods to that EU member state. If it is registered for VAT in that EU member state (Belgium in this case) then Snow can zero-rate the movement of the goods as an intra-EU despatch. However, if it is not registered in Belgium it will be required to account for UK VAT as it did not satisfy the zero-rating requirements at the time the goods were dispatched. Therefore, Snow should have accounted for UK VAT on the cost of these goods. As a result at the moment Snow has under-declared VAT due to HMRC which needs to be corrected.

However, the movement of those goods to Belgium will have created a liability to register in that country because Snow is deemed to acquire those goods in that country and sell them to the customer should they decide to take ownership of those goods. Therefore, Snow will need to belatedly register for Belgian VAT. Once registered in Belgium it can make an adjustment to recover the UK output tax accounted for on its UK VAT return and belatedly treat this as a zero-rated intra-EU movement of its own goods. Snow will be required to account for acquisition tax in Belgium on the cost of the goods moved to that country. Snow will also need to account for Belgian VAT on the £30,000 charged for the goods sold to the Belgian distributor. The movement of the goods will need to be included on Snow's UK EC Sales List and Intrastat return (where applicable).

Once Snow registers for Belgian VAT there should be no UK VAT implications with regard to the loss of the goods in Belgium. However, as the goods were located in Belgium at the time they were destroyed, the Belgian VAT implications need to be considered. As a result, it will be necessary to obtain confirmation from the Belgian tax authority regarding whether there is a requirement to account for any output VAT on the goods destroyed in the fire. It is recommended that Snow contacts the distributor to obtain evidence of the destruction of the goods and advises its insurance company of the loss of stock as both are likely to be required to satisfy the tax authority that there is not a further liability for VAT in Belgium.

Work performed on third party's goods – roof trusses

The physical work performed on goods belonging to a third party is generally regarded as a supply of services for VAT purposes. Where the customer is a relevant business person the supply is treated as made where the customer belongs (B2B general rule service), in this case in France. There is no requirement for Snow to charge VAT on the services as its customer will need to account for VAT using the reverse charge mechanism.

MARKING GUIDE

TOPIC	MARKS
<u>1. Cabins in Kit form</u>	
Recognition of Distance sales liability. De minimis limit and implications.	1½
When registration is required in the MS	1
Implications of registration	1
Options for registration – each MS, VAT returns there, or OSS	1
Description of OSS and no VAT recovery	1
<u>2. Supplied and Installed Cabins</u>	
VAT treatment of supplies to business customers, basic position and optional simplification procedure.	2
Customer business evidence and notification obligations in respect of each business customer.	1
Inability to apply simplification if otherwise required to be registered in a member state	1
<u>3. EC VAT registration requirements</u>	
Overall VAT position in respect of each of the 3 member states and relevant dates.	3 x 1 = 3
Options available to address on-going overseas VAT obligations eg tax reps etc.	1
<u>4. Goods supplied to EU on Sale or Return</u>	
Account for UK VAT if not VAT registered in EU country as movement of own goods. Have not accounted for VAT so owe HMRC output VAT in the UK currently.	
Can zero rate initial dispatch of goods and acquisition tax accounted for by registration/tax representative in Belgium once registered for VAT in Belgium	4
Belgium VAT due on partial payment received.	
Clarify with Belgium tax office regarding correct VAT treatment of destroyed goods	1
<u>5. VAT treatment of work performed on third party goods</u>	
Supply of Services.	½
Physical work applied to third party goods generally treated as supply of services with B2B place of supply where customer belongs.	1
TOTAL	20

Examiner's report:

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This was a challenging question as the findings in the first part required revision dependent on the findings in the “supply and installation” second part. Candidates generally scored well on the distance selling aspects, although slightly fewer were aware of the potential simplification for supply and install and how that might be dealt with retrospectively.

13. TIME OF SUPPLY

The disposal of waste by way of landfill at a registered site is a supply of services, for VAT purposes, by the site operator to the disposer. VATA 1994 s5(2)(b).

The basic tax point under the VAT legislation is when the service is performed. VATA 1994 s6(3).

It is generally accepted that a service is performed when it is completed – a service taking several months to complete could be covered by a single invoice at that time. Where waste is received at the site for immediate disposal in the landfill cell, then this would be completion of the service.

For landfill tax purposes, the basic tax point is the day when a taxable disposal is made. FA 1996 s61(1)

A disposal is made when the waste arrives at the site (not in an Information Area) and it is disposed of on the surface of the land, or on a structure set into the land, or under the surface. It does not matter whether it is placed in a container before the disposal. Section 40A states that being disposed of on the surface of the land, or on a structure, or under the surface is the time of disposal so that if it is to be covered, the disposal is not when it is covered but on the earlier event.

With VAT, the basic tax point can be extended if, within 14 days after this date, a tax invoice is issued. VATA 1994 s6(5). Further, if application is made in writing to Customs, the 14-day deadline referred to above can be extended to such longer period as may be specified in a direction. VATA 1994 s6(6).

The landfill tax legislation has similar provisions in FA 1996 s61(1) and (3). Therefore, on a straightforward disposal of waste in a landfill cell, the tax points for landfill tax and VAT would be the same.

For VAT, a tax point is created when an invoice is issued or a payment made, thus a tax point can be created by the payment of a deposit to the extent of the value of that deposit. VATA s6(4)

However, a pre-payment cannot create a tax point for landfill tax purposes earlier than the day that a taxable disposal is made. The legislation makes no provision for this. Therefore, if a payment is made for VAT earlier than the date of disposal, VAT will be accounted for on that date but for landfill the date of disposal will still be when the waste arrives at the site (not in an Information Area).

Where waste is deposited at a landfill site, in an Information Area, at this point this is not a taxable disposal for landfill tax, so no tax point arises at this point (s40A(5) FA 1996). If the waste is removed and subsequently landfilled, then this will trigger a tax point for landfill purposes. If it is removed offsite for recycling etc then no tax point is triggered, as the waste was never deposited on the site.

