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CTA ADVANCED TECHNICAL

CROSS BORDER INDIRECT

PRE REVISION QUESTION BANK

FA 2023 & F(No 2)A 2023

May and November 2024 Sitzings

PQ625

Tolley[®]

Tax intelligence
from LexisNexis[®]

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INTRODUCTION

This Advanced Technical Pre Revision Question Bank contains 20 exam standard questions all with answers updated to Finance Act 2023 and Finance (No 2) Act 2023. 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 2024** 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	Jazzy Covers (CD)	VAT on design supplies o/s and value of imported cases, CD NI co. valuation	15
2	Sean Cohen	Various place of supplies of services/ goods /triangulation NI individual	20
3	Medismall Training	Establishment and supplies of virtual learning VAT recovery on expenses o/s	15
4	Veehikolls GmbH	VAT on stock held in UK	15
5	Furblast Ltd	wholesale and retail sales to EU MS from NI company (distance selling)	20
6	Widbit Ltd	VAT visit, error a/c for VAT to Luxembourg, late a/c for VAT	15
7	Nollaw Ltd	Recovery of VAT on costs ECBRS POS for co Board Meetings	15
8	First Zero Pvt	Training co supplies POS recovery of VAT on costs	15
9	Mr and Mrs Cupra	NI couple RES VAT, RGR, Moving to EU VAT relief	10
10	Glut Rush Ltd	FE POS services, case law, casino/gaming machines on ships, leasing	20
11	Hagrid	Calculate duty, VAT on acquisitions (historic) excise duty on champagne	20
12	Just for Big Kidz Ltd	Classification GIRS, appeal ATR	20
13	Mr Berry	IP, AEO EORI	20
14	Lancs Ltd	CW & CFSP for a NI trader	15
15	Small consignments	Personal reliefs in GB in 2022	10
16	Valuation	Importing from sub valuation rules (Methods 1-6)	10
17	Supakarts Ltd	IP and calculation of relief	10
18	Preferences under the TCA	Preferences under the TCA for the UK and EU	10
19	Rouge Ltd	CW, DD, classification	15
20	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

	2023/24	2022/23
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 – 150,000
Dividend allowance	1,000	2,000
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	1,000	1,000
Scottish Tax Rates⁽¹⁾	%	%
Starter rate	19	19
Scottish basic rate	20	20
Intermediate rate	21	21
Higher rate	42	41
Top rate	47	46
Scottish Tax Thresholds⁽¹⁾	£	£
Starter rate	1 – 2,162	1 – 2,162
Scottish basic rate	2,163 – 13,118	2,163 – 13,118
Intermediate rate	13,119 – 31,092	13,119 – 31,092
Higher rate	31,093 – 125,140	31,093 – 150,000
Top rate	125,140+	150,000 +

INCOME TAX - RELIEFS

	2023/24	2022/23
	£	£
Personal allowance ⁽²⁾	12,570	12,570
Married couple's allowance ⁽³⁾	10,375	9,415
– Maximum income before abatement of relief - £1 for £2	34,600	31,400
– Minimum allowance	4,010	3,640
Transferable Tax allowance for married couples and civil partners ⁽⁴⁾	1,260	1,260
Blind person's allowance	2,870	2,600
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	100,000

- 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.

CTA EXAMINATIONS

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ISA limits	2023/24 £	2022/23 £
Maximum subscription:		
'Adult' ISAs	20,000	20,000
Junior ISAs	9,000	9,000

Pension contributions	Annual allowance ⁽¹⁾ £	Minimum pension age
2022/23	40,000	55
2023/24	60,000	55

Basic amount qualifying for tax relief £3,600

Maximum tax-free lump sum £268,275

Note: (1) The annual allowance is tapered by £1 for every £2 of adjusted income above £260,000 (FA 2022: £240,000) for individuals with threshold income above £200,000. It cannot be reduced below £10,000 (FA 2022: £4,000).

Employer Supported Childcare	2023/24	2022/23
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 – 2023/24

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%).

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Fuel benefit base figure	2023/24	2022/23
	£	£
	27,800	25,300
Van benefits	2023/24	2022/23
	£	£
No CO ₂ emissions	Nil	Nil
CO ₂ emissions > 0g/km	3,960	3,600
Fuel benefit for vans	757	688
Official rate of interest	2.25%	2%

INCOME TAX - CHARGES

Child benefit charge	Withdrawal rate
Adjusted net income >£50,000	1% of benefit per £100 of income between £50,000 and £60,000
Adjusted net income >£60,000	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) from 1 January 2019.
(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 freeport tax site expenditure (until 30 September 2026) and on investment zone 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 April 2025).
New cars which either emit 0 g/km of CO₂ (50g/km prior to April 2021) or are electric (until April 2025).
Electric vehicle charging points (until April 2025).

First year allowances (FYA) available to companies only

	Assets in main pool	Assets in special rate pool
Expenditure on new plant and machinery (other than cars) between 1 April 2023 and 31 March 2026 ⁽⁵⁾	100%	50%
Expenditure on new plant and machinery (other than cars) in a freeport tax site (until 30 September 2026)	100%	100%
Expenditure on new plant and machinery (other than cars) in an investment zone	100%	100%

Notes: (5) 130% for expenditure between 1 April 2021 and 31 March 2023.

INCOME TAX - SIMPLIFICATION MEASURES

	2023/24	2022/23
	£	£
'Rent-a-room' limit	7,500	7,500
Property allowance/Trading allowance	1,000	1,000

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Flat Rate Expenses for Unincorporated Businesses

Motoring expenses	First 10,000 business miles	45p per mile
	Additional business miles	25p 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

Cash Basis for Unincorporated Businesses

Turnover threshold to join scheme	£150,000
Turnover threshold to leave scheme	£300,000

NATIONAL INSURANCE CONTRIBUTIONS

Class 1 limits

	2023/24			2022/23		
	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	£11,908	£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
Freeport upper secondary threshold (FUST)	£25,000	£2,083	£481	£25,000	£2,083	£481

Class 1 primary contribution rates

Earnings between PT and UEL	12%	13.25%
Earnings above UEL	2%	3.25%

Class 1 secondary contribution rates

Earnings above ST ⁽¹⁾	13.8%	15.05%
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Note: (1) Rate of secondary NICs between the ST and the UST, AUST & FUST is 0%.

	2023/24	2022/23
Employment allowance		
Per year, per employer	£5,000	£5,000
Class 1A contributions	13.8%	15.05%
Class 1B contributions	13.8%	15.05%
Class 2 contributions		
Normal rate	£3.45 pw	£3.15 pw
Small profits threshold (SPL) ⁽²⁾	£6,725	£6,725 pa
Lower profits limit (LPL) ⁽²⁾	£12,570	£11,908

Note: (2) From 2022/23, Class 2 NICs are only payable where profits exceed the LPL. However, where profits are between the SPL and the LPL, there will be an entitlement to contributory benefits.

Class 3 contributions	£17.45	£15.85 pw
Class 4 contributions		
Annual lower profits limit (LPL)	£12,570	£11,908
Annual upper profits limit (UPL)	£50,270	£50,270
Percentage rate between LPL and UPL	9%	9.73%
Percentage rate above UPL	2%	2.73%

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OTHER PAYROLL INFORMATION

Statutory maternity/adoption pay First 6 weeks @ 90% of AWE
Next 33 weeks @ the lower of £172.48 and 90% of AWE

Statutory shared parental pay /paternity pay/parental bereavement pay For each qualifying week, the lower of 90% of AWE and £172.48

Statutory sick pay £109.40 per week

Student Loan

Plan 1:	9% of earnings exceeding £22,015 per year (£1,834.58 per month/ £423.36 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 £27,660 per year (£2,305 per month /£531.92 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 2023 onwards)

Category of Worker	Rate per hour £
Workers aged 23 and over	10.42
21–22 year olds	10.18
18–20 year olds	7.49
16–17 year olds	5.28
Apprentices	5.28

Accommodation Offset £9.10 per day

HMRC INTEREST RATES (assumed)

Late payment interest	6.50%
Interest on underpaid corporation tax instalments	5.00%
Repayment interest	3.00%
Interest on overpaid corporation tax instalments	3.75%

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CAPITAL GAINS TAX

	2023/24	2022/23
Annual exempt amount for individuals	£6,000	£12,300

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 28% if the gain is in respect of a residential property

Business Asset Disposal relief

	2023/24	2022/23
Relevant gains (lifetime maximum) ⁽⁴⁾	£1 million	£1 million

Investors' relief

	2023/24	2022/23
Relevant gains (lifetime maximum)	£10 million	£10 million

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

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

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		

CORPORATION TAX

Financial year	2023	2022
Main rate	25%	19%
Standard small profits rate	19%	N/A
Augmented profit limit for standard small profits rate	£50,000	N/A
Augmented profit limit for marginal relief	£250,000	N/A
Standard marginal relief fraction	3/200	N/A
Marginal rate	26.5%	N/A
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.

Research and development expenditure

Financial year	2023	2022
Total relief for Small & medium enterprises (SMEs)	186%	230%
R&D tax credit for SME losses	10%	14.5%
Large companies – RDEC	20%	13%

VALUE ADDED TAX

	Standard rate	VAT fraction
Rate	20%	1/6

Limits

	£
Annual registration limit	85,000
De-registration limit	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 2023)

Engine size	Petrol	LPG	Engine size	Diesel
1400cc or less	13p	10p	1600cc or less	13p
1401cc to 2000cc	15p	11p	1601cc to 2000cc	15p
Over 2000cc	23p	17p	Over 2000cc	20p

Electricity rate 9p

OTHER INDIRECT TAXES

	2023/24	2022/23
Insurance premium tax⁽¹⁾		
Standard rate	12%	12%
Higher rate	20%	20%

Tobacco products duty

	From 15.03.2023	From 27.10.2021
Cigarettes	16.5% x retail price + £294.72 per thousand cigarettes (or £393.45 per thousand cigarettes ⁽²⁾)	16.5% x retail price + £262.90 per thousand cigarettes (or £347.86 per thousand cigarettes ⁽²⁾)
Cigars	£367.61 per kg	£327.92 per kg
Hand-rolling tobacco	£351.03 per kg	£302.34 per kg
Other smoking/chewing tobacco	£161.62 per kg	£144.17 per kg
Tobacco for heating	£302.93 per kg	£270.22 per kg

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

(2) The £393.45/£347.86 per thousand cigarettes is a minimum excise duty (if higher than the first calculation)

INHERITANCE TAX

Death rate	40% ⁽³⁾	Lifetime rate	20%
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Note: (3) 36% rate applies where 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

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 1.4.23	From 1.4.22
>£0.5m - ≤ 1m	£4,150	£3,800
> £1m - ≤ 2m	£8,450	£7,700
> £2m - ≤ 5m	£28,650	£26,050
> £5m - ≤ 10m	£67,050	£60,900
> £10m - ≤ 20m	£134,550	£122,250
> £20m	£269,450	£244,750

STAMP DUTY/SDRT

Stamp duty⁽¹⁾	- On shares transferred by physical stock transfer form	0.5%
Stamp duty reserve tax⁽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.

CTA EXAMINATIONS

2024

TAX TABLES



STAMP DUTY LAND TAX

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

VAT QUESTIONS

1. Jazzy Covers Ltd (JCL) is based in Northern Ireland and sells mobile phone and computer cases which have been designed and manufactured for it. It only makes sales within Northern Ireland and is registered under HMRC's UK Trusted Trader Scheme.

