

# THE ADVANCED DIPLOMA IN INTERNATIONAL TAXATION

December 2020

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## MODULE 3.02 – EU VAT OPTION

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### ADVANCED INTERNATIONAL TAXATION (THEMATIC)

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TIME ALLOWED – 3¼ HOURS

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This exam paper has **three** parts: **Part A**, **Part B** and **Part C**.

You need to answer **five** questions in total.

You must answer:

- **Both** questions in **Part A** (25 marks each)
- **The** question in **Part B** (20 marks)
- **Two** questions from **Part C** (15 marks each)

#### Further instructions

- All workings should be made to the nearest month and in appropriate monetary currency, unless otherwise stated.
- As you are using the online method to complete your exam, you must provide appropriate line breaks between each question, and clearly indicate the start of each new question using the formatting tools available.
- Marks are specifically allocated for clarity of presentation of your answers.
- The time you spend answering questions should correspond broadly to the number of marks available for that question. You should therefore aim to spend approximately half of your time answering Part A, and the other half answering questions in Parts B and C.
- There is no separate reading time, so you can start typing your answers as soon as the exam begins. However, we recommend that you set aside some time to thoroughly read each question and plan each of your answers.

## PART A

**You are required to answer BOTH questions from this Part.**

1. Rialto Ltd (Rialto) is a tractor manufacturer established and VAT registered in Bordonia with factories in the EU member states of Bordonia and Estaria. The group also has a factory in Turkey, operated by a Turkish established subsidiary (Hero LO), which solely manufactures axle assemblies for incorporation into the tractors.

All axle assemblies produced in Turkey are imported into Bordonia, to be incorporated into tractors in completion of their manufacture. In addition, Rialto relies on a large number of suppliers for parts used in the tractor manufacturing process; some of the EU-based suppliers provide call-off stock which is kept in a warehouse in Bordonia owned and operated by Rialto until required. Other EU suppliers prefer to provide goods as consignment stock, which is kept in a third party warehouse in Bordonia for distribution to Rialto and other customers.

Approximately 30% of the tractors assembled by Rialto in Bordonia are sold for export to the United States, with the remainder being sold to EU and domestic business customers.

**You are required to write a letter to the finance director of Rialto, detailing the VAT treatment relevant to each aspect of the business described above and the requirements necessary to ensure compliance with EU VAT rules.** (25)

2. Tomcom SA (Tomcom) sells and hires drones for various purposes including surveying, security, crop protection and leisure use to EU business and non-business customers. Tomcom is established in Mestria, an EU member state.

Some of the sales of drones are made by mail order to customers in the EU, and require Tomcom to arrange delivery of the goods to customers by post or courier. The remaining sales are made to EU business customers, with the goods being dispatched using fast parcel operators. Drone hire is available for a minimum period of one month, solely to customers in EU member states, either with or without an operative.

In addition to these activities, Tomcom also provides online training for hirers and owners of drones which is made available through customers' mobile phones and tablets and costs €75 per hour. The training material consists mainly of pre-recorded modules covering the basics of drone controls, although customers can purchase live online lessons with an experienced trainer at a price of €125 per hour.

**You are required to provide a report to Tomcom's finance director, identifying all relevant VAT aspects of Tomcom's activities and an analysis of the place of supply of the full range of supplies that are made by Tomcom.** (25)

**PART B**

**You are required to answer THIS question.**

3. In recent years the Court of Justice of the European Union (CJEU) has made judgments in several cases concerning the sale of shares and the treatment of VAT incurred on related costs.

**You are required to describe the key features that have influenced the CJEU's judgements, with reference to relevant case law in support of your answer.** (20)

## PART C

**You are required to answer TWO questions from this Part.**

4. The consideration for a supply is determined by EU VAT law, in order to enable the amount of VAT due on a supply to be calculated. However, in certain circumstances a business may receive a payment without the payment creating a tax point for VAT purposes.

**You are required to describe how the VAT due on a taxable supply should be determined, and give five examples of circumstances in which the receipt and retention of a payment does not create a tax point for VAT purposes.** (15)

5. The EU principle of 'legitimate expectation' and the concept of 'unjust enrichment' frequently give rise to disputes between taxpayers and tax authorities, and have led to many judgments by the Court of Justice of the European Union (CJEU) and courts in member states.

**You are required to outline what is meant by these two terms, and the circumstances in which they apply, supporting your answer with reference to relevant CJEU decisions.** (15)

6. Metrocruise GmbH (Metrocruise) operates ten-day river cruises along inland rivers through three EU member states. Metrocruise is established in Bordonia, where all of its cruises begin before winding through the other two member states.

Passengers are picked up at stops in each state, before the final disembarkation point in Esteria from which passengers are required to leave the cruise. In addition to the standard cruise fare, passengers are offered each of the following additional goods and services on board the cruise:

- Gifts and souvenirs are available from the retail outlets on the ship, some of which are purchased by non-EU residents.
- Luxury spa and massage treatments are provided to passengers by a third party business established in the United States.
- A premium on-board dining experience is offered, for which food and wine are supplied by an Italian established business.
- Toiletries and excisable goods are available for purchase and consumption on board during the course of the cruise.

**You are required to describe the correct VAT treatment, including the place of supply, of each of the activities that take place on Metrocruise's river cruises.** (15)

7. A VAT-registered business that makes taxable and exempt supplies may be described as being 'partly exempt' and required to apportion input tax.

**You are required to describe the consequences of being partly exempt, and the options available for calculating recoverable input tax, referring to relevant legislation and European case law to support your answer.** (15)