MARKING GUIDE

TOPIC	MARKS
<u>Landfill Tax</u>	
When disposal is made	1
What amounts to a 'disposal'	2
14 day rule	1
No early point	1
Information Area – no tax point when waste arrives	1
<u>VAT</u>	
Supply of services – Basic point 'performance'	1
What amounts to 'performance'	1
14 day rule	1
Early point – invoice/payment	1
TOTAL	10

14. GRAVIX21 LTDRemoval from the lake

Aggregate that is removed from certain water (eg rivers and canals) in order to improve it, is exempt from the levy. However, in order to fall within the legislation a lake would need to be a 'watercourse'. A lake is static water and does not come within the definition of a 'watercourse', as it does not flow under the action of gravity (*Humberside Aggregates* case).

Therefore, at first sight the aggregate would be taxable. However, in order for the levy to apply the aggregate needs to be 'exploited' and done so 'commercially'.

'Exploitation' requires one of four things to happen (s19(1)). It is arguable that the sand is not exploited as it does not leave the site, it is not sold, it is not used for construction purposes (ie only spread over the garden) and it is not mixed with any other materials (other than water). The same 'site' would include the vegetable garden 100 metres away (*East Midlands Aggregate & Hochtief* cases). As it is not exploited, then no levy is due.

The gravel being used to create a path would be used for 'construction purposes' and it would fall within the definition of being 'commercially' exploited unless it falls within s19(3)(e). This means it is returned to the land and being used for a purpose connected with the winning of aggregate. This means creating haul roads, creating screening bunds to deflect noise etc ie its use it to help with the removal of the aggregate. The gravel does not appear to meet this exemption as it is not a path connected with the removal of the aggregate, and therefore AGL would potentially be due.

There is another exemption in the legislation however concerning agricultural and forestry businesses that move aggregate on their land. Gravix 21 Ltd would need to convince HMRC that the National Trust site falls within this definition. If it can do so, then the 25,000 tonnes of gravel would not incur AGL.

The 15,000 tonnes used on site to make the hide-away huts would be commercially exploited as it is mixed with other substances and used for construction purposes.

Therefore, assuming that the exemption for agricultural/forestry businesses did not apply then in total $40,000 \times £2.03 = £81,200$ would be the levy due. If the exemption does apply then only 15,000 tonnes would be liable to the levy (£30,450). This is a significant sum, so HMRC should be approached.

Any of the sand or gravel removed to Gravix21 Ltd's storage facility is not commercial exploitation of taxable aggregate when it is removed as it is being removed to another site registered under Gravix21 Ltd's name. When it is then sold to customers this will be commercial exploitation at that time (unless it is being removed to have an exempt process applied to it, or other exempt uses in the legislation apply – see below).

Large boulders

The large boulders that are re-used on site for climbing on/ornamental purposes should fall within an exemption. The cutting of rock to produce stone with one or more flat surfaces is an exempt process and these are shaped with a flat side to sit flush to the ground. (*Jones Brothers Ruthin* case)

Old building

The removal of the old building and re-building does not attract aggregates levy. Any materials removed (which are aggregates) would previously have been used for construction purposes. This means that they are not 'taxable aggregate', so no levy is charged on the re-use (s17(2)(b)).

Sand for children's play purposes

Children's play sand is not the use of sand as an aggregate. If the levy has been paid when the sand was sold, then a credit can be claimed as this is a 'prescribed industrial' process in the legislation (SI 2002/761 number 29 in the schedule). It would need to be clearly marked as being sold as play sand and the customer would need to provide Gravix21 Ltd with details of the process, so that this can be held on record to evidence the relief. Para 6.6 of Notice AGL1 contains suggested wording to satisfy reg10(m) of the AGL General Regulations 2002.

MARKING GUIDE

TOPIC	MARKS
<u>Lake</u>	
Whether a lake is a watercourse	1
No exploitation for use on vegetable garden	2
Use for the path is 'construction purposes'	2
Exemption for agricultural and forestry businesses	1
Commercial exploitation for hide-away huts	1
Calculation	1
Removal to storage facility – no AGL at time of removal	1
<u>Large boulders</u>	
Exemption for cutting rock with one or more flat surfaces – ref to case law	2
<u>Building demolished</u>	
Previously used for construction purposes – no levy	2
<u>Children's play sand</u>	
Credit available for prescribed industrial process	2
TOTAL	15

15. COMPANY A AND COMPANY B**1. Company A**

If it exceeds the registration threshold then it has a liability to register and account for PPT.

In order to decide this we need to determine whether the packaging is a finished plastic packaging component (FPPC) that is liable to the tax. It is a single use component, so if the plastic forms the largest component then it will be liable to the tax. In order to do this we look at the weight of the packaging to see if the plastic is the heaviest component.

The product weighs 70 grams and the plastic is the heaviest of all the components in there at 33 grams. The entire product will be classed as a FPPC and therefore the 18 metric tonnes will be liable to the tax if the company is liable to be registered.

The registration threshold is looked at either on the 1st of each month, where the company looks back a maximum 12 months to see if it has exceeded the threshold. The first time this test comes into play is 1 February. However, looking back to when the company was incorporated, it has not yet imported the plastic packaging.

Under this test there is no obligation to register at 1 February. At 1 March however, we look back to 5 January (when the company was incorporated) and it has exceeded the registration limit of 10 metric tonnes in February. So here notification would be required within 30 days (ie by 31 March 2025).

However, there is also the look forward test, which is carried out daily. This looks forward 30 days to see if the 10 metric tonne limit is likely to be exceeded. On 16 January, it knows it will import more than the limit within the next 30 days and therefore would have an obligation to notify within 30 days from this date. As this is earlier than the look back test, this would take precedence. Registration will be effective from 16 January, therefore PPT will be due on the import.

$$18 \times \text{£}217.85 = \text{£}3,921.30$$

However, exported packaging is not liable to PPT in the UK. The tax on the 20% to be exported can be deferred, so that £3,137.04 will be paid on the first return. Company A will need to keep records to show the intention to export.

2. Company B

- i) HMRC's guidance on this is not clear. Although they are plastic packaging components (ie they protect the bread and aid its delivery), they could be excluded under the definition of 'long term storage'. They are filled with bread which is delivered, and then re-used to be re-filled with more bread. They are not an integral part of the bread itself (ie unlike the plastic wrapper the bread is in).