Independent designers (based outside the UK) are engaged to design soft cases and hard shell cases to fit the common makes of mobile phones and computers. Some products require specialised moulds to be made and the designers will design these, supplying the mould designs to the mould manufacturers (based in China) and invoicing JCL for the design. The mould manufacturers deliver the moulds to the case manufacturers who are also based in China. JCL is invoiced for the manufacture of the moulds but provides these to the case manufacturers free of charge.

The case manufacturers will make a mixture of soft silicone cases and hard plastic cases using the moulds. All cases will be supplied and shipped to JCL in Northern Ireland. Some are decorated to JCL's specification using the designs provided free of charge by JCL before being supplied to JCL as finished products.

JCL also has high quality cases made in Italy using plain or unfinished hard cases which JCL supplies to the Italian manufacturers to work on. The Italian manufacturers use the hard cases as a component in finished leather cases to create a case with a hard inner protective shell and a soft outer cover. These cases are dispatched back to JCL for sale in Northern Ireland.

None of the companies are related.

Requirements:

Advise on:

- 1) **The VAT implications of the above matters.**
- 2) **The Valuation for VAT and Customs/Import Duty purposes.**

You are NOT required to comment on how the transactions should be recorded.

(15)

2. Sean Cohen has a house in Fermanagh in Northern Ireland (NI) which he shares with his family. He spends most of his time in NI. In addition he has properties in Spain where he spends the school summer holidays and Switzerland where he spends Christmas.

Four months ago, he bought a large quantity of aggregate and sold it on while it was en-route from China to the EU. The ship was in international waters when both the transactions took place.

Sean put a German VAT-registered building firm in touch with an Italian marble supplier and will be paid a commission quarterly on any sales the Italian company makes to the German builder over the next three years. He expects to receive around £30,000 commission from the Italian company in the first year but hopes this will increase in future years.

He has put a neighbour in Spain, who wishes to sell a villa, in touch with one of his Swiss neighbours. The villa is located in Spain. Mr Cohen is negotiating a price for the deal and will receive a commission of 0.75% from the Swiss buyer dependant on the amount the original asking price is reduced by.

Finally, he is negotiating to purchase some marble worktops from a VAT-registered supplier in Italy which will be delivered directly to his VAT-registered customer in France.

Sean does not have a separate office. He will carry out his negotiations and conclude the deals over the phone or by email from his homes (or wherever he happens to be) or on-site at the customers' or suppliers' premises. He does not intend to ever take delivery of any goods; he aims just to work as a middleman. Any records would be kept at his Fermanagh home.

He is not currently registered for VAT anywhere and would like advice as to where his supplies are treated as taking place; where he may potentially be liable to be VAT registered, and on the VAT liabilities of the deals described. He also wants to know whether he should voluntarily register for VAT in the UK now or if he should wait until he reaches the VAT threshold.

Requirement:

Advise on the VAT issues Mr Cohen has.

[Do NOT deal with the specifics of VAT registration in EU member states. He does not need advice on how the registration threshold works or the mechanics of putting in returns as he is familiar with these concepts.] (20)

3. A US firm, Medismall Training Services Inc. ("MTS"), provides distance learning services for nurses and paramedics through "virtual classrooms" accessed via the internet. Teaching is largely automated, taking the form of interactive slide presentations and teaching materials, except for monthly one hour group tutorials conducted online which are led by a lecturer. When students are enrolled, they receive printed training manuals which are to be read in conjunction with the automated online presentations.

The company is seeking to expand into the UK (England only) and EU market; the latter initially, Ireland and the Netherlands. MTS does not have offices, nor staff resident in these countries, and is a trading company. Its customers will normally be private individuals, but in the case of the UK, it has also agreed to sell the content of its courses and – in electronic format – its slide presentations, teaching materials and training manuals to an independent, non-profit making educational institution established in the UK for a royalty fee of £100,000 per annum. It expects sales to private individuals in each country to be over £30,000 in the first six months.

MTS's Chief Executive Theodore Snook has been advised by its US accountants that MTS does not have to account for VAT on its services since it does not have an establishment or staff in the UK or the EU. Mr Snook has asked for a second opinion. If your advice is to the contrary ie MTS's services are subject to VAT in the UK and EU, then he wishes to know how it may keep its administrative costs to a minimum. In addition, in its target EU member states it will incur VAT on advertising and promotion costs, as well as accommodation, subsistence and travel in respect of US staff travelling to the EU – Mr Snook would like to know how MTS might be refunded this VAT.

Requirement:

Advise with respect to the matters which Mr Snook has raised.

In relation to the EU you should cover general EU principles on registration, any special scheme Medismall can use, and how it can recover VAT incurred there.

(15)

4. It is May 2024.

Veehickols GmbH (V GmbH) is a manufacturer of vehicle parts and, until 2019, it supplied stock solely to manufacturers established in Germany. From October 2020 it delivered parts to other member states where they could be drawn down by customers as required. V GmbH is based and VAT registered only in Germany.

The new Finance Director is undertaking a review of both Corporation Tax and VAT and wishes to check that VAT was correctly accounted for on the following transactions: (all of V GmbH's UK and Irish customers were/are VAT registered in their respective countries):

- 1) In December 2020 stock was despatched by V GmbH to a UK customer's warehouse. The customer could draw down the stock when required, providing V GmbH with the details by issuing "self-billing invoices". There was no time limit within which stock had to be drawn down. However, where this had not occurred within six months of its despatch, V GmbH was required to remove it from the customer's warehouse. It was then sold in the UK by V GmbH as scrap. The Finance Director is worried that V GmbH should have registered for UK VAT.

- 2) Stock was despatched by V GmbH to an independent UK warehouse (in which it rented space) to enable it to supply customers in the following circumstance:

In November 2020 when V GmbH received a purchase order from a UK customer identifying the goods to be supplied, the stock was despatched from Germany to the warehouse, with an instruction to the warehouse keeper that the goods were not to be released to the customer until firstly, it had inspected the stock and secondly, V GmbH had been paid in full. Only then did ownership of the stock pass to the customer. Exceptionally, where the UK customer was unable to pay for the stock, the goods situated in the UK would be sold by either V GmbH or its agent (undisclosed) to another UK trader. The Finance Director has ascertained that no sales were made as all customers paid for goods.

- 3) To meet the requirements of future customers situated in Ireland, stock was transferred from Germany to an independent warehouse there in 2022 amounting to £75,000. This increased rapidly as V GmbH expanded its customer base in this country. As stock was sold, it was transported to the customer's premises from the warehouse.

If, as a result of the above, VAT registration in the UK was in point for V GmbH, it needs advice on its obligations to register for VAT in the UK and whether it needs to appoint a UK agent to complete historic UK returns, as well as a summary of the returns that it should have made.

Requirement:

Advise in relation to the VAT issues above for Veehickols GmbH. (15)

Do NOT cover penalties or other consequences for late UK registration nor any detailed registration obligations in Ireland.

5. It is May 2024.

Furblast Ltd specialises in toy distribution to the Northern Ireland wholesale market. It has expanded rapidly in the last two years, becoming UK VAT registered a year or so ago and now has an annual turnover of £300,000. Following its presentation at a European comic book convention in Brussels, it has attracted a lot of interest from comic stores in Belgium as well as private individuals in Belgium and Germany, the latter who order direct over the internet. They are gearing up to start processing orders from the EU and their projected sales for the second half of 2024 are below:

	<u>German retail</u>	<u>Belgian retail</u>	<u>German – Wholesale</u>	<u>Belgian – Wholesale</u>
	€	€	€	€
July	0	0	15,000	20,000
August	5,000	3,000	20,000	30,000
September	6,000	10,000	25,000	40,000
October	5,000	24,000	30,000	60,000
November	3,000	36,000	35,000	70,000
December	4,000	40,000	40,000	80,000

They have a warehouse in Belfast which will supply most EU sales but, as they are now expecting large orders from a Brussels comic store, they are agreeing terms with a German supplier so that the products can be shipped directly from Germany to this one client in Belgium whilst being invoiced to Furblast Ltd in the UK.

Furblast Ltd is concerned about VAT as they have not done business outside the UK before. The speed of expansion has impacted the quality of their record-keeping and they cannot always provide the right underlying documents. Furblast Ltd needs to know what the VAT issues are for the business; what returns it should be filling in and the obligations they will need to meet.

Requirement:

Respond to Furblast Ltd's concerns above.

[You should assume an exchange rate of £1.00 = €1.25.]

(20)

6. Widbit Ltd is on calendar quarterly VAT returns and recently had a VAT audit conducted by HMRC, where they looked at specific transactions in the last four years. Following the visit, they received the following letter:

Widbit Ltd
Gadget Lane
Southampton
SO3 4NF

HM Revenue & Customs
Exchequer House
Southampton
SO1 1VQ

23 April 2024

Dear Sirs

Widbit Ltd VAT Audit

I set out below points arising from my recent visit.

Late accounting for supplies made (LatheQuick SA, Luxembourg – assembly line project)

In setting up a new product assembly line for a Luxembourg VAT-registered client, LatheQuick SA, you shipped out tools and equipment from the UK in October 2020 to do some repair work in Luxembourg, where Widbit Ltd is not VAT-registered. You failed to report this movement and the resulting output VAT in either your VAT return or your EC Sales List and I will need to assess for the tax. It makes no difference that you had already paid the freight company to bring the tools back in December 2020. When the goods returned you did not self-account for acquisition VAT.

There were two further items which you failed to reflect in your final quarter EC Sales List and VAT return in 2020. You raised invoice X1064 for one-off engineering advice on 31 October 2020. I accept that you had neither yet done the work nor received payment but issuing the VAT invoice created an earlier tax point. You also shipped some bespoke parts from the UK on 3 October 2020 for the client to install themselves. Although you issued an invoice the following month (invoice X1065), this was too late to override the basic tax point for the goods in October.

Late Accounting for Input VAT

- 1) On-going consultancy from Widbit SA, France.

You received invoices in January 2022 for the on-going advice you have been receiving from your subsidiary in France. As the services have been provided since February 2021 with no invoices raised nor payment made you missed a deemed tax point on 31 December 2021.

- 2) Machine parts.

In the March 2021 quarter end return you claimed £0.5 million VAT for machine parts which you received in November 2020. Although you explained you only received the proper VAT invoices in February 2021 this is still a late claim in the wrong period which should have been disclosed separately.

Taxable Person Status

In two cases you did not apply UK VAT to your consultancy fees to EU clients without appropriate evidence. The first involved a Greek souvenir manufacturer who you advised on machine tool alignment in 2021 despite not obtaining a valid local VAT number in Greece for the client (invoice X1099). You showed me its Greek direct tax certificate and the extract from its company accounts but without a valid VAT number I am afraid these mean nothing. The second involved advice to a Portuguese local authority pension fund on some structural changes to their offices in 2021. Local authorities perform statutory functions which are non-business related so again I believe this client cannot be seen as a taxable person.

I would be grateful if you would respond within 30 days with any further information to enable me to finalise my assessment.

M Powis, Officer

Requirement:

Respond to the points raised by the HMRC officer.

Do NOT consider the rules relating to appeals, but you should include relevant legislative references to justify your analysis. (15)

7. It is May 2024.

Nollaw Ltd is a financial services provider, which has some VAT issues.

Nollaw Ltd has invested a significant amount in developing a payment platform to allow wealthy non-UK residents to make payments. They have spent £2 million plus VAT on IT consultancy this year and incurred significant related costs. Their engineers incurred hotel and subsistence expenses in Poland and Italy (all with foreign VAT charged) while working with the external software company. A £200,000 consultancy fee was also charged by Nollaw Ltd's US parent, Ellison Inc., which sent some executives over to the UK in June and July 2023 to advise on the platform development. Nollaw Ltd also paid for their UK travel expenses (hotels, taxis), which included UK VAT.

