

# **THE ADVANCED DIPLOMA IN INTERNATIONAL TAXATION**

June 2023

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## **MODULE 3.02 – EU VAT OPTION**

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### **ADVANCED INTERNATIONAL TAXATION (THEMATIC)**

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**TIME ALLOWED – 3½ 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 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 to the nearest month and in appropriate monetary currency, unless otherwise stated.
- 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. Elan BV (Elan) is established and VAT-registered in Bordonia, an EU member state. It operates boarding kennels for dogs and cats, located 4km from the border with Astoria, another EU member state. Elan provides animal boarding services for animals owned by residents of both Bordonia and Astoria, and occasionally hosts animals owned by non-EU residents who are temporarily visiting Bordonia on holiday (having completed all animal health requirements). Elan currently charges €350 per week, per animal.

Whenever animals in the care of Elan require veterinary treatment, a veterinarian (vet) established and VAT-registered in Bordonia is called to attend to the animal. The charge for this treatment is billed to the animal's owner for payment before the animal is returned at the end of the boarding period. Elan does not take part in the provision of veterinary treatments, other than arranging for the vets to attend and collecting the payment on behalf of the vet at the end of the boarding period, which is subsequently paid to the vets.

Elan is required to pay an annual fee to its the Bordonian government as part of the requirement to be registered as a licensed boarding business.

Elan's management team are considering offering an animal boarding package inclusive of any veterinarian fees which may be incurred during the boarding period. This would be at a fixed price of €500 per week, per animal. If they go ahead with this proposal, they will engage with a veterinary practice established and VAT-registered in Astoria and any supplies of veterinary services will be made to Elan.

**You are required to write a letter to Elan's finance director, identifying the VAT treatment of the existing and proposed supplies. Highlight any practical issues that will need to be considered by Elan and its suppliers.** (25)

2. Erasmus Spa (Erasmus) is established and VAT-registered in Thebia, an EU member state. It provides a range of services relating to property; these include the advertising of properties for sale in Thebia and other member states. The majority of properties advertised are owned by individuals resident in the same member state as the property, although some are owned by individuals resident in an EU member state other than that in which the property is located.

In addition to advertising properties for sale, Erasmus:

- 1) Operates a timeshare arrangement, under which individual members pay money to Erasmus for 'points' which may be used to occupy furnished holiday properties in the United States and EU member states. All members involved are individuals resident in Thebia who have purchased timeshare membership packages, requiring them to pay annual and exchange fees to Erasmus;
- 2) Obtains rental income from holiday lettings located in Switzerland and Thebia;
- 3) Acts as the insurance broker for buildings insurance required by residents of Thebia and Canada, covering properties in each of those locations for which it is paid commission; and
- 4) Incurs Thebian VAT on accountancy services that it purchases relating to the rental income activities described in (2).

**You are required to write a report identifying, with reasons, the place of supply of the services undertaken by Erasmus and the VAT treatment that will apply to them.** (25)

## PART B

**You are required to answer ONE question from this Part.**

3. Domino Inc (Domino) is the owner of an online family records and research platform. Domino is established in the United States without an establishment in the EU, and advertises its services to consumers in Bordonia and Thebia, both EU member states. Access to Domino's online family research tools is available via subscription for periods of 6, 12 and 24 months.

There are two levels of subscription. The basic level provides access to digital records and databases assembled from many sources, as well as templates and suggestions to assist users in getting maximum benefit from the materials. The advanced level provides everything included in the basic level, in addition to records from selected overseas sources. Access to the online platform is provided following registration and password allocation, which is set up when the account is opened. All payments are collected in euros via direct debit from the user's bank account.

Domino has recently begun offering, for a single fee, an additional DNA testing service. This provides customers with analysis and reporting of potential matches with other subscribers, and an indication of which countries their ancestors may have originated from (using statistical probability). The DNA analysis is conducted by a laboratory operated by a company established in Bordonia.

**You are required to describe the VAT treatment of the supplies made by Domino, and the options available to Domino to meet EU VAT obligations. Identify any simplifications that it may be able to utilise, and the applicable requirements.** (20)

4. Etna Ltd (Etna) is a catering and hospitality company established in Theta, an EU member state. It recently secured a contract for providing restaurant services on trains operated by Theta National Railways. This will entail providing hot and cold food and drinks to passengers on routes within Theta, as well as scheduled journeys from Theta's capital to three other member states and one journey per week, non-stop, to Zurich, Switzerland, which does not pass through any other EU member state. All journeys are operated by Etna for both their outbound and return legs.

On occasions, payments that have been received for supplies are later found to have been dishonoured, such as stolen credit and debit cards. Etna has found it difficult to identify the supplies for which the payments were originally taken, and the company's finance director seeks your advice on how this issue should be treated.

**You are required to write an email to advise Etna's finance director on the VAT treatment of the proposed activities, and the approach to take for dishonoured payments.** (20)

## PART C

You are required to answer TWO questions from this Part.

5. You are required to describe the procedures to be followed for the triangulation of goods, and identify the entity at greatest risk if member state tax authorities find that the full requirements have not been followed. (15)

6. The term 'economic activity' can be found in Article 9 of the Principal VAT Directive, and elsewhere in EU VAT legislation.

You are required to describe the meaning of the term 'economic activity', explain what is and what isn't economic activity, and support your answer with case law. (15)

7. You are required to explain the concept of 'use and enjoyment', describe the circumstances in which it is relevant and outline the purpose for which it exists, supporting your explanation with relevant case law. (15)

8. The Principal VAT Directive allows a visitor to the EU, who is not established in a member state, two reliefs which are not available to EU residents.

You are required to provide details of the VAT reliefs that such a visitor may enjoy and the overall purpose of such reliefs, including references to relevant legislation. (15)