However, in HMRC's guidance they consider that these are packaging to be used in the supply chain. Although they list re-usable lunch boxes and home storage boxes as not liable to the tax, they do not specifically list these types of items. Clarification should be sought. If the tax is due then this would be: $8 \times \text{£}217.85 = \text{£}1,742.80$

- ii) The containers would not be excluded under the 'reuse' exclusion. Although some consumers might wash them and re-use them they would be classed as single-use containers.

However, if they contain a minimum 30% recycled plastic (by weight) then they are not liable to the tax. Although there is a total 60% recycled plastic, we do not count the organic recycling. Therefore, there is only 25% which does not meet the 30% threshold.

The containers are liable to the tax: $5 \times \text{£}217.85 = \text{£}1,089.25$

MARKING GUIDE

TOPIC	MARKS
<u>Company A</u>	
Liable to the tax if a FPPC and weight of plastic = FPPC	1
Registration threshold – historic and future, identifying correct registration date	2
Calculation	1
Exports not liable	1
<u>Company B</u>	
<u>Bread Trays</u>	
Discussion of 'long term storage' and whether it applies	2
<u>Food containers</u>	
Discussion of 're-use' condition and whether it applies	1
Discussion of what amounts to recycled plastic and calculation	2
TOTAL	10

16. HAGRID

- 1) In 2020, the UK was a member of the EU and EU Customs Duties rules would have applied to the imports in early 2020. Hagrid was importing goods from Umbridge and Duty would have been payable on the £10 amount at 5% = 50p per kit. Import VAT would have been charged at 20% on £10.50 = £2.10 per kit. No duty would have been due on the goods acquired from Fluffy, but a VAT charge would have been made on the acquisition of goods of £2 per kit. This input tax would have been reclaimable in each instance. Output tax would have been due on each kit of £4.17 (£25 x 1/6).
- 2) In 2020, the UK still followed EU rules on VAT and UK VAT would not have been due on direct sales from a supplier in the EU to individuals in the UK in late 2020, but local (Spanish) VAT would have been due. If Fluffy exceeded the Distance Selling registration threshold it would have been required to register for UK VAT, and would no longer have charged Spanish VAT. Fluffy could have opted to charge VAT in the UK and register before this limit was reached and no longer charge Spanish VAT. When considering VAT registration (compulsory or otherwise) account would need to have been taken of all sales into the UK to non-business customers and this included those to Fang.
- 3) For sales from 2021 the UK is no longer part of the EU and now has its own rules on VAT. Sales of these consignments are imports into the UK but as the consignments are a maximum £135, domestic VAT is charged instead of import VAT. If the sale is facilitated by an online marketplace, they are liable to account for the VAT. Otherwise, the seller has an obligation to register and account for the UK VAT. The VAT is £4.17 (£25 x 1/6).
- 4) Excise duty will be due on the import of the champagne into the UK. An import declaration will need to be submitted at the time of import. Hagrid Ltd is already importing so will have the required GB EORI in order to import. The excise duty will need to be paid at the time of import before the champagne will be released. Hagrid Ltd could defer this through a duty deferment account (if it already has one for its other imports.) The excise duty is not recoverable.

Tutorial Note:

The £135 rule does not apply where excise duty is due on a consignment.

- 5) Depending on the value of the consignment:
 - either import VAT will be due on the import of the kits, where the value of each consignment is over £135 and Fang will complete the import declaration but can use PVA to postpone the VAT and account for it as output VAT on its VAT return instead if it has a UK VAT registration; or
 - where the £135 limit (as detailed above) applies the supplier will be liable to register for UK VAT and account for domestic VAT on the sales. If the Fang Trust is VAT registered, it can account for the domestic VAT on its VAT return.

In either case Fang won't be able to recover the VAT as input VAT as it relates to its non-business activities.

MARKING GUIDE

TOPIC	MARKS
<u>Part 1</u>	
EU duties in 2020	1
Calculation of Duty and Import VAT	2
Acquisition VAT from Spain but no duty	2
Output VAT on kits	1
<u>Part 2</u>	
EU VAT rules in 2020	1
Discussion of distance selling, thresholds, sales to include, earlier registration	4
<u>Part 3</u>	
No longer EU rules, £135 rule	2
<u>Part 4</u>	
Excise Duty to declare and pay on import	1
Deferment account	1
No recovery	1
<u>Part 5</u>	
Over £135 – import VAT, PVA	2
£135 max – domestic VAT	1
No VAT recovery – non business activities	1
TOTAL	20

17. JUST FOR BIG KIDZ LTD

- 1) Basic procedure for classifying a product:
 1. Obtain sample of the product, plus details of technical specifications. If no sample, obtain photograph.
 2. Start with the General Interpretative Rules (GIRs). Rules that may be of most use:
 - a) Rule 1 (&6) – Titles of sections/chapters etc have no legal status. Look at the section and chapter notes. May need to look at notes for electronic equipment as well as the notes for the chapter for toys, given that this is a highly sophisticated piece of equipment. We could have two or more conflicting headings.
 - b) Rule 2(a) – disassembled/unassembled products, or incomplete products having the essential character of the finished product are classified with the finished article. The toy is ‘rather large’ – it might be imported disassembled or incomplete? Need to check if it is coming in as a complete ‘set’ for one toy. Could it be coming in as boxes of like parts, which may have a different classification? Need to find out from Jim the process being undertaken abroad and how the imported product will arrive.
 - c) Rule 3. If this toy is capable of carrying out a number of functions, it might fall under two or more headings. Rule 3(a) probably not going to help – if it carries out more than one function classified in two or more headings, each heading is deemed to be as specific as the others. More likely rule 3(c) – classify under heading in last numerical order. This might be the toy chapter.
 - d) Rules 4-5 look at but probably not as relevant.
 3. Check out the Advance Tariff Ruling (ATR) website to see if an ATR has already been issued for this product; although only the holder of an ATR can invoke it.
 4. Apply for an ATR from Customs.
 - Need to submit online application, send a sample, or if not available, a photograph, and technical specifications.
 - Not given retrospectively.
 - Apply before first import due.
 - Issued within 120 days.
 - Legally binding for three years throughout the UK.
 - If Customs revoke it, still rely on it for six months if we have binding contracts and request reliance on it within 30 days.
 - If this is not possible, consider importing to a Customs Warehouse if the toy is not going to be sold straight away?