As a result of efficiency savings from the new platform, the company downsized its European operations. It recently vacated then rented out offices it had previously bought in the Netherlands. It charged Dutch VAT to the lessee but incurred UK VAT on legal advice in relation to the structuring of the rental terms and on the surveyor's report which they had to provide to the new lessee.

Nollaw Ltd needs to know whether VAT is reclaimable on the platform development and downsizing costs. Nollaw Ltd's platform services are VAT exempt due to a recent ruling from HMRC.

Nollaw Ltd wants to reduce the VAT element of the cost anyway. They have correctly omitted the EU VAT incurred by their engineers from their return but need advice about claiming EU VAT back. They want to know if they can use the EU portal to do this.

Jersey client

The majority of their clients for the platform seem to be based outside the UK. However the company provided consultancy support to Yaffel Ltd, a UK-incorporated trading company, to prepare its systems to interact with the platform in late 2023. Nollaw Ltd did not charge VAT on their £50,000 fee and assert that the client holds its board meetings in Jersey where the contract was signed and that they had no contact with anyone based in the UK. Nollaw Ltd wants to know if this is correct and whether there are any general principles or precedents on this. Nollaw Ltd also reclaimed £4,000 of UK VAT on slide design and production relating to these consultancy services. As they have not charged VAT on the consultancy support fee, they are not sure that they can get this back until they treat the onward supply as VATable.

Requirement:

Advise on the VAT issues raised above for Nollaw Ltd. (15)

You should refer to relevant case law in relation to the Jersey client.

8. It is May 2024.

First Zero Pvt is a training company based in South Africa.

First Zero Pvt is rapidly expanding its suite of training services using the internet. Its range of services includes courses in personal security, self-defence, physical safety and personal cyber security. All First Zero Pvt clients are wealthy or high profile private individuals who are concerned about their personal safety and privacy. First Zero Pvt has identified a growing demand for such services in the UK and EU and plans to introduce the services to customers who live there.

Courses will be delivered using the internet, utilising webcams for webinars, access to on-line digital course materials and manuals, and an on-line library of video clips. Customers will also be able to utilise learning assessment tools on-line and will have access to an on-line personal adviser in South Africa on a secure one-to-one basis via email and webcam.

First Zero Pvt intends to begin delivering these services to private individuals in the UK and EU on 1 July 2024. Preliminary marketing has generated interest from customers in the UK, Germany, France and the Netherlands. Over 90% of interest is from UK based customers. Users will be invoiced for either complete course programmes or pay at the time they select individual modules or advisory sessions. It estimates over £30k of income from the electronic courses in each EU member state.

Some potential customers have enquired as to whether they could receive bound copies of the course content and the instruction manuals. These would contain technical content plus some blank pages for working on case studies and examples. These would be sent from South Africa in bulk in consignments costing approximately £2,000, which are then opened post importation with single manuals shipped to each recipient.

Other customers are interested in receiving bespoke advice on personal security. First Zero Pvt is therefore planning to offer this service on a one-to-one consultancy basis using an on-line chat portal to advise individual clients directly over the internet from South Africa. Such a bespoke service would command a premium price and be a valuable revenue stream for First Zero Pvt.

First Zero Pvt is also planning to hold some marketing seminars in the UK to promote its on-line services. They will be held at a five star hotel and will be free to attend. Participants will pay their own costs of travel to and from the seminar. First Zero Pvt plans to run two seminars in the UK during 2024 with a budget of about £9,000 per seminar. After the end of each day-long seminar, First Zero Pvt will invite participants to stay on to use the hotel spa and gym facilities, before a farewell dinner hosted by First Zero Pvt. In addition to the seminar costs at the hotel, the budget will also cover hotel accommodation, rail fares, and car hire costs incurred by First Zero Pvt's personnel.

Requirement:

Advise on the VAT implications of the above and how any VAT should be accounted for and reclaimed.

Do NOT discuss time of supply or Customs/Import Duty.

Do NOT mention changes to EU law from 2025.

(15)

9. Mr and Mrs Cupra live in Northern Ireland and are currently considering moving to Jersey for approximately 30 months from January 2025. They will probably take some furniture and works of art with them as well as normal personal effects. They have both lived in Northern Ireland continuously for the past five years, with the exception of a short three-month spell in Dubai last year.

Mr Cupra would like to purchase a light aircraft and golfing equipment and his wife would like to purchase jewellery. They have been told that it may be possible to purchase goods VAT free before leaving Northern Ireland and given their planned departure they wonder whether this can be arranged for them on these goods as their underlying price in Jersey is far higher. They are looking to purchase these goods as soon as possible and use them in Northern Ireland until their departure.

They will purchase other goods whilst in Jersey and might bring these back to Northern Ireland when they return.

Requirements:

- 1) **Advise whether these goods may be purchased VAT free.**
- 2) **Advise whether any VAT liabilities will arise on these goods, and any others purchased overseas, when Mr and Mrs Cupra move back to Northern Ireland in 2027.**

Do NOT consider the Personal Export Scheme for cars or Customs Duties reliefs.

(10)

10. It is May 2024.

For several years Glut Rush Inc. has operated casinos and gaming machines in London through its wholly owned subsidiary Glut Rush Ltd, a UK registered company which is partially exempt. This subsidiary also provides the same services under licence on cruise ships which sail from the UK to the US.

Glut Rush Inc. has its corporate headquarters in Honolulu, US and in addition to its UK subsidiary, it also has a small UK branch with five staff in Southampton that undertakes accounting and regulatory duties and provides clerical services. It is not registered for VAT and does not take an active role in managing its subsidiary or make supplies to it. The branch office leases office machinery from its US head office at a cost of £75,000 per year and from an unrelated French supplier at a cost of £25,000 per year.

Glut Rush Ltd is registered for VAT in the UK and all board meetings are held at the London head office, which has 20 employees. It has no employees on the cruise ships and uses self-employed contracted staff to run the casino games, deal with customer enquiries and empty amusement and gaming machines on each of the ships.

Historically, Glut Rush Ltd has always regarded its London office as the sole establishment receiving supplies from UK and overseas suppliers, subject to VAT and reverse charges. It does however have an agreement with HMRC that allows for overhead supplies received, including reverse charges, to be attributed to UK supplies in the annual proportion of UK land based income to total income. [Income for 2020 apportionment purposes was £15 million in respect of UK land based income, and £5.25 million of ship income.]

HMRC has announced that it is intending to visit Glut Rush Ltd to check that certain transactions in the last four years have been correctly accounted for. Glut Rush Ltd is particularly concerned about some transactions in late 2020 and whether VAT has been correctly accounted for.

During late 2020, expenditure by Glut Rush Ltd included:

	<u>VAT exclusive value</u> £
Payment to Glut Rush Inc. for the right to use the Glut Rush logo and branding in 2020 across all activities.	200,000
Purchase of 20 cash counting machines from a UK VAT registered supplier in 2020. 10 of the machines were used in London and 10 on ships.	150,000

Requirements:

- 1) Provide a brief overview of the EU rules determining the place of supply of services and identify the business and fixed establishments that existed for VAT purposes for Glut Rush Inc. and Glut Rush Ltd in 2020. You should also consider which establishments are deemed to have received supplies for VAT purposes. (13)
 - 2) Explain the VAT treatment of leasing services received by the UK branch of Glut Rush Inc. in 2020 and the related circumstances in which it would have needed to register for VAT. [Do not cover penalties.] (3)
 - 3) Explain what input tax arose in respect of the two identified items of expenditure incurred by Glut Rush Ltd. [Do not consider partial exemption.] (4)
- Total (20)

CUSTOMS DUTIES & EXCISE DUTIES QUESTIONS

11. It is May 2024.

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.

Requirements:

- 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 2024. (3)
- 5) State the VAT implication of The Fang Education Trust acquiring kits from Fluffy & Co in 2024. (4)

Total (20)

Do NOT discuss penalties or assessments and related time limits.

12. 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.

Requirements:

- 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.** (15)
- 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 would he go about this.** (5)

Total (20)

13. 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.

Requirements:

- 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)

14. Lanco 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 Lanco Ltd would need to meet.

Requirement:

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

15. The following wish to know whether import duty and import VAT are due on the following purchases in 2024, 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)

16. A company based in the East Midlands is to start importing goods from a new manufacturing subsidiary in the Far East in 2024 and is unsure of how goods are valued.

Requirements:

- | | | |
|----|---|------|
| 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) |

17. 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)

18. 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'.

Requirements:

- 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)

19. Rouge Ltd began to import cosmetics in 2024.

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)

20. 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)

VAT ANSWERS

1. JAZZY COVERS

1) VAT implications

Jazzy Covers Ltd (JCL) follows EU rules for VAT on supplies of goods. For supplies of services, JCL will follow UK VAT law.

Design

Design services fall under the business to business (B2B) general rule, which states that the supply is treated as taking place where the customer belongs. This means that the supply is in the UK as JCL is the customer of the design services.

JCL will need to account for both the input and output tax on its UK VAT return, using the reverse charge for the services it receives from the overseas designers.

Manufacture and supply of moulds

The supply of moulds to Chinese manufacturers free of charge, which are shipped from another Chinese manufacturer, is outside the scope of UK VAT. JCL may want to take specialist advice on the position in China.

Leather cases produced in Italy

Where JCL supplies hard cases, produced in Italy, to third party manufacturers also based in Italy, for them to use in the manufacture of a finished product, the supply by JCL of hard cases to them does not attract VAT. The work on the hard cases is treated as a service. The place of supply of this service, referred to as “work on goods” falls under the general rule for B2B transactions. It is deemed to take place where JCL, as the customer, belongs. JCL should account for VAT on the Italian manufacturers’ work on the goods under the reverse charge (as for the design services above).

2) Valuation for VAT and Customs/Import Duty

For Duty purposes it appears that the goods are not ‘at risk’ of moving to the EU, as Jazzy is registered under the UK Trusted Trader Scheme and the goods are only sold in the UK. The UK Global Tariff will be used to find the duty rate for the imported goods. The valuation rules to be used might be EU or UK, due to the conflicting interpretation of the Northern Ireland Protocol. Either way, the valuation rules are similar. The following are the EU rules but if UK rules were followed the main difference would be in that where additions are made, they are up to the point of introduction into the UK, and not the EU and HMRC has the right to increase the value under method 1 if they believe it does not represent the full value of the goods.

Value of goods at import - principles

The hard cases imported from China can be valued under Method 1, that is the transaction value, or the price paid or payable for the goods. The parties are unrelated and there appear to be no other restrictions that would preclude this method.

Along with the usual adjustments for freight and insurance (up to the point of introduction into the EU (UK for UK law)), the value must be adjusted to reflect the cost of the “assists” that JCL provides. “Assist” means anything used to manufacture the product or which is added to or affixed to the product, and which has been supplied by the buyer of the goods (JCL) to the supplier at a reduced cost or free of charge (not for full valuable consideration – UK law) and the value of which has not been taken into account when the supplier sells the product to the buyer (JCL). Common examples include designs for goods; tools or moulds used to make goods, and labels.

