

THE ADVANCED DIPLOMA IN INTERNATIONAL TAXATION

June 2024

MODULE 3.02 – EU VAT OPTION

ADVANCED INTERNATIONAL TAXATION (THEMATIC)

TIME ALLOWED – 3½ HOURS

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

You need to answer **five** questions in total. You will **not** receive marks for any additional answers.

You must answer:

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

Further instructions

- All workings should be made in appropriate monetary currency, unless otherwise stated. Any monetary calculations should be made to the nearest whole unit of currency. Any necessary time apportionments in your calculations should be made to the nearest whole month.
- You must provide appropriate line breaks between each question, and clearly indicate the start of each new question using the formatting tools available.
- Marks may be 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. NatMet is the national metrological service for Bordonia, an EU member state with its headquarters in the capital, Bigtown. It is registered for VAT in Bordonia. NatMet provides a weather-related services under a statutory obligation on behalf of the government of Bordonia, as well as providing a range of commercial services to business customers.

NatMet's services to business customers consist of weather information provided to radio stations and professional flying clubs through electronic means including apps; in-person training events and lectures for which admission charges apply, to enable commercial organisations to make the best use of weather information; and education provided to students in public-sector schools located in Bordonia.

NatMet's customers comprise businesses established in Bordonia and elsewhere in the EU, as well as foreign military organisations which deploy staff to Bordonia but have no permanent presence in that country.

NatMet incurs input tax of approximately €4 million each year, 25% relating to its statutory obligation to provide accurate weather forecasting to the Bordonian government, for which it receives an annual grant of €3 million. Its other income totals €5 million annually, spread equally across its three main activities described above.

You are required to write a report, describing the VAT-related aspects of all of NatMet's activities and any issues which it needs to consider in ensuring its compliance with EU VAT law. (25)

2. Thebair is established and VAT registered in Thebia, where it is the leading international airline, and operates a fleet of 80 aircraft carrying passengers and air freight between Thebia, airports in the EU, and elsewhere in the world. Many of Thebair's freight customers are established in Thebia and use the airline to carry their goods to customers in destinations in Europe and the United States.

The chief financial officer (CFO) of Thebair has contacted you, regarding the documentation the airline needs to provide to Thebian businesses in order to enable them to meet the VAT requirements concerning the removal of goods from Thebia. He has asked for your advice for goods transported from Thebia to destinations elsewhere in the EU, as well as goods exported directly out of the EU to the US. You are requested to provide information concerning the documentation and information that needs to be provided, as well as the time limits within which exporters need to be provided with relevant documentation.

On occasions, Thebair is required to transport some of its own consumable goods to a Thebair office at an airport elsewhere in the EU, and your advice is sought on the documentation required in these circumstances.

The CFO has also asked you what the correct VAT treatment should be, in relation to lease payments for commercial passenger aircraft leased from a bank established in Thebia. He is particularly concerned about whether any VAT will be charged by the bank to Thebair, and how Thebair should treat the arrangement for VAT purposes.

Finally, Thebair has a non-executive director serving on its board who receives €5,000 each month. The individual is a qualified lawyer, and has her own practice in Thebia where she is VAT-registered. How should the payments to the non-executive director be treated for VAT purposes?

You are required to write a letter to the CFO, answering his questions and addressing his concerns. You should support your answers with reference to relevant EU case law. (25)

PART B

You are required to answer ONE question from this Part.

3. Murta Sarl (Murta) is a domestic insurance and real estate organisation established and VAT-registered in Floria, an EU member state. In 2019 Murta purchased a ten-floor office building, Capital Towers, located in the Florian capital, Bilcha. It was charged VAT, and initially fully used Capital Towers as its head office for two years.

Since 2021 Murta has only required seven floors of the building, and has leased out the remaining three floors to a Florian business which uses it as a call centre for selling groceries. VAT has been charged on the lease as Murta has elected to waive exemption on the whole building.

The board of Murta has recently decided that, from 2025, they will only require five floors of the building and the grocery business will lease the additional two floors that are to be vacated. Before they can do so, there will be a €5 million refurbishment of floors 4-7 which are used by both Murta and their tenant. Murta will meet the full cost of these works. Each of the floors is of an identical floor area.

You are required to provide a report to Murta's board, detailing the VAT aspects of the purchase and changes of use of the building, including the planned refurbishment, which they need to consider in order to comply with VAT requirements. (20)

4. You have been contacted by a new business owner who intends to buy and sell used cars. Approximately 25% of his purchased cars are expected to be from private individuals located in a neighbouring EU member state, and approximately 10% of his sales are expected to be to private individuals belonging in a different member state. In each case, the cars will be transported from or despatched to the member state in which their owners belong by the new business owner. The remainder of both sales and purchases will be with non-taxable individuals belonging in the same member state as the new business owner.

You are required to write a report describing any VAT schemes that the new business owner may be able to utilise, and the conditions that will need to be met for the cars traded by the business. (20)

PART C

You are required to answer TWO questions from this Part.

5. Vesuvius SA (Vesuvius) is a business established and VAT-registered in Athena, an EU member state which has adopted the euro. Vesuvius operates gyms and spas throughout Athena, and provides additional services including nail bars, hairdressing, cafes and function room hire from the same premises.

The staff used to provide these services are a mixture of Vesuvius employees and agency workers hired from an independent employment agency established in Thebia, a neighbouring EU member state. The remuneration of employment agency staff is determined by the number of attendees who book sessions at the gym; these staff are incentivised by the prize of the use of a luxury car for a week, awarded on the first day of each month.

The majority of Vesuvius customers are private individuals from Athena, although 5% of customers are visitors from outside the EU.

You are required to describe the VAT treatment of the supplies made to and by Vesuvius. (15)

6. Anti-avoidance VAT cases brought before the Court of Justice of the European Union (CJEU) have shaped the landscape of VAT, and changed the relationship between member states and taxpayers when it comes to tax avoidance.

You are required to summarise three EU VAT anti-avoidance measures introduced by CJEU case law, describing their effect and supporting your answer with relevant references to the case law concerned. (15)

7. **You are required to describe the meaning of 'fiscal neutrality' and 'legitimate expectation', in the context of EU VAT law. Your answer should include reference to relevant EU case law.** (15)

8. Alpin is a business established in Switzerland, which recently sent six employees to a trade conference in Holsta, an EU member state. The employees spent five days in Holsta and incurred expenses of €15,000 (including VAT) on hotel accommodation (€10,000), restaurant meals (€2,000) and entertainment services (€3,000). The VAT rate in Holsta is 20%.

You are required to determine whether Alpin is able to recover any of the VAT incurred in Holsta (and if so, how much VAT it may recover), and explain the conditions that would need to be met to make a successful claim. (15)