2)

Jim can appeal against the ruling issued by Customs. He has two options available to him. He could accept Customs offer to carry out an independent review of their decision. If he wishes to do this he should ask for a review within 30 days. Customs then have 45 days to complete the review. If they do not reply within 45 days then they are deemed to have affirmed the original decision. Customs can vary, affirm or withdraw the original ruling. If Customs affirm the ruling, Jim can appeal to the First Tier tax tribunal. He should do this within 30 days. Alternatively, Jim can appeal direct to the tribunal, without first requesting a review. If he wishes to do this he should appeal within 30 days.

Tutorial Note:

Other options such as ADR would receive credit too.

MARKING GUIDE

TOPIC	MARKS
Basic Procedure	
– Obtaining sample	$\frac{1}{2}$
	$\frac{1}{2}$
GIRs	
– Identification of GIR 1(&6)	1
– Application of GIR 1(&6)	1
– Identification of GIR 2(a)	1
– Application of GIR 2(a)	1
– Identification of GIR 3	1
– Application of GIR 3	1
– Identification of rules not relevant	1
ATR website for other rulings	1
ATR:	$\frac{1}{2}$
– Application online	$\frac{1}{2}$
– Not retrospective	$\frac{1}{2}$
– Application before first import due	$\frac{1}{2}$
– Issued within 120 days	$\frac{1}{2}$
– Legally binding 3 years UK	$\frac{1}{2}$
– Withdrawal and continuance to rely on it if contracts in place	1
Consideration of Customs Warehouse	$\frac{1}{1}$
	14
<u>Appeal</u>	
– Two options	$\frac{1}{2}$
– Accept offer to carry out independent review	$\frac{1}{2}$
– Review within 30 days	$\frac{1}{2}$
– 45 days to complete	$\frac{1}{2}$
– Deemed affirmation - no reply in 45 days	1
– Vary, affirm, withdraw	1
– Appeal to FTT	$\frac{1}{2}$
– Time limit 30 days	$\frac{1}{2}$
– Appeal direct to FTT within 30 days	1
– Other options (eg ADR and explanation of it)	$\frac{1}{1}$
	6
	Max
TOTAL	20

18. MR BERRY1) Principal Duty ReliefInward Processing

Inward Processing (IP) offers total relief from import duties and import VAT where an item imported into the UK, such as the chemical from China, is incorporated into goods in the UK prior to then being re-exported outside the UK. A person needs to be authorised to operate the relief.

The duty and import VAT are suspended at the time importation. If the processed product is not re-exported duty must be paid (Import VAT can be deferred under PVA) but where the finished product has a lower duty rate than the imported product, the goods can be released at the lower rate. Returns are required (see below) and a guarantee might need to be provided for the potential charges due.

Authorisation – economic conditions, throughput

To use IP, as with most customs ‘special procedures’, an authorisation from HMRC is needed. Various conditions must be met such as a company being financially solvent and having a good history of compliance with the law.

Sometimes there is the need to pass certain “economic conditions” aimed at protecting UK producers from unfair competition. These have to be prescribed in a Public Notice and are broadly needed for certain ‘sensitive goods’, which covers agricultural products. Where the goods and processes do not fall within the three cases detailed in the notice, they are deemed to be fulfilled. They would be deemed fulfilled for the chemical from China.

HMRC need to know the ‘throughput period’ - ie how long is needed to import, process and re-export the finished product. The default period is six months, which should cover the company’s needs.

Rate of Yield

The “rate of yield” is needed – ie the quantity of imported goods to be used in the stain remover manufacture, the quantity of stain remover to be produced and details of any by-products (eg 400 litres of imported chemical will be used to make 600 litres of final product with 30 litres of waste by-product).

Equivalence

In relation to the problem with the Chinese supplier the rules would allow the company to store the stain remover produced from the Chinese and Scottish chemicals together and treat the stain remover sold to the US as the one produced from the Chinese chemical (so that full benefit from IP is received). This is known as “equivalence” and must be requested from HMRC – usually at the same time as applying for authorisation.

If the Chinese delays get worse it is even possible to export goods made from the Scottish chemical first and then match these to later imports of the Chinese chemical to claim IP relief. This is known as ‘prior export equivalence’.

Authorisation - types

The procedure could initially be applied for at the time of import on the import declaration. This can be advantageous for imminent imports but is only available for three importations to the procedure in the first year. It would be better to apply for an authorisation online using form SP3 and HMRC will give the company a number which can be quoted on the import declaration. Such an authorisation would usually be granted for around three years (the legislation allows a maximum of five years for non-sensitive goods).

A retrospective authorisation may in theory be granted for a maximum one year (three months for sensitive goods), prior to the application, as long as the company has complied with all the conditions of the procedure and has evidence to prove the goods have been processed and satisfy all the conditions of the relief.

Discharging IP

If for any reason the stain remover is not exported there are a number of other options to avoid losing the duty relief:

- sell the goods to another IP trader
- move the goods into another approved customs procedure (eg customs warehouse or temporary admission)

In relation to the UK sales - they can be released at either the duty rate for the imported product or for the finished product. Where the latter is done, the processing costs have to be included in the value for duty.

Again, it allows the import of raw materials without paying duties upfront. Instead the products can be processed in the UK with only duty and VAT paid at the rate applicable to the finished products when the goods are released into free circulation.

Returns and records

HMRC will expect to see detailed records sufficient to allow them to verify that the duty and import VAT reliefs are being properly claimed. The records should be maintained for four years. They should show:

- Details of goods in the regime – commodity code, quantity, technical characteristics
- Transfers of IP goods to other IP traders
- Processing undertaken on goods
- Rate of yield
- Manner of disposal of goods (export, customs warehouse etc)

Returns to HMRC will be detailed on the authorisation and might be required monthly or quarterly, which will detail the goods received and their destination after processing. These are often called 'bills of discharge'.

Failure to comply with the rules of procedures can result in customs debts being incurred, therefore, it is very important to make sure that all documentation is kept showing the export of goods under IP, for example.