There are three ways in which the value of the assist (for example a mould) may be added to the value of the goods at import:

- Add the entire assist's value to the first import of the goods. This is simple but the drawback is that JCL will pay the Duty (and import VAT) due on the value of the assist all at once.
- Apportion the assist's value across all units which have been manufactured at the time the first shipment is exported. This may end up with a similar outcome to the first option, for example if the entire stock produced so far is exported in the first shipment.
- Apportion the assist's value against the number of units that JCL expects the mould will be used to produce over its lifetime (maximum period of three years). This spreads the payment of Duty over the longest period but has additional administration burdens.

JCL can choose any of these methods and may use different methods for different assists. It is recommended that a calculation is made of the amount of Duty due on each mould before a decision is made. If the mould values or Duty on the imported product are low it is often worth paying the Duty on the first import to save future administrative costs.

Tutorial Note:

Students are not expected to cover both EU and UK law. The CIOT have confirmed that credit would be given for either approach where the goods are 'not at risk'.

Value of Design and Moulds

The design supplied free of charge to the Chinese mould and case manufacturers would have to be added to the Customs value of the imported goods if it had not already been included in the invoice value charged by the Chinese manufacturers, which is highly unlikely. There is one exception. Design undertaken within the EU (UK – under UK law) and supplied by the buyer to the seller free of charge does not need to be added to the value of the imported goods.

This value of the specialist moulds, the amount JCL paid for the tooling, must be added to the invoiced value of the imported goods. It is important to note that the value of the moulds would have to include, where appropriate, the value of the design supplied free of charge to the manufacturer of the mould.

Value for VAT of Imported goods

The value of the goods for Customs purposes will therefore be the invoice value of the goods, plus any elements for the assists and the usual adjustments for transport costs and insurance if this is not already included in the invoice value. The value for import VAT would be based on the Customs value including incidental costs (eg commission, packaging and insurance) plus Duty and would have to include any additional transport to the point of delivery in the EU (UK – under UK law).

CIOT MARKING GUIDE

TOPIC	MARKS
<u>Design</u>	
Design – business to business general rule	1
All overseas design services are supplied in the UK and subject to the RC	1
<u>Manufacture and supply of moulds</u>	
Moulds supplied to Chinese manufacturers are outside the scope of UK VAT	1
<u>Leather cases produced in Italy</u>	
Supplying hard cases to Italian co does not attract VAT	1
Work done on hard cases is “work on goods” ie a service – RC in UK	1
<u>Value of goods at import – principles</u>	
Goods ‘not at risk’ – either UK or EU law applies	1
Imported goods valued under Method 1 plus assist	1
Definition of assist	1
Three ways of apportioning value of assist	2
Recommendation of considering methods as appropriate	1
<u>Value of Design and Moulds</u>	
Design is an assist: not dutiable if undertaken in EU/UK and supplied FOC	1
Moulds are an assist & value of moulds includes their design	1
<u>Value for VAT of imported goods</u>	
Value for VAT based on Customs Value plus CD, inland transport	2
TOTAL	15

Examiner's report:

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A lot failed to score marks because they had not read the question. Some gave details of the requirements relating to the sale of mobile phones; lots spent time explaining how to record transactions, despite the question explicitly stating that this was not required; several described transactions incorrectly.

Approximately half of the candidates saw “valuation” and took this as an invitation to talk about the six methods of valuation without saying which method of valuation was appropriate in the scenario.

Many then went on to list additions and deductions without mentioning the relevance of assists to Jazzy Covers. Some listed examples of additions but left out assists.

Of those that did cover assists, most realised that the moulds would be considered an assist, but few mentioned that design could also be a dutiable assist. No-one mentioned that design that is carried out within the EU/UK would not be dutiable. No-one mentioned the different possible methods for declaring the values of the assists.

2. SEAN COHEN

As Sean is based in Northern Ireland, he is subject to EU rules on the supply of goods and UK rules on the supply of services.

The supply of goods for VAT purposes is determined by where goods are supplied or made available; services depend on where the supplier or customer “belongs”, see below:

Liability of Supplies

- Buying and selling aggregates

This is a supply of goods. Since the aggregate was outside of the UK both when it was bought and sold, both transactions are outside the scope of UK VAT.

- Marble sold to Germany – commission

Charging commission on the sale of goods is classed as the services of an intermediary. As Sean is operating in a business capacity his intermediary services would fall under the business to business (B2B) general rule and are treated as taking place where his customer belongs. There is no requirement for his customer to be registered for VAT for the transaction to fall under the B2B rules. The transaction is outside the scope of UK VAT. His Italian customer will account for Italian VAT using the reverse charge procedure.

- Commission on sale of land

The place of supply of a service which relates to land is deemed to take place where the land is located. This includes the services of “estate agents” which is how Sean’s supplies in relation to the villa would be classified. The location of supplier and customer are irrelevant. Sean would need to check, in Spain, whether he needs to register for VAT there.

- Marble bought in Italy, delivered direct to France

This would be another supply of goods. If Sean were registered for VAT in the UK at the time the Italian company sells him the marble, the basic provisions for these transactions are that the Italian Company should zero-rate its supply to him. Sean would be liable to register for VAT, account for acquisition VAT and supply VAT in France.

However in a triangular situation like this, provided certain rules are met, a simplified “triangulation” procedure that prevents suppliers having to register in many countries, may be used. Under this the Italian supplier zero-rates its supply to Sean and Sean in turn supplies to his customer without charging any UK or French VAT. Sean’s invoices must contain all the details for an Intra-EU supply together with a triangulation simplification narrative. The supply must also be reported on Sean’s EC Sales List using an indicator number of 2 to show that this is a triangulation transaction. His French customer would then account for any acquisition VAT due.

However, if he is not registered for VAT in the UK at the time the Italian company sells him the marble, they will have to charge Sean Italian VAT. Sean will most likely be liable to register for VAT and to account for VAT on the supply in France, as he is deemed to acquire those goods in France and re-supply them to the end customer. As he is not resident in France he cannot take advantage of any French VAT registration threshold.

There would appear to be a clear benefit to him being VAT registered in the UK before this transaction takes place in order to avoid a requirement to register for VAT in France.

Where a person belongs for VAT purposes

When deciding on the liability of these transactions it is important to consider where, legally, a person “belongs”. This is an important concept in VAT law and getting that correct is essential for determining where some transactions are deemed to have taken place for the purpose of VAT and where someone needs to or may register for VAT. Sean would likely be regarded as belonging in Northern Ireland in the UK for the reasons set out below:

EU law talks about “establishment” and UK law “belonging”, but these generally have the same meaning.

“Business establishment” is defined as the principal place of business and is often the head office or the place from which the business is run. Each business may have only one business establishment.

“Fixed establishment” refers to any other establishment other than the “business establishment” from which the business operates. It means any permanent place that the business has which has the human resources capable of providing or receiving services. A business may have any number of fixed establishments. Temporary establishments cannot count as fixed establishments.

The “usual place of residence” for a private individual is normally where they have set up home with their family and where they are in full-time employment. An individual may have only one usual place of residence at any one time.

A person belongs in the UK for the purpose of making or receiving supplies of services, if any of the following apply:

- They have a business establishment or other fixed establishment in the UK and none elsewhere;
- They have a business establishment in the UK and fixed establishments in other countries and it is the UK establishment which is most directly connected with making or receiving the supplies in question;
- They have a fixed establishment in the UK and a business establishment and or fixed establishments in other countries, but it is the UK establishment which is most directly connected with the making or receiving of the supplies in question; or
- They have no fixed establishment anywhere, but their usual place of residence is in the UK.

It is likely that Sean’s home in Northern Ireland in the UK is his business establishment, given that any records are kept there. It would not be possible to view either of his other homes as a business establishment or a fixed establishment. However, for the purposes of where a person belongs, whether his UK home is a business establishment is a moot point as if it is treated as a business establishment, he is treated as belonging in the UK and if it is not treated as a business establishment; he is treated as belonging in the UK as the UK is his usual place of residence.

When to register

If most of his clients are VAT registered, then it is likely to be beneficial for him to register sooner rather than later as he will be able to reclaim VAT on business expenses including those supplies which are outside the scope of VAT, but which would be taxable supplies, if they took place in the UK - such as the commission he receives on the sale of marble. He would also be able to recover VAT on expenses related to goods held at the date of registration which have been purchased in the four years prior to registration and on services bought in the six months before registration, if they are used for business purposes.

There is also clearly a benefit to him being registered for VAT in relation to the marble transactions, where he will buy and sell the marble but not take delivery of it. It would enable the Italian company to zero-rate the sale to him and would remove any requirement for him to register for VAT in France.

CIOT MARKING GUIDE

TOPIC	MARKS
Different rules for goods and services – belonging matters for services	1
EU rules apply for goods, UK rules for services	1
Recent Transaction – Aggregates - goods:	
High Seas – Buy & sell outside the scope of UK VAT	1
<u>Proposed Transactions</u>	
Bought Marble in Italy, delivered directly to France:	
Buying Marble – Not registered – Italian VAT charged	1
Buying Marble – Not registered – liable to register in France	1
Buying Marble – VAT registered – Zero rate from Italy	1
Buying Marble – VAT registered – Basic provision still might need to register in France	1
Buying Marble – VAT registered – Triangulation – No need to register in France	1
Marble sold to Germany – commission:	
Commission on marble sale	1
Commission on sale of land:	
Commission on land – where land is	1
Commission on land – location of buyer and seller is irrelevant	1
Place of Belonging:	
Place of belonging is important	1
Business establishment definition	1
Fixed establishment definition	1
Usual place of residence definition	1
How the three interact to determine belonging	1
Belongs in UK	1
When to register:	
Voluntary registration – likely to be beneficial	1
Voluntary registration – particularly beneficial for triangulation	1
Might have to register in Spain	1
TOTAL	20

Examiner's report:

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Generally, this question was answered better.

Candidates again appeared to have not read the question. Some answered it throughout as if Mr Cohen was VAT registered and didn't describe how the transaction would be treated if he was not registered. Some of those then went on to advise him to voluntarily register for VAT.

Several said the aggregate had been imported and described how an import should be dealt with.

3. MEDISMAIL TRAINING

VAT is a tax on the consumption of goods and services, and, in the case of the EU, there is a common system which applies across all of the member states.

The UK has its own laws for supplies of goods and services from 1 January 2021 and as none of the supplies will be made in Northern Ireland the special rules that apply there do not need to be considered.

Place of supply of services in the UK/EU

The type of services supplied can be grouped together initially whether being supplied in the UK or the EU. When 'electronically supplied services' are supplied to individuals, the place of supply will be where the individual belongs.

An "electronically supplied service" is one that is:

- delivered over the internet or a similar network; and
- heavily dependent on information technology for its delivery - in other words, the service is essentially automated, involving minimal human intervention and in the absence of information technology, is not viable.

The supply of distance learning services by Medismall appears to come within the scope of electronically supplied services. Although the monthly tutorials and the provision of the printed training manuals by themselves would not constitute electronically supplied services, on the basis of the information supplied, it seems that they are ancillary, and integral to the supply of the distance learning service; accordingly, it would be artificial to treat them as separate supplies and furthermore, they cannot be considered to be aims in themselves.

This will normally create an EU registration obligation for Medismall in each member state in which the customer is based (but see OSS below). For supplies made in the UK, Medismall will be required to register for UK VAT from the first sale (as there is no registration threshold for overseas businesses) and both output and input VAT will be dealt with on the UK VAT return.

In the EU/UK, the provision of educational services is exempt from VAT where supplied by universities, colleges, schools and other public bodies. Given that Medismall is a trading company, to the extent that its distance learning services take place in the UK, they will be chargeable to VAT at the standard rate of 20%. The scope of the exemption varies slightly across each EU member state, and while Medismall's services are likely to be similarly taxable in both Ireland and the Netherlands, it should seek local advice on this.

EU VAT registration

Given that Medismall does not have a business or a fixed establishment in the EU (for example, a branch or agency), its distance learning services will be chargeable to VAT in the member state in which the recipient of the service resides or belongs where that person does not carry on an economic activity or receives the service in a private capacity.

Here Medismall either has to register for VAT under the normal rules applicable in each member state in which its services are chargeable to VAT (this will result in multiple registrations across the EU, with perhaps significant compliance costs) or it may take advantage of the simplified registration scheme open to non-EU businesses supplying electronic services called the One-Stop Shop ("OSS") scheme.

UK VAT registration

As mentioned above Medismall will have an obligation to register for UK VAT in relation to the electronically supplied services.

The sale of Medismall's content and learning materials to a UK educational body for an annual royalty fee of £100,000 is chargeable to VAT in the UK, but the obligation to account for VAT due rests with Medismall's customer under what is known as the reverse charge, or the tax shift mechanism.

Non-Union OSS scheme

The Non-Union One Stop Shop (OSS) scheme offers eligible non-EU businesses the option of registering electronically in a single EU member state and accounting for VAT at the appropriate rate for each member state on electronically supplied services supplied to all EU consumers through a single quarterly electronic OSS declaration which discloses details of VAT due in each EU member state. The declaration, which must be submitted within one month after the end of each calendar quarter, should be accompanied with payment to the tax administration of the country of registration which then distributes the VAT paid to the other EU member states where the services are consumed. Details to be shown on a declaration include:

- the total value of all supplies made in the period, excluding VAT;
- the VAT rate that applies; and
- the total amount of VAT payable.

A non-EU business is eligible to use the scheme if it:

- provides electronically supplied services to consumers (private individuals and businesses which do not carry on an economic activity) who belong or are established – (broadly resident) - in the EU;
- has no establishment itself in the EU; and
- is not registered (or required to be registered) for VAT under the normal rules in any EU member state.

It is permissible for Medismall to appoint an agent to prepare and submit their declarations.

There is no need for Medismall to issue tax invoices given that its customers are not in business, but nevertheless it may issue electronic invoices for services covered by OSS.

Finally, registration under the non-Union OSS online service will not provide a mechanism for Medismall to reclaim VAT incurred on expenses incurred in the EU – if it wishes to do so, it will have to use the reclaim procedure covered by the EC 13th Directive.

Refund of VAT incurred in the EU by non-EU businesses

Under the terms of the EC 13th Directive, Medismall may reclaim VAT properly charged on expenses incurred within an EU member state, subject to the following conditions:

- 1) it has not made supplies in the country of refund, save for those where the customer is required to account for the tax on electronically supplied services covered by OSS;
- 2) it does not have an establishment in the EU;
- 3) the expense item is not one which, under the rules pertaining to the country of refund, recovery of VAT is precluded - the rules vary between member states;

- 4) the VAT claimed does not relate to any of Medismall's activities which are exempt from VAT;
- 5) the US does not bar EU traders from claiming refunds of sales tax.

Claims cover prescribed periods of the 12 months to 30 June, and they must be lodged no later than the following 31 December. A claim must be accompanied by VAT invoices issued by suppliers, as well as a certificate from the IRS confirming that Medismall is a taxpayer.

In some cases VAT should not be charged eg on a B2B supply to Medismall and in these instances' recourse is to the supplier rather than recovery via the 13th Directive. The advertising and promotion costs are likely to fall into this category.

Tutorial Note:

You might be aware of changes to the EU's rules on virtual attendance of these types of events from 2025. This would not apply in this situation as the 'teaching' is automated, so is still an ESS.

CIOT MARKING GUIDE

TOPIC	MARKS
Electronically supplied services (ESS):	
(a) Place of supply;	1
(b) scope of electronically supplied services and conclusion;	2
(c) consideration whether tutorials and manuals are separate supplies;	1
(d) VAT status of Medismall's services;	1
(e) Place of supply and obligation to account for VAT on supplies dependent upon status of recipient of supply.	2
(One discretionary mark may be awarded for full answers on this aspect of the question))	
Registration in the UK for electronic services to consumers	1
Registration scheme for non-EU suppliers (Non-union OSS):	
(a) Outline of scheme	1
(b) Eligibility to operate scheme	1
(c) Practical aspects of scheme, for example, use of an agent, issue of tax invoices, etc;	1
(d) Recovery of VAT incurred in EU (Bonus mark for identifying that VAT is not charged on advertising and promotion services and recourse is to the supplier if charged VAT)	1
Recovery of VAT incurred in the EU	3
TOTAL	15

Examiner's report:

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This question was generally well handled by candidates. There was little discussion on the scope of electronic services, nor Medismall's eligibility to claim refunds of VAT incurred in the EU under the 13th Directive, with candidates assuming the criteria would be met. The examiner was particularly pleased that some candidates identified that Medismall shouldn't be charged VAT on advertising services, and accordingly if it was it should take up the point with its suppliers.

4. VEEHICKOLS GMBH

The transactions in 2020 took place when the UK followed EU laws. The following rules applied to the transactions:

Place of supply/acquisition

There is a distinction for VAT between "call-off" and "consignment" stock.

Call-off stock covers goods which a customer may appropriate as it wishes (albeit ownership has not passed) ie the customer has the right to dispose of the goods as if it were the owner. It will cover goods destined for an identified customer either:

- for incorporation with other goods, for example, as part of a manufacturing process;
- to make onward supplies to its customers.

Although generally call-off stock will be delivered to a customer's premises, this treatment extends to stock held at UK storage facilities hired by the supplier so long as the customer is identified and has immediate access to the goods. There is no time limit within which call-off stock must be appropriated by the customer, nor does the supplier have to advise the UK authorities that it has adopted this treatment or refer to it on its invoices.

From 1 January 2020 there was an EU wide simplification for call-off stock. Call-off stock despatched from another EU member state to the UK was not regarded as a supply at the time of removal. Instead when the customer called off the stock this was the intra-EU supply, and the supply would have been zero rated by V GmbH and the UK customer would have made an acquisition in the UK and accounted for UK VAT at that point. This avoided the need for V GmbH to register for VAT in the UK.

Stock destined to supply more than one customer - or where the customer has not been identified on its dispatch - is not call-off stock, but consignment stock which would fall to be treated as a transfer of own goods to another EU member state ie a supply and intra-Community acquisition by the owner of the goods, in practice necessitating VAT registration in the UK given that the acquisition and subsequent supply would take place there.

V GmbH's transactions

The VAT treatment of the transactions was as follows:

- 1) Scenario (1). Since the supply represented call off stock, V GmbH would have made a zero-rated dispatch at the time that the customer called off the stock and V GmbH's customer would have accounted for UK VAT on the intra-Community acquisition at that time. Customers were not required to obtain approval from HMRC to raise self-billing invoices.

Stock sold as scrap by V GmbH - either directly or through an undisclosed agent – would have given rise to a supply in the UK, with perhaps a consequential obligation to register for VAT. There would have been an immediate obligation to register for VAT in the UK where taxable supplies were made by a non-resident business, irrespective of the value of the supplies made (see more on this later).

Although the UK left the EU's transitional phase by the end of 2020, goods in the warehouse subject to the call-off stock system could continue to be within the regime provided they were called-off by the end of 2021. This appears to be the case.

- 2) Scenario (2). On the facts provided, these goods would also have been considered to be call-off stock, and thus the same VAT consequences as for scenario 1 would have applied.

Where a sale did not proceed on account of non-payment, a supply by V GmbH would have taken place in the UK and accordingly they only had a requirement to register for UK VAT where this occurred. As no such sales happened, no registration requirement arose for this scenario.

- 3) Scenario (3). Stock transferred in these circumstances would have been regarded as consignment stock, giving a rise to a deemed supply of goods by V GmbH in Germany and an intra-Community acquisition by it in Ireland.

Registration in Ireland would have been required and as a non-established business registration would have been needed from the outset.

VAT registration in the UK

As under scenario (1) a requirement to VAT register in the UK was required, the following options for belated VAT registration are available to V GmbH. In the absence of a business establishment in the UK, V GmbH's options to effect UK VAT registration, to file returns, etc. are :

- 1) appoint a representative. A representative has to ensure that V GmbH can meet all its legal obligations and - significantly - it would be jointly and severally liable for all VAT debts occasioned by V GmbH. For this reason, UK professional firms are unlikely to take on this role without a guarantee to cover potential liabilities;
- 2) under a letter of authority, appoint a UK resident to act as its agent. Joint and several liability does not extend to an agent, and it may complete the VAT returns, maintain its accounting records in respect of V GmbH's activities in the UK, etc;
- 3) register directly with the Non Established Taxable Persons unit (NETPU) at Aberdeen. Under this option, V GmbH could maintain the necessary accounting records in Germany, complete and file returns, and settle the tax due.

Returns consequential upon VAT registration

Briefly, consequential upon VAT registration in the UK, the following returns should have been made:

- 1) Quarterly online VAT returns to account for VAT on supplies and acquisitions made in the UK, with credit due for VAT chargeable on its acquisitions and UK VAT incurred on supplies of goods and services received by it
- 2) EC Sales Lists (recapitulative statements)

Note that Arrivals Intrastat returns are unlikely to have been needed - given that the current annual threshold is £1.5m.

CIOT MARKING GUIDE

TOPIC	MARKS
Commentary on the place of supply/acquisition, and the difference in respect of call-off and consignment stock, EU rules applied to historic transactions:	
(a) call-off stock - simplification and place of supply/acquisition	2
(b) consignment stock - place of supply/acquisition	2
Analysis and conclusion on scenario 1	2
Analysis and conclusion on scenario 2	2
Analysis and conclusion on scenario 3	2
VAT registration in the UK for past transactions, appointing a representative, agent, etc	2
Returns required	3
TOTAL	15

Examiner's report:

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This question examined some basic principles on the place of acquisition/supply of call-off and consignment stock, registration in the UK and the returns required. Despite this, the question was not handled particularly well, and it is difficult to conclude why this was so.

5. FURBLAST LTD

Overview

As Furbblast Ltd is based in Northern Ireland, it still follows EU rules on VAT for the supply of goods.

In general when selling goods the place of supply (and therefore taxation) is determined by reference to:

- where the goods are located when supplied to the customer,
- where they end up, and
- the VAT registrations of supplier and customer.

The goods which start in Furbblast Ltd's Belfast warehouse which are delivered to a retail client in Belgium who is not VAT registered in Belgium are distance sales and these rules will determine where VAT is due.

Distance Selling (retail clients)

Under distance selling rules, Furbblast Ltd must register and charge local VAT in Belgium or Germany when its sales exceed the de minimis €10,000 limit. This would be breached sometime in September.

Furbblast Ltd has the option to register with the Belgian authority and account for Belgian VAT on retail sales made there and register with the German authority to account for German VAT on sales made to German retail clients.

As an alternative, Furbblast Ltd could register for the One-Stop-Shop (OSS) in the UK instead. It is eligible to do this as it is trading from Northern Ireland to the EU under the Northern Ireland Protocol. This would allow it to make a single quarterly return through HMRC's portal to account for the German and Belgian VAT. The return is submitted at the end of the month following the quarterly period being reported.

Wholesale clients and Triangulation

The supplies to German or Belgian wholesale customers are irrelevant for distance selling purposes. Provided Furbblast Ltd obtains a valid EU VAT number from clients, the goods are removed from the UK, commercial documentation is held, and the sale is reported on the EC Sales list (see below), the supply would be zero-rated for UK purposes. Otherwise UK VAT would need to be applied.