2) AEO/EORI

Authorised Economic Operator ('AEO') is a status which is recognised across the UK and allows the importer to take advantage of certain simplifications and easements in the Customs rules and a reduction in customs' checks. There are two types available, an AEOC and an AEOS.

Being an AEO can also provide simplifications for imports into the USA as well and there has been mutual recognition of the AEO with other countries, for example, Japan and the EU. There is also an EU version but in order to import into Great Britain with certain simplifications, the UK one is needed.

An AEO is an economic operator who, by satisfying certain criteria, is considered to be reliable in their customs related operations throughout the UK and is therefore entitled to certain benefits.

For an AEOC one large benefit is a guarantee waiver up to the level of their duty deferment account. For an AEOS consignments could receive priority checks and reduced requirements for entry and exit declarations.

Depending on the certificate required, a trader may need to demonstrate:

- they have not been involved in a serious breach of customs law
- they maintain a satisfactory logistical system for compliance with customs obligations
- they have sufficient financial standing; and
- meet professional standards of competence

The certificate is not retrospective and can take up to 120 days to approve.

'EORI' is the acronym for the 'Economic Operator Registration and Identification Scheme (which replaced the old TURN system). To import and export in/from GB a GB EORI is needed. This can be applied for online, but as Mr Berry has been importing already, the company should have one to give to their new agent.

Tutorial Note:

This answer is an indication of the points that students could make to gain credit. It is longer than what is expected to be produced under exam conditions. Form numbers are not required to gain full marks.

MARKING GUIDE

TOPIC	MARKS
<u>IP</u>	
- Types – release to FC at rate for finished product, no duty on re-exports	1
- Explanation of how IP works, suspend duties at import	1
- Authorisation and general conditions	1
- Economic conditions	1
- Throughput period	1
- Rate of Yield	1
- Equivalence	1
- Authorisation types – declaration/SP3	1
- Discharging IP - ways	<u>2</u>
	10
<u>Returns and records</u>	
- 4 years	1
- What they should show	2
- Monthly/quarterly returns	<u>1</u>
	4
<u>AEO/EORI</u>	
- AEO certificates - types	1
Benefits of certificates	1
Criteria to apply	2
Not retrospective, 120 days	1
- EORI	
Need one to import	1
Will already have one	<u>1</u>
	6
Max	
TOTAL	20

19. LANCS LTDCUSTOMS WAREHOUSINGBackground

These arrangements are simply a storage procedure whereby the payment of customs duties and import VAT can be suspended or delayed when non-EU goods are stored in a defined location or under an inventory system authorised as a “customs warehouse”.

There are two key types of warehouse, public and private, which differ as regards the responsibilities of the different parties.

As the company is in Northern Ireland, EU law still governs the operation of the warehouse.

Responsibilities

If a person makes a declaration depositing goods in a warehouse they are responsible as ‘holder of the procedure’ under the law and will need to ensure that:

- the goods are sent directly to the warehouse shown on the declaration, and
- the customs warehousing procedure is discharged by appropriate declaration of the goods to another customs approved treatment or use.

If, as a “warehouse keeper”, a person operates a warehouse, they are the ‘holder of the authorisation’ and responsible for:

- the security and proper control of the warehoused goods, including maintaining stock records for those goods throughout the customs warehousing procedure and accounting for any shortage
- ensuring that the conditions of the customs warehouse authorisation are met
- fully co-operating with HMRC in their supervision of the warehouse authorisation, and
- allowing HMRC access to the warehouse premises, records and goods at all reasonable times.

Private warehouses are for the storage of goods deposited by an individual trader, authorised as the warehouse keeper. They are both the authorisation holder and the holder of the procedure.

By contrast, a public warehouse is authorised for use by a warehouse keeper whose main business is the storage of other trader’s goods. The person depositing the goods in the warehouse is the holder of the procedure and has the responsibilities outlined above.

COMPLIANCE BURDENPublic Warehouse

A person wishing to use a Public Warehouse must check with the warehouse keeper that it is authorised to store the type of goods they wish to deposit.

Running a warehouse can represent a heavy compliance burden which will be reflected in the prices charged for depositing goods in a Public Warehouse.

Private Warehouse

If a person wishes to operate their own warehouse, they will first require UK authorisation. In addition, they will also need to have a Customs Comprehensive Guarantee (CCG), see below.

An application to HMRC (form SP2 – EU version) is required and demonstrates that a person:

- intends to use the warehouse primarily for storing goods
- has sufficient duty involved such that there is a genuine economic benefit in running the warehouse, and
- satisfies HMRC that they will meet any other conditions imposed, for example, they are financially solvent and have a good history of compliance (for example VAT returns and payments must be up-to-date)

HMRC will arrange a site visit to check the application. Provided they are satisfied that the conditions are met and that they have sufficient resources available to police the operation of the warehouse they will issue an Authorisation Number. This must then be quoted on all customs warehousing entries to the premises.

Either a physical location is authorised as the warehouse, or the warehouse can be 'virtual' where the inventory system is the authorised warehouse.

HMRC will expect, for example:

- the administration and organisation of the business to be sound and strictly managed
- the company's accounts and stock controls to be robust and managed to ensure that all commercial transactions are properly handled and recorded
- the system to be capable of identifying the location and quantity of a given item held under duty suspension at any stage under a controlled inventory system

Record Keeping & Stock Taking

It is a condition of a customs warehousing authorisation that sufficiently detailed stock records are maintained to identify:

- receipt
- stockholding
- handling and
- removal

of warehoused goods held under the customs warehousing procedure. The records must provide a complete history of the goods from the time of their entry to the warehouse to the time of their exit.

Stock records and any associated documentation must be kept for at least four years after the date of removal of the goods from the customs warehousing arrangements.

Guarantee

A guarantee is required for all new warehouse applications. A Customs Comprehensive Guarantee can be applied for on form CCG1. This will be granted provided that the company:

- has no serious or repeated infringements of customs or tax rules
- has no record of serious criminal offences that relate to its business activities

HMRC will check the history for the last three years.

Simplified Customs Declaration Procedures (SCDP) (formerly called Customs Freight Simplified Procedures (CFSP))

As an alternative to using normal procedures (Form C88) for entering goods to and removing goods from a customs warehouse authorisation can be made to use SCDP. Under SCDP, formalities at the frontier are kept to a minimum with the bulk of fiscal and statistical data being supplied electronically to Customs at a later date.