Where the goods are sourced from the German supplier and shipped directly to the Brussels comic store, there is a risk that Furbblast Ltd would be required to register for Belgian VAT (if it hasn't already above) as it is making an acquisition of the goods in Belgium. The onward supply to the comic store would then be liable to Belgian VAT. The EU rules offer a simplification method for such three party transactions (known as "triangulation") which Furbblast Ltd should consider using. Triangulation is available for a Northern Ireland company making sales that involves two other member states. This would involve quoting the end customer's VAT number on the VAT invoice together with a reference to triangulation simplification and then reporting the sale as a triangular transaction on the EC Sales List (see below).

If Furbblast Ltd does not opt for the OSS and does register for Belgian VAT then the triangulation rules would not apply. In that case it would account for VAT through its Belgian registration on the acquisition of the goods from Germany and would then be required to charge Belgian VAT on the supply to the Brussels comic store. Specialist local advice should be sought on the Belgian aspects as administrative rules are not identical in different Member States.

Evidence of removal from the UK

HMRC require proof of the sale and the removal of the goods from the UK, otherwise they can refuse zero-rating and impose UK VAT. Generally it is recommended that Furbblast Ltd keeps a copy of the sales invoice, showing:

- Customer details including VAT number where applicable
- Description of the goods and their value,
- Destination and mode of transport etc.

as well as commercial proof of the shipping for example:

- Details of insurance and freight charges
- Certificate of posting
- Commercial transport documents from the delivery firm

Photocopies are normally not acceptable unless authenticated. Provided Furbblast Ltd has two items of non-contradictory evidence issued by two different parties then this should be sufficient to show that the goods have been dispatched.

Record-keeping

More generally a business should retain VAT records for a minimum of six years unless otherwise agreed with HMRC. As well as the copies of their sales invoices, this includes the original VAT invoices on which they are claiming input VAT. Furbblast Ltd must also ensure that it keeps a VAT account clearly showing the source and calculation of all the figures on their VAT return, including any adjustments for errors.

EU Sales Lists

As Furbblast Ltd is supplying goods to other VAT-registered traders in the EU and (potentially) will be making triangular sales, it will be required to submit recapitulative statements (known in the UK as EC Sales Lists) periodically. If Furbblast Ltd has correctly filled in its VAT returns, it should receive the forms automatically. Furbblast Ltd will need to provide the client's VAT number, the value of the relevant supplies in the period and an identifier to show whether the transaction was a straight dispatch to the client of goods or a triangular transaction. The deadline 21 days when submitted online.

Submission is calendar quarterly unless Furbblast Ltd opts for monthly returns or exceeds the £35,000 threshold for supplies of goods to EU business customers in a calendar quarter. As Furbblast Limited expects to exceed £35,000 (namely through wholesale German and Belgian projected sales) it would be expected to submit its EC Sales Lists monthly.

Intrastat

In addition to EC Sales lists, once the value of dispatches of goods to EU member states in a calendar year exceeds £250,000, Furbblast Ltd must inform HMRC of the month in which it has breached the threshold and will need to submit statistical Supplementary Declarations (known more commonly as Intrastat). Assuming an exchange rate of £1:€1.25, this converts to €312,500 (£250,000 x 1.25), which is projected to be reached in November 2024 (€345,000 by the end of the month). The returns are due by the 21st of the end of the reference period (usually calendar months).

MARKING GUIDE

TOPIC	MARKS
NI company supplying goods to EU – follows EU rules for VAT	1
Place of supply goods – distance selling rules apply for retail	1
Place of supply – Belgian & German retail B2C	1
Distance selling implications	2
Distance selling option to register or use OSS, OSS explanation	3
Wholesale clients' liability – zero rated dispatch	1
Triangulation – local registration	2
Evidence for dispatch and zero-rating	3
Accounting and record-keeping requirements	1
ECSL frequency and content, submission deadline	2
Calculate monthly ECSL required	1
Intrastat – incl. calculation of dispatch threshold	2
TOTAL	20

Examiner's report:

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Candidates seemed to deal reasonably with this question on the whole. A pleasing number correctly explained the distance selling regime. Explanations of triangulation, where given, were generally good and often clarified the interaction with registration in Belgium.

Candidates frequently picked up on the need for evidence in relation to the dispatches of goods but a number lost marks by not fully elaborating on what this meant and similarly the record-keeping points were unfortunately omitted from otherwise good responses.

Better candidates identified the £35,000 threshold for monthly EC Sales lists and the £250,000 intrastat dispatch threshold though there were a number of instances where the FX conversion rates were incorrectly inverted leading to mistakes on the respective dates that these thresholds were to be breached.

6. WIDBIT LTD**1) LatheQuick SA**

At the time of the supply, the UK was in its transitional phase and still following EU rules on VAT. This would have been treated as a movement of own goods to another Member State, at the time, and was usually treated as a supply. As Widdbit Ltd was not VAT-registered in Germany this would ordinarily have meant the need to account for UK VAT on the movement. However, there was an exception to this rule here as the tools were moved temporarily to fulfil an existing contractual obligation (the repair) and there was always an intention to return the goods to the UK (evidenced by the pre-payment of the freight company) [Article 4(f) SI 1992/3111].

In these circumstances there should also have been no deemed acquisition when the tools came back into the UK.

For services it is correct that an invoice issued in advance of the basic tax point usually creates an earlier actual tax point. However, the rules are different when taking into account business to business supplies cross-border which are subject to the reverse charge, and this would have been the case here. The time of supply of such services cannot be affected by invoicing [compare Arts. 63 and 66 2006/112/EC] but takes place when the service is completed, or payment is made (whichever is earlier). As neither of these happened by 31 October 2020, Widdbit Ltd was correct not to include this on the final quarter VAT return and EC Sales List.

The basic tax point for goods is when they are removed or made available to the customer [s 6(2) VATA 1994]. However, special rules applied to the dispatch of goods to VAT-registered customers in the EU in 2020. In this instance the time of supply would have been the earlier of the 15th day of the month following removal of the goods or the issue of a VAT invoice [s6(7) and s6(8) VATA 1994]. Widdbit Ltd's treatment was again correct as the proper tax point was in November 2020.

2)**a) On-going advice from Widdbit SA**

There can be a deemed tax point at the end of the full calendar year on continuous supplies of services cross-border, provided no invoice or other accounting document has been issued nor payment made. However, this is only applicable if the services have been rendered for more than 12 months without any other tax point arising [SI 1995/2518 reg 82]. In this case as the services began in February 2021 12 months had not elapsed by 31 December 2021. Widdbit were therefore correct to apply the reverse charge VAT in the March quarter rather than in December.

b) Time limits – input evidence

HMRC's own guidance states that the entitlement to make a claim to deduct input tax only arises when the taxable person has both incurred the input tax and received the VAT invoice to support its deduction. Therefore, the VAT on the machine parts was eligible to be reclaimed in the return when Widdbit Ltd received the invoices, despite this being considerably later than the basic tax point, namely when the goods were delivered.

3) Evidence of taxable person status missing in 2021

If a customer claimed to be in business but was not VAT registered then HMRC's guidance states that alternative evidence should have been obtained. This could have been in the form of other reasonable commercial evidence or records including contracts, business letterheads, a commercial website address, publicity material and certificates from fiscal authorities. For this reason the evidence is admissible and a VAT number was

not necessary for Widbit Ltd to treat the customers as “in business” from a VAT perspective.

In the first case the nature of the work itself (linked to manufacturing souvenirs) underlines the argument that the client undertakes economic activity and is therefore a taxable person. As for the Pension Fund, this is a separate entity from the local authority which enters into transactions buying and selling shares and other assets. Such entities are routinely VAT-registered on a voluntary basis in the UK by HMRC on the basis that their activity constitutes a VAT-exempt business dealing in securities. The Portuguese Pension Fund should be treated as a taxable person on the same basis.

Tutorial Note:

Equal credit given for discussing whether this was a land related supply and discussing implications thereon.

MARKING GUIDE

TOPIC	MARKS
Tools for repair work – own goods movement exception	2
Return of tools also ignored for VAT	1
Business to business cross-border tax point	2
Tax point intra-community dispatch	2
Reverse charge tax point continuous services	2
Input deduction time limit re: delay in obtaining evidence	2
Alternative evidence of business status	2
Manufacturer and pension fund – arguments for taxable person status	2
TOTAL	15

Examiner's report:

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A few candidates seemed to think the question was centred on place of supply and lost marks by not developing their analysis to encompass the time of supply points which were central to the letter from HMRC.

A frequent error was to confuse the UK domestic rules on continuous supplies between connected parties with the EU-wide rules for reverse charge situations. A number struggled also with the main rule for cross-border B2B supplies of services as well as with the intra-community dispatch element.

Some of these slips might have been identified and corrected had candidates noted the recommendation in the requirements section that they provide “relevant legislative references” to justify their analysis. The best candidates did this and scored accordingly.

Most candidates picked up the business status of the Greek manufacturer even absent a VAT number, but many failed to give any reason for their conclusion (ie that a manufacturer is prima facie engaged in economic activity). Some candidates misread the question and believed the Greek local authority rather than its pension fund was the contractual customer. Marks were given where appropriate arguments were made following that assumption (eg reference to UK local authorities carrying on economic activities).

7. NOLLAW LTD**1) Platform Development costs**

Providing an exempt payment service to customers outside the UK is a “specified supply” and associated VAT on costs is fully recoverable.

The £200,000 consultancy fee from the US parent is subject to the reverse charge but, as noted above, this is reclaimable. VAT incurred on the executives’ costs is not input VAT of Nollaw Ltd and cannot be deducted. It does, however, form part of the consideration for the imported service and must be treated in the same way as the fee (ie subject to the reverse charge).

HMRC’s policy on VAT reclaim in relation to foreign services is to ask whether the service would have been taxed if supplied in the UK [s26(2)(b) VATA 1994]. In their view options to tax can only cover UK buildings, so a Dutch office rental would not qualify as standard-rated. As a result the related UK VAT on legal advice is fully irrecoverable. Nollaw Ltd could seek to argue that this is an incorrect approach following basic VAT principles of fiscal neutrality and non-discrimination, but it would likely require litigation.

The surveyor’s services are ‘services relating to land’. UK VAT should not have been charged, as these are treated as supplied in the Netherlands (where the building is situated). This cannot be reclaimed and Nollaw Ltd should ask the surveyor to refund it.

In order to claim VAT incurred in EU member states, such as Poland or Italy, a claim must be made under the 13th Directive. The EU portal cannot be used as this was only available until 31 December 2020, while the UK was still in the EU’s transitional phase. Each member state has their own administrative rules for how claims can be made and which VAT is eligible for recovery. This includes what can be claimed, time limits, minimum amounts etc. Nollaw Ltd must not be registered for VAT in the member states for which it wishes to claim and must not make supplies there other than transport connected with the carriage of goods and supplies where the recipient is liable to reverse charge it.

VAT is not refundable unless it would be deductible under the law of the member state where the cost was incurred. For example, some member states do not refund VAT on meals. The amount of EU VAT refundable will be determined under the deduction rules of the Member State where the VAT was incurred, and that Member State will repay directly. Nollaw Ltd’s UK VAT recovery rate (under partial exemption) will also need to be considered.

2) “Non-UK” Client

Firstly one looks at the “business establishment” of the client to determine the place of supply. This is “where the functions of the business’s central administration are carried out”. Account must be taken of the place where:

- essential decisions are taken on the general management of the business
- the registered office of the business is located, and
- management meets.

Where there is uncertainty, the place where essential decisions concerning the general management of the business are taken shall take precedence. An entity can only have one business establishment.

If Yaffel Ltd is genuinely managed and controlled from Jersey, this is outside the UK for VAT purposes and so the consultancy service would be correctly treated unless it would be more “rational” in the circumstances to treat the UK registered office as a fixed establishment receiving the supply.

A “fixed establishment” should have a sufficiently permanent presence of the human and technical resources necessary to receive the relevant supply (*Titanium CJEU case C-931/19*). Registered offices even without permanent staff have been seen by the UK courts as sufficient to constitute a fixed establishment for the purposes of receiving eg audit or consultancy services (*Binder Hamlyn EDN/82/55, [1983] VATTR 171, (VTD 1439)* and *Vincent Consultants LON/88/254, [1988] VATTR 151, (VTD 3091)*). It is thus a question of fact as to where this consultancy was really received. Although the place where the contract was signed is relevant, per the *Zurich Insurance Company case [(C3/2006/1012/CHRVF)]* it is not determinative. As far as possible the VAT treatment should reflect the actual economic situation (*DFDS A/S [ECJ C-260/95]* and *Gunter Berkholz [ECJ 168/84]*). An entity can have more than one fixed establishment.

If Nollaw Ltd can demonstrate they had no contact with the UK registered office or any staff there and that the advice more properly relates to the Jersey team, then their treatment is likely correct. The VAT recovery of the related costs will be the same. Given it would be VATable where provided in the UK, they have a right to reclaim attributable VAT on costs in full.

Tutorial Note:

All relevant cases would receive credit, in this part.

MARKING GUIDE

TOPIC	MARKS
Specified supplies – recovery in principle	1
US parent fees/expenses - reverse charge recovery	2
Land-related supplies – input VAT	1
Surveyor cost not UK VAT - place of supply	1
13 th Directive claim – cannot use EU portal – deadlines and claim amounts	2
– deduction principles	1
Place of supply – “business establishment” (only one)	2
Place of Supply - rationality test	1
Fixed establishment definition - registered offices - case law (can have more than one)	3
Associated input VAT – foreign supplies	1
TOTAL	15

Examiner's report:

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A surprising number of scripts did not identify the specified supplies rules as relevant to the platform activities and consequently believed the VAT on related development costs was not reclaimable.

Candidates' knowledge of the mechanics and administration of the VAT reclaim regimes for non-established traders was generally strong but a number fell into the trap of giving every piece of information they knew over a number of pages, losing time to earn marks elsewhere and impairing the relevance of their answer to the query. Not everyone reflected the relevance of the Member State of refund's rules on blocked input tax and the Member State of Establishment's partial exemption regime. A number of scripts seemed to avoid the Payment Services Platform element altogether and concentrated only on the Non-UK client aspect. Very few scripts identified the rational result test, even where quoting the relevant case-law.

Generally the application of the principles to the Jersey company scenario was disappointing, with many scripts not picking up on the references to Jersey board meetings and lack of contact with anyone in the UK. These usually concluded that incorporation alone was the definitive criterion, consequently losing marks. Most scripts picked up that the related UK VAT was recoverable in any event.

8. FIRST ZERO PVT

First Zero Pvt ("FZ") are to provide a mix of services.

Electronically supplied services

Some of FZ's services are electronically supplied services; ie the supply of software, images, text and information involving minimal human intervention and delivered using the internet or an electronic network. FZ's basic courses delivered over the internet appear to fall within the definition.

Business to Consumer ("B2C") supplies are treated for VAT purposes as made where the customer is established, belongs or lives. This is the same for both the UK and supplies to EU Member States.

In the UK there is no threshold for these supplies and FZ will be required to register for VAT in the UK and make returns, accounting for VAT on the first supply made. Output VAT and any recoverable UK input VAT will be accounted for on the UK return.

FZ will also have to account for VAT on the supplies in each EU Member State where each individual customer belongs. It will need to prove the place of supply by keeping records about its customers such as exactly where a customer is located and establishing the customers' VAT status. FZ will need to collect information about the customer to justify its decision about how to tax the customer. Such information could be the billing address of the customer and the Internet Protocol (IP) address of the device used by the customer to access the services. Additionally, FZ will need to keep information about the VAT rates in the Member State of its customers.

Rather than registering for VAT in each Member State where a customer lives, FZ can make use of the VAT One Stop Shop ("OSS") (Non-Union) arrangements. FZ can register for the OSS arrangements in a single Member State of its choice.

An OSS is completed for a calendar quarter, and FZ will make a single return (at the end of the month following the quarter) to the member state of registration for the output tax using the VAT OSS portal. FZ will make a single payment covering the total of all the individual VAT liabilities across all the relevant Member States. The VAT will then be split and the relevant VAT payment sent to the Member States where the customers live.

Tutorial Note:

There is scope to argue that this is not simply an ESS because of the human intervention with the online personal adviser. However, if a 'complete package' is being bought then CPP principles apply and it is likely the entire package will be treated as an ESS, if the human intervention side is ancillary/minimal to the predominant ESS.

All valid arguments would receive credit, for example, arguing that it could be educational services and that the place of supply is where the event takes place (for the UK) or article 54(1) applies for the EU but would still be deemed to take place where the recipient belongs, as above.

Physical copies of training materials

With regard to the provision of physical copies of training material, if these were dispatched from South Africa to the EU, they would be subject to import clearance, but as books they would be zero rated for import VAT purposes. This would apply regardless of whether FZ or its customer was shown as the importer on the customs entry declaration.

Bespoke advice

The consultancy services are to be provided by FZ to private customers in the EU using a webcam and email. These are not electronically supplied services since they do not constitute the supply of text, images, software or information over the internet involving minimal human intervention and instead the place of supply is where the supplier belongs.

Where FZ supplies consultancy services to non-business customers in the UK, because FZ's place of belonging is outside the UK, there will be no requirement to charge or account for UK VAT on the charges to customers as the place of supply is where the supplier belongs.

As FZ is not established or VAT registered in an EU Member State it can only recover VAT incurred in an EU Member State according to the procedure in the 13th VAT Directive. The OSS arrangements provide only for the payment of VAT and cannot be used to reclaim any VAT. The reclaim procedure varies according to each member state and FZ must not be registered in the country in which the reclaim is made and only be making certain supplies (eg transport associated with the movement of goods). Member States have different rules on what VAT they allow recovery for.

As FZ will be required to register in the UK from the first ESS it will recover UK VAT suffered on its VAT return as input VAT. This is provided that the VAT is not blocked/restricted in some way (see table below).

Marketing seminars

The marketing seminars do not constitute making a supply of goods or services because there is no consideration.

Reclaims of UK VAT

Some business expenditure is blocked from VAT being reclaimed from HMRC:

<u>UK costs incurred by FZ</u>	<u>VAT reclaim eligibility</u>
Hotel accommodation	Eligible
Venue hire	Eligible
Spa and gym facilities	blocked*
Farewell dinner	blocked*
Rail fares	no UK VAT
Car hire exceeding 10 days	50% eligible
Car hire of less than 10 days and hired for business purposes	100% eligible

*Reclaims relating to VAT on the spa and gym facilities costs and VAT on the farewell dinner cost are blocked because these are considered in the nature of hospitality and business entertaining.

MARKING GUIDE

TOPIC	MARKS
Identifying type of services supplied – UK/EU have same POS rule	2
Meaning of electronically supplied services or providing examples of ESS (at least two from software, images, text, information) Other valid comments to receive credit	1
Proving/establishing place of supply by reference to the customer location, that is to say accounting for VAT where the customer belongs	1
How to register for OSS (non-Union) in the EU, UK VAT regn required	1
Where to register for OSS	1
Benefit of OSS - single payment and single return for all output tax across EU	1
Alternative to using OSS; register in each Member State where a supply is made by them	1
Import clearance treatment of physically shipped training materials (who will act as importer and VAT treatment)	1
Identifying that the consultancy services will not be subject to VAT because the supplier has no place of belonging in the UK and the recipients of the service are non-business customers	1
Identifying 13 th VAT Directive to recover VAT on marketing costs in EU	1
Conditions for using 13 th VAT Directive - business not registered for VAT, no place of business in EU, not making supplies	1
Identifying recoverable VAT items in UK (Any four of the six possible x ½ for recoverable/partially recoverable items – max is 4 x ½ = 2))	2
Identifying blocked items and explaining why	1
TOTAL	15

Examiner's report:

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This query was about a non-EU business offering various services including on-line courses, other on-line learning resources, printed materials and consultancy over the internet to private customers in the UK and the EU. Some candidates wrote about whether the business was offering multiple or single supplies and whether mixed, composite or ancillary supplies of services in a theoretical* way which had no bearing on the question. Most candidates identified electronically supplied services (ESS) and non-union OSS as relevant and that other services such as consultancy fell outside OSS.

*Tutor note – The examiner is not saying that the type of supply is unimportant. They are making the point that 'theoretical' meant if candidates simply regurgitate case law without any application to the facts in the question, this will not score marks.

Very few identified that the provision of printed materials would involve importing formalities. Analysis of the marketing seminar costs was in the main treated quite superficially. Most candidates identified reclaiming input VAT on the UK seminar costs but then made broad sweeping generalisations about what was recoverable (ie "all the hotel costs are allowed" or "it's all entertaining so no claim can be made"), when analysis of the different items and their proper treatment would have yielded the marks.

9. MR AND MRS CUPRA

Mr & Mrs Cupra can purchase golf equipment and jewellery VAT-free under the Retail Export Scheme (RES) for export of goods from Northern Ireland to outside the EU. The scheme allows many retail goods, excluding motor vehicles, boats and unmounted gemstones, to be purchased for export as accompanied baggage where the purchaser intends to permanently leave the EU for at least 12 months. As Jersey is outside the EU VAT territory, both Mr and Mrs Cupra may purchase goods, without limitation on value, from UK VAT registered businesses that voluntarily operate the scheme.

RES purchases must be exported before the end of the third month following purchase and therefore can only be validly purchased by the Cupras in October 2024 at the earliest.

The scheme requires the vendors and purchasers to complete declarations, confirming eligibility to use the scheme. Vendors usually retain the VAT otherwise due pending completion of Customs requirements. To obtain a VAT refund it is essential that copy declarations and the relevant goods, are produced to HMRC at export. Failure to meet all conditions may result in VAT being charged and/or seizure of the goods.

Unfortunately, the RES scheme does not apply to purchases of aircraft. However, private aircraft may be purchased VAT free (ie zero rated) if the seller arranges export directly from the EU and retains export evidence.

Tutorial Note:

The mechanics of the scheme are covered in Reg 133C onwards of SI 1995/2518. Usually the person has to be an 'overseas visitor' which means a traveller not established within NI or the EU. However, the regulations also provide for a Public Notice to provide for additional provisions by HMRC and para 2.5.3 of Notice 704 allows NI residents to benefit from the relief in the circumstances detailed above.

Future re-importation into NI

If Mr and Mrs Cupra re-import their golf equipment and jewellery into NI they will normally be unable to obtain import VAT relief because goods previously purchased under a VAT-free scheme are not eligible. These goods, and any others that do not fall into the two categories below, will be subject to VAT based on their value (plus freight and insurance) at the date of re-import.

Furniture and artworks previously exported from NI will qualify for Returned Goods Relief if they are VAT paid, were previously exported by Mr and Mrs Cupra during the prior three years, and remain in the same state.