There are two types of procedure:

Entry in the Declarant's records - EIDR (formerly operated as Local Clearance Procedure (LCP))

Only limited goods can be used for this procedure, so Lancs Ltd would need to use SDP below.

Simplified Declaration Procedure (SDP)

This allows the release of goods from the frontier to the warehouse on acceptance of a Simplified Frontier Declaration (SFD). The frontier declaration must be followed by a supplementary declaration (SD) that must be transmitted to the authorities electronically.

Further possibilities or alternative – Duty deferment

Once the goods have been removed from the warehouse and the duty has been calculated cashflow can be helped through the use of the duty deferment scheme. This allows payment of the duty to be deferred until the 15th (or next nearest working day) of the calendar month following the date of removal.

HMRC require security in the form of a guarantee from an independent approved third party guarantor (the CCG can be used for this). Upon authorisation a Deferral Approval Number (DAN) is given and entered on removal/import documentation. The advantages are deferral of payment of the duty for 30 days on average, charges are taken with a convenient monthly direct debit and goods are cleared more quickly by HMRC as they do not have to wait for payment each time.

The Import VAT can be postponed under Postponed VAT Accounting, so that it is not paid at the time of release but accounted for as output VAT on the next VAT return (and fully deductible as input VAT, so that there is no net payment.)

Tutorial Note:

This answer is far more detailed than students would be expected to produce in the time available. It shows the range of points that students could have made. Credit would also be given for discussing:

- Applying for AEO status and the resultant conditions and benefits – eg this could benefit an importer with speedier clearance, customs simplifications and reduction in guarantees
- Other benefits of having a customs warehouse eg unlimited storage time, usual forms of handling, transfers between customs warehouses

MARKING GUIDE

TOPIC	MARKS
Customs Warehousing	
– Definition of procedure	1
– Private v Public	1
– Responsibilities of Warehousekeeper	1
– Compliance burden	1
– Record keeping & stock control	1
– Guarantee	1
– Other benefits	1
SCDP (formerly CFSP)	
– Definition	1
– SDP	2
Duty Deferment	
– 15 th day of next month	1
– Cash flow benefit	1
– Application	1
– Security	1
– Import VAT under PVA and no net VAT paid	1
AEO /Other relevant points	2
TOTAL (MAX)	15

Examiner's report:

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The answers to this question were generally satisfactory with more candidates demonstrating awareness of the simplified procedures. Candidates were also aware of the practical benefits of warehousing.

20. SMALL CONSIGNMENTS

- 1) Wedding clothes belonging to a person transferring his normal place of residence to the UK, imported on the occasion of marriage, can be imported free of import duties.

We need to check whether they have lived outside the UK for 12 months, as this is one of the conditions for the relief.

Wedding presents sent separately benefit if they do not exceed £900 but relief is not given for alcohol, so the rare bottle of wine will be subject to import duty (and excise duty).

Goods should generally be imported within two months before the wedding to four months after.

- 2) Consignments of a maximum £135 can be imported free of import duties where dispatched direct to a consignee in the UK.

However, the value of this consignment is (the CIF value of) £140, so import duty will need to be paid on the handbag.

The handbag would need to be classified in the UK Tariff and it is likely that an ad valorem (%) rate will apply to the handbag.

Tutorial Note:

Note that HMRC says that the £135 value does not include the freight and insurance, unless they are included in the price and not shown separately on the invoice. Buying CIF, it is unlikely that these will be shown separately on the invoice, but credit would be given for making this point.

- 3) As for 2) above, in this case the consignment is within the £135 limit, which would mean that no import duty is due.

Import VAT is not due as domestic VAT is due on this import instead.

Either the seller will register for UK VAT and charge it on the £119 sale, or if 31YG Ltd is UK VAT registered and provides its VAT number to the seller, then the UK company will reverse charge the purchase and account for the domestic VAT as output VAT on its VAT return instead (and if fully taxable it will recover it as input tax, with no net VAT due).

- 4) This falls within the relief for 'consignments sent by one private individual to another', and as the value is within the £39 limit, there is no import duty and no import VAT either.

There is also no domestic VAT, unlike for scenario 3 as it falls within a specific relief for Import VAT.

MARKING GUIDE

TOPIC	MARKS
<u>Scenario 1:</u>	
– Wedding clothes and conditions	2
– Presents and exclusions for wine	1
<u>Scenario 2:</u>	
– Conditions for relief for small consignments	1
– Conclusion	1
<u>Scenario 3:</u>	
– Conditions for relief for small consignments	1
– No import Duty and No Import VAT	1
– Domestic VAT instead – reverse charge	1
<u>Scenario 4:</u>	
Non-commercial consignments £39 limit	1
No import duty or import VAT	1
TOTAL	10

21. VALUATION

As the company is based in Great Britain, UK rules apply to the imports.

1) The six UK methods of valuation are:

- | | |
|----------|--|
| Method 1 | the transaction value of the goods when sold for export to the UK |
| Method 2 | the transaction value of identical goods sold for export to the UK (generally within a 90-day period) |
| Method 3 | the transaction value of similar goods sold for export to the UK (generally within a 90-day period) |
| Method 4 | the sale of chargeable goods in the UK within the 90 days after import less items for general expenses, profit, transport and insurance in the UK, and duties/taxes payable on importation |
| Method 5 | the cost of producing the goods, transport and insurance to the UK, expenses and profits usually arising |
| Method 6 | use of elements of valuation used in other methods, principles under GATT that are reasonable to apply |

2)

The transaction value cannot be used in certain situations, for example, when there are factors that influence the price such as where the purchaser and vendor are related.

HMRC may presume that where the parties are related that the value isn't a full value unless they are satisfied to the contrary.

3) Any four from Regs 111-113 of SI 2018/1248, for example:

- container of the goods,
- packaging of the goods,
- transport and insurance of the goods to the time of import to the UK, and
- selling commissions.