Other goods acquired overseas may be imported into NI VAT free under Transfer of Residence relief if it can be shown that the Cupras have remained outside the EU for a continuous period of at least 12 months and that they are transferring their residence to NI. In addition the goods need to be:

- 1) Tax and duty paid;
- 2) Possessed and used by them for at least six months prior to importation;
- 3) Declared to HMRC or other state's tax authorities at import; and
- 4) Retained for personal use and not lent or hired within 12 months of the relief being granted.

The aircraft is only likely to gain relief if it meets the above four conditions and it can be shown that it has borne tax in Jersey.

Tutorial Note:

SI 1992/3193 (art 11) provides relief for persons transferring their residence to NI. (Art 4A modifies some of the wording of the articles for NI).

CIOT MARKING GUIDE

TOPIC	MARKS
Eligibility of individuals to purchase goods for export (of unlimited value) from NI in anticipation of leaving the EU. RES requires intention for permanent departure from EU for at least 12 months.	1
Eligible goods that may be purchased under the Retail Export Scheme.	½
Time limits within which goods must be exported.	½
Requirements regarding completion of declaration and production of goods at export. Seizure and/or payment of VAT if conditions not met.	1
Aircraft ineligible for VAT free export under RES but may be exported zero rate under normal arrangements with commercial evidence of export.	1
Re-importation relief – dependent on goods having been subject to VAT in UK or import duties or taxes elsewhere in accordance with Art 11(2) Personal Reliefs Order SI 1992/3193 – therefore not available for RES export purchases or aircraft.	1
Re-importation - possibility of obtaining Returned Goods Relief (RGR) for goods previously exported duty/tax paid providing conditions met.	1
Re-importation relief - eligibility of individuals transferring residence to NI. Personal Reliefs Order SI 1992/3193.	1
Re-importation relief - requirement for goods to have been owned and used overseas for 6 months+.	1
Re-importation relief - requirement for goods to be declared, minimum post-import retention period for goods at 12m, with restrictions on hire, loan, commercial use.	1
Re-importation – determination of valuation for VAT if goods remain ineligible for any import relief.	1
TOTAL	10

Examiner's report:

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Candidates were generally challenged by this 10 mark question and performed less strongly on the conditions that need to be met to re-import goods that had been acquired under both VAT free and VAT paid arrangements. A minority of candidates mistakenly considered that a new vehicle would always fall under the New Means of Transport regime irrespective of being exported out of the EU.

10. GLUT RUSH LTDPART 1)**1) Place of supply of services**

In 2020 EU rules applied to Glut Rush's activities. The place of supply of services rules determine the country with the right to charge VAT on transactions and seek to avoid situations of double taxation and non-taxation. For most services it is essential to identify the status of the recipient as either a 'relevant business person' or otherwise. A 'relevant business person' is generally an entity that independently carries out an economic activity.

The place of supply of services to a relevant business person (B2B) is the place where the recipient belongs; for supplies to consumers (B2C), the place in which the supplier belongs is determinative. There are specific rules for some activities related to land, admission to events etc. The EU Implementing Regulations assist in the interpretation of these rules. The place of supply can also be changed in certain cases, where the "use and enjoyment" of services is made outside the EU for those supplies initially treated as made within the EU, and vice versa. For example, entering into a contract to lease a camera in the UK, but only using the camera in the US, will be outside the scope of UK VAT.

2) Business and Fixed Establishments

A business, whether supplier or recipient of a service, belongs in the country where:

1. it has a business establishment, or some other fixed establishment (FE), or
2. its usual place of residence is located, if it has no business or other fixed establishment (the usual place of residence for a body corporate is where it is legally constituted), or
3. the establishment most directly concerned with the supply is located, if it has such establishments in more than one country.

HMRC regard "business establishment" as meaning the principal place of business of a supplier, being a single place which is usually the head office, headquarters, or "seat" of the business from which the business is run. An entity can only have one business establishment.

A FE must have a sufficient degree of permanence and a suitable structure in terms of human and technical resources to enable it to receive and use services for its own needs. An entity can have more than one FE.

Glut Rush Inc. (GRI) – for 2020 supplies

Glut Rush Inc. is headquartered in Honolulu and as central administration functions are carried out there it is established in the US for UK VAT purposes.

The business is a "relevant business person" within the meaning of s7A VAT Act 1994 and the existence of the office in Southampton may also meet the requirements of a "fixed establishment", s9 VATA 1994.

This office has been in existence for several years, has a permanent work force and necessary equipment to perform its accounting functions. It therefore meets the requirements of a FE and causes the UK to be the place of supply of services purchased for that part of the operation.

Glut Rush Ltd (GRL) – for 2020 supplies

Glut Rush Ltd makes supplies in the UK at venues in London. The central business administration, management meeting place and registered office are in the UK, so the company has a UK business establishment.

The company also has operations on cruise ships making supplies from gaming machines and casinos. A CJEU case (*Gunter Berkholz* (Case 168/84) [1985] ECR 2251), ruled that the provision of the service of playing on gaming machines is supplied in the country where the supplier is established. The UK has however not implemented this ruling, using Article 110, which allows it to continue to treat such supplies on board ships travelling outside UK territorial waters as outside the scope of UK VAT. Any use within UK territorial waters is ignored by HMRC concession.

As Glut Rush Ltd is partially exempt it is in its interests to minimise the amount of input tax it incurs. Consequently it is important to identify which establishment is receiving supplies. To date, the UK business establishment has historically been treated as the establishment receiving all of the goods and services required to make the on board ship supplies (eg staff, operating licences, equipment etc). Accordingly, it would have incurred input tax and accounted for reverse charges as appropriate. A case however, *Astral Marine Services Limited* [2014] UKFTT 269, found that the designated casino area on board the ship (as opposed to the ship itself) had sufficient permanence and human and technical resources to be regarded as a FE, despite the fact that the staff were not employees of Astral. The appeal failed with regard to gaming machines due to the degree of human resource applied to these supplies.

The effect of the above decision, (provided that the position is similar for Glut Rush Ltd) is that supplies of services in respect of the casino operations on the ship would not require a reverse charge calculation. Supplies of services relating to both the casino and gaming machines on the ship are likely to require apportionment. Supplies of goods for use on the ship may be zero rated if it can be demonstrated that the goods are being exported (either directly or indirectly). (See Part 3).

PART 2)

Leasing services made to the GRI branch office in 2020:

The branch office received leasing services from its US parent and a third party EU supplier. Following the principles established in the decision in *FCE Bank plc* CJEU (C-201/04), the recharging of services between parts of the same entity does not constitute a supply as the branch and head office constitute a single taxable person. In contrast, the services from the French supplier are liable to reverse charge and the branch office will need to monitor this and other reverse charges because their value (plus any UK supplies) may exceed the VAT registration threshold.

PART 3)

The agreement with HMRC allows reverse charges to be attributed to UK supplies in the annual proportion of UK land based income to total income. The input tax arising in 2020 is therefore:

<u>15,000,000</u>		
20,250,000		= 74.074%
£200,000	@ 74.074%	£148,148
Input VAT at 20%		£29,630

With regard to the 20 counting machines, the total input tax arising would have been £30,000 (£150,000 x 20%). Half of this was a standard rated UK supply s7(2) VATA 1994.

The other half could have been zero rated if Glut Rush Ltd can demonstrate that the goods were going to be used on the ships (s30(6) VATA 1994), so delivery directly to the ship would be beneficial evidence. If VAT was charged, there may be scope for recovery of this on the basis that the goods have been exported, though HMRC may seek to attribute the input tax to supplies that would have been exempt if made in the UK, and so deny recovery.

CIOT MARKING GUIDE

TOPIC	MARKS
<u>Part 1</u>	
Place of supply of services – reasons for rules in PVD	1
Place of supply of services – importance of identifying whether supply made to “relevant business person” or not, B2B or B2C.	1
Place of supply of services – B2B identification of place of belonging of recipient key,	1
Place of supply of services – B2C identification of place of belonging of supplier key. General rule (as above) applicable where rules for specific activities don’t apply eg services related to land, admission to events, hire of means of transport etc. Use and enjoyment rules	2
General Rules relating to Business Establishments and Fixed Establishments	3
GRI - Identification of Business and fixed establishments - GRI no UK business establishment (USA), no UK economic activities– but UK fixed establishment.	
GRI - Fixed establishment of Southampton office with sufficient permanence and human and technical resources. Identify reasons for Fixed Establishment.	1
GRI - Fixed establishment of Southampton office with sufficient permanence and human and technical resources. Identify reasons for Fixed Establishment.	1
GRL – Business establishment in UK – identification of 3 reasons. Art 10 Imp Regs. Berkholz ruling and non-application in the UK	1
GRL – Benefit of having FE on ship	1
GRL – Astral Marine Services case –reasoning for no fixed establishment for gaming machines (one mark), but fixed establishment for Casinos (one mark). (Defined area and greater reliance on on-board human and technical resources). Effect of this for GRL (Credit given above)	2
<u>Part 2</u>	
GRI – Recharge from parent to branch not a supply as a single taxable person and not required to be considered for purposes of reverse charge or UK VAT registration (per FCE Bank).	1
Intra community purchase of leasing services from French supplier subject to reverse charge and requires monitoring.	1
Potentially liable to register for UK VAT if reverse charge services received (plus UK supplies made) exceed registration threshold	1
<u>Part 3</u>	
Computation – arithmetical accuracy and recognition of reverse charge calculation on apportioned value of payment for services from US, input tax calculated only on value apportioned to supplies made by UK establishment. Rounding to 74% acceptable.	1½
Total Input tax arising on supply of counting machines	½
Potential for zero rating of machines to be used on ships	1
TOTAL	20

Examiner's report:

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The majority of candidates scored above 50% of available marks and were well prepared for identifying the place of supply and correctly recognised the business and fixed establishments which existed. Some candidates failed to recognise the information provided in the question which enabled calculation for apportionment of input tax between land-based and ship-based supplies or recognised the difference between input tax and recoverable input tax. The export of own goods out of the EU provided a range of answers, with many considering the legislation regarding the recovery of input tax incurred in making supplies of international services to have a bearing on goods (which it doesn't). Awareness of recent* case law such as Wellmory and more latterly DFDS A/S was high and was developed into answers by candidates demonstrating a broad knowledge of CJEU judgments.

* It was recent when the question was set

CUSTOMS DUTIES & EXCISE DUTIES ANSWERS

11. 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; 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.

12. 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	$\frac{1}{14}$
	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)	$\frac{1}{6}$
Max	6
TOTAL	20

13. MR BERRY**1) Principal Duty Relief****Inward 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>
Max	6
TOTAL	20

14. 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.

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 Customs Freight Simplified Procedures (CFSP). Under CFSP, 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
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.

15. 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

16. VALUATION1) 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	$\frac{1}{2}$
– Method 2 & description	$\frac{1}{2}$
– Method 3 & description	$\frac{1}{2}$
– Method 4 & description	$\frac{1}{2}$
– Method 5 & description	$\frac{1}{2}$
– Method 6 & description	$\frac{1}{2}$
Sub-total	<u>3</u>
<u>Restrictions on Method 1</u>	
– Relationship and HMRC's need to be satisfied	2
Additions: (any 4 from Regs 111-113, $\frac{1}{2}$ mark each)	2 (max)
Deductions: (any 6 from Reg 115, $\frac{1}{2}$ mark each)	3 (max)
TOTAL	10

17. 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

18. 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.

19. 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.

20. 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

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

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

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

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