4) Any six from Reg 115 of SI 2018/1248, for example:

- Import Duty
- Buying commissions
- Payments for the right to reproduce the imported goods
- Transport and insurance after the goods were imported to the UK
- Construction and assembly costs incurred post importation
- Finance Interest

MARKING GUIDE

TOPIC	MARKS
<u>Methods of Valuation – UK descriptions (not EU rules)</u>	
– Method 1 & description	½
– Method 2 & description	½
– Method 3 & description	½
– Method 4 & description	½
– Method 5 & description	½
– Method 6 & description	½
Sub-total	3
<u>Restrictions on Method 1</u>	
– Relationship and HMRC's need to be satisfied	2
Additions: (any 4 from Regs 111-113, ½ mark each)	2 (max)
Deductions: (any 6 from Reg 115, ½ mark each)	3 (max)
TOTAL	10

22. SUPAKARTS LTDInward Processing

Inward Processing (IP) can provide total relief from import duty (and import VAT) in respect of goods imported into the UK for processing, where the resulting product is subsequently exported from the UK.

Processing can be anything from repacking or sorting goods to the most complicated manufacturing. The import of the frames for assembly into the shopping carts along with the wheels would qualify as an eligible process for the purposes of IP.

IP allows the suspension of import duties (and import VAT) when the goods are first entered to IP in the UK. Duty and import VAT will only be due on the shopping carts that are released to free circulation, in this case 30% of the imports.

Import VAT can be deferred via Postponed VAT Accounting (PVA) and accounted for as output VAT on the next VAT return and deducted as input VAT, so no net VAT is actually paid.

An authorisation to enter goods to IP will be required. Application is made on the SP3 in advance and often granted for a three year period. For the imports in a fortnight's time application for IP can be made on the import declaration itself. This can only be done three times though, so an SP3 application will be needed. A guarantee might be requested by HMRC.

SupaKarts Ltd will obtain the following duty relief on its imports for next year (estimate):

Frames $\text{£}200,000 \times 2^* \times 10\%$ (duty rate) $\times 70\%$ (re-exported) = $\text{£}28,000$ duty relief

* $\text{£}200,000$ of frames are anticipated in a six-month period, therefore for one year imports will be $\text{£}400,000$.

The purchase of the motors from France and the wheels from the Far East are both imports and based on the duty estimate, duty relief will be as follows:

Motors and wheels $\text{£}35,000$ (actual duty) $\times 70\%$ = $\text{£}24,500$ duty relief

A total of $\text{£}52,500$ of duty relief will be due. (SupaKarts will also obtain a cashflow benefit from not having to pay the Duty at the time of import.)

SupaKarts Ltd will be required to keep records of all goods entered into IP, including details of the location where the goods are stored and where processing of those goods takes place. These records must be kept for four years after disposal of the goods. They will have to do either monthly or quarterly returns (also called 'bills of discharge'), in accordance with HMRC's authorisation letter.

Tutorial Note:

All relevant points would receive credit.

For example: the fact that the economic test would not need to be satisfied, rates of yield, throughput periods etc.

MARKING GUIDE

TOPIC	MARKS
Identifying Inward Processing and explaining how it works	2
Import VAT and PVA	1
Authorisation	2
Calculation of relief	3
Record keeping obligations	2
TOTAL	10

23. PREFERENCES UNDER THE TCAWhat is Preference under the TCA?

In order that EU goods can enter Great Britain (and vice versa) with no import tariffs, the goods arriving must 'originate' in the other party to the agreement, which is according to the rules laid down in the TCA.

Generally, there are three ways in which goods can originate:

- 1) The first one is where the goods are wholly obtained in that party (party here means the EU);
- 2) Where the goods are not wholly obtained, they are produced exclusively from products which are themselves wholly obtained; or
- 3) Where the products are made up of some goods that are not wholly obtained, they satisfy the specific origin rule for that product

Conditions to be met

The TCA lists products that can be regarded as being wholly obtained, for example, live animals born and raised there, or crops grown there.

For manufactured products they are unlikely to be 'wholly obtained'. Therefore, product specific origin rules give a rule (eg 'not more than 30% of the ex-works value of the finished product may consist of non-originating materials').

There are also operations listed that are not enough to confer origin (even if the specific rule for that product is met) where the production carried out is 'simple'.

Simple operations include washing, ironing of textiles, and affixing labels.

There are derogations from the origin rules where a product does not meet the specific rule listed for that product but meet certain other 'tolerances'. These depend on which chapter the product falls within in the Tariff.

Cumulation of Origin

The cumulation provided for in the TCA is 'bilateral'. This means that UK products can be considered as EU products (and vice versa) for the purposes of the TCA.

As an example, if a UK originating product is exported to France and used to manufacture a product there by being processed with materials of French origin (which is not a simple operation), and the finished product is then shipped to Germany, then the UK product counts as being of French origin when the finished product is shipped to Germany.

However, the cumulation is not diagonal, so that if the end country, in the above example, was not Germany but a non-EU country, with which the UK does not have a free trade agreement (but the EU does), then the UK product is treated as non-originating when the finished product arrives in its final destination country.

Claiming origin

Claims are made through a statement of origin made by the exporter, or the importer's knowledge that the goods originate.

MARKING GUIDE

TOPIC	MARKS
<u>Part 1</u> What the TCA is Three types of 'originating' to claim preference	1 3
<u>Part 2</u> Conditions to be met	2½
<u>Part 3</u> Cumulation of origin	2½
<u>Part 4</u> Claiming origin	1
TOTAL	10

24. ROUGE LTDClassification

- Need to check codes being used by freight agent are correct for the individual items (lipstick, blusher and eye shadow) before thinking about any further planning. All of the items are imports, although if the blusher originates in Spain then it should benefit from duty free admission under the TCA
- Rouge could look to consolidating the items into a 'set' outside the UK because if a 'set' were imported, then the classification code may not be the same as the individual items and it could have a lower duty rate than the individual items. This needs exploring
- Individually they are likely to have different codes and could have higher duty rates. The duty rate on the set could be lower than the individual items but depending on where the set originated, if it was not the EU, then the blusher which might have had duty free admission under the TCA could lose that if coming in as a set of items, and incur a positive duty rate as part of the set
- GIRs 3(a),(b),(c) are used to classify 'sets' such as this – maybe what gives the set its 'essential character' or
- last in numerical order if none of the components give the set its essential character

Preference

- As mentioned above if the blusher originates in Spain, then it should have duty free access when imported to GB
- The lipsticks originate in the 'Far East' but we do not know which country. If Japan, for example, then the UK has an FTA so there is a possibility that these imports could be at 0%
- We need to determine the correct country of origin to see if there is a 0% (or potentially lower rate of duty otherwise) depending on the country of origin

Customs Warehousing (CW)

- CW could delay duty (and import VAT) for the four-month period that the goods remain in the distribution centre
- The principal purpose of a warehouse is storage
- Rouge could undertake 'usual forms of handling' in the warehouse which could possibly include the shrink wrapping of all products together
- The finished product would dictate the classification code on removal from the warehouse but as above the blusher would lose its EU origin if released as a component of a 'set' of items, so the duty amount could be higher
- The costs of the usual forms of handling can be left out of the value of the goods for Duty purposes
- Rouge would need to undertake a careful cost benefit analysis to decide whether the costs of running the warehouse outweigh the duty savings

- New warehouse applications might require a guarantee in place. This would represent an additional cost that will need to be factored in

Duty deferment

- It does not say whether Rouge operates its own Duty Deferment account – using the Freight Forwarder's is expensive and depending on volumes of imports it might be advisable to use their own – might need to have a guarantee, depending on volumes of imports and whether eligible for a waiver

Inward Processing (IP)

- If the duty rate on the finished product is lower than the duty rate on the imported components then IP might be of benefit. The combined product could be processed into the set and released for free circulation at a lower rate of duty
- However, the value of the processing must be included in the value for duty, so a calculation will need to be done to see whether it is beneficial or not.

MARKING GUIDE

TOPIC	MARKS
<u>Classification</u>	
Check codes	1
Rules if a 'set'	1
TCA	1
GIR 3	1
<u>Preference</u>	
Duty free access for blusher	1
Possible FTA for lipsticks	1
Determine correct country of origin	1
<u>Customs Warehousing</u>	
How a warehouse could offer benefit	3
Usual forms of handling	1
Cost benefit analysis	1
<u>Duty deferment</u>	
Obtain own account	1
<u>Inward Processing</u>	
How it could benefit	2
TOTAL	15

25. EXCISE DUTIES SCENARIOSScenario 1

The legislation governing the promotion of this scheme is the Finance Act (No2) 2017. Schedule 17 imposes duties on promoters of certain avoidance schemes.

The avoidance scheme concerning alcoholic liquor duties falls within the legislation and in brief:

- the promoter of the scheme (ie you the indirect tax advisor) must provide certain information about the scheme to HMRC where they enable a person to obtain a tax advantage, the main benefit of which is a tax advantage, and the arrangements fall within one or more of the 'hallmarks'
- A 'premium' fee (ie the contingent fee) is one of the Hallmarks
- HMRC may allocate a scheme reference number (SRN), which does not indicate HMRC's acceptance of the scheme
- the advisor needs to pass the SRN to its clients that are using the scheme
- there are penalties for non-compliance with the legislation, for example, failing to disclose a scheme

Marking Note:

One mark for each point – max 5 available

Scenario 2 - Bullet points on AWRS

- The registration scheme is compulsory for all alcohol wholesalers
- The wholesalers must be registered with HMRC
- In order to be registered they need to demonstrate that they are fit and proper persons and have their supply chains tested by HMRC
- HMRC will look at a variety of things, such as, whether there have been seizures of duty unpaid goods. Has the company traded with unapproved persons?
- Retailers can only purchase their alcohol from registered wholesalers, so it is vital our company is compliant with the rules
- There are severe penalties for non-compliance

Marking Note:

One mark for each point – max 5 available

Scenario 3 - Excise Warehouses

- 1) They are places authorised by HMRC which allow the storage of excisable goods in duty suspension
- 2) The duty is payable when the goods leave the warehouse
- 3) There are various regulations that govern the operation of them (eg WOWG 1999, Excise Warehousing Regs 1988)
- 4) To obtain approval forms EX61 and EX68 need to be completed
- 5) A premises guarantee must be held and a movement security for goods moving from the warehouse
- 6) There are no longer any minimum throughput levels to meet for a General Storage & Distribution Warehouse, but an economic need needs to be shown
- 7) Due diligence 'FITTED' checks need to be adhered to (eg procedures in place to reduce the trade in illicit goods)
- 8) Certain operations can be carried out in the warehouse
- 9) Goods must be checked into the warehouse and logged into the stock system
- 10) Removals to other member states under duty suspension need to go via the EU EMCS and can only go from excise warehouses in Northern Ireland
- 11) GB to GB excise warehouse transfers go under the UK's own version of the EMCS. These go under duty suspension
- 12) Losses must be accounted for

Marking Note:

One mark for each point – max 10 available

Scenario 4 - Manufacture of tobacco products

- 1) Apply to register factory, which will contain specific details such as, address, plan of premises, security arrangements
- 2) Comply with fiscal marking rules to show excise duty has been paid on products destined for the UK market
- 3) Keep records to show materials received in the factory, materials used in manufacture, materials disposed of etc
- 4) Keep a 'production account' which shows the quantity of tobacco produced, type, brand, size of pack and date of production etc
- 5) Ensure any requirements of the 'Users and Dealers in Raw Tobacco' scheme are adhered with
- 6) Ensure that any requirements under the 'Manufacturing Machinery Licensing scheme' are adhered with
- 7) Pay duty when products are released to home use

Marking Note:

One mark for each point – max 5 available

Scenario 5

- 1) The consignor logs into the EU EMCS system and inputs information about the goods to be moved. An eAD is raised
- 2) Acceptance of the eAD is via an ARC issued by the authority in the country of dispatch. The accepted eAD with ARC on it can be printed to move with the transport of the goods
- 3) Once the goods are received by the consignee in the destination state/NI, they will log into the EMCS and check that the goods received correspond to those on the eAD
- 4) Once the electronic acceptance is lodged, the country of receipt will validate the report, and the movement will be discharge and notified back to the country of dispatch
- 5) Excise Duties will be due in the country of receipt, according to the rates in force in that country

Marking Note:

One mark for each point – max 5 available