



Practical Tax People

Association of
Taxation Technicians

May 2017 Examination

PAPER 6

VAT

Part II Suggested Answers

Question 1

1.

Local VAT will be charged on the hotel and restaurant costs by each local supplier (**1/2 mark**) because the place of supply of these services is the territory in which the hotel or restaurant is located (**1/2 mark**).

The royalty payment will be subject to UK VAT under the reverse charge (**1/2 mark**) because this is a business to business sale which is taxed under the general place of supply rule (**1/2 mark**).

2.

Orchestra Ltd may be able to use the VAT refund scheme to reclaim EU VAT incurred on hotel and subsistence costs (**1/2 mark**). Orchestra Ltd is eligible to make a claim under the scheme because:

- It is not registered for VAT in other EU countries (**1/2 mark**).
- It does not have a place of business or other residence in any other EU country (**1/2 mark**).
- It is not making any supplies in the EU (**1/2 mark**), because its performance will be supplied in the UK to the UK promoter under the general place of supply rule (**1/2 mark**).

Under the VAT refund scheme, VAT incurred in another EU country is repaid provided the input tax would be claimable by a local business (**1/2 mark**). Many EU countries apply an input tax block to hotel and restaurant expenditure (**1/2 mark**).

The process for making a claim is as follows:

- The claim is submitted online to HM Revenue & Customs (**1/2 mark**);
- The claim must be for more than the minimum amount set by the repaying country (**1/2 mark**). This is generally €400 for claims of more than 3 months but less than a year, (**1/2 mark**) and €50 for claims for a whole year or the period between your last claim and the end of the year (**1/2 mark**);
- The claim must be submitted by 30 September (**1/2 mark**) following the calendar year in which the VAT was incurred (i.e. Orchestra Ltd must submit its claim by 30 September 2018) (**1/2 mark**);
- The claim must cover the correct time period (**1/2 mark**). The claim cannot be for more than a calendar year or less than 3 months, unless that is all that is left of the calendar year (**1/2 mark**).

Orchestra Ltd will be required to retain VAT invoices to support its claim (**1/2 mark**) but it will not normally be required to provide copies to support the claim (**1/2 mark**) unless the VAT claimed exceeds the limit set by the refunding country (**1/2 mark**).

Max 7 marks

3.

The payment from the nightclub is outside the scope of VAT (**1/2 mark**). The payment is compensation for the disruption caused by the nightclub, not consideration paid for a supply of services by Orchestra Ltd (**1 mark**).

The payment from Big Town Council will be subject to VAT (**1/2 mark**). The payment is being made as consideration for the service of publicising the town while Orchestra Ltd is on tour (**1 mark**).

Question 2

1.

TO: James@email.com

FROM: advisor@firm.com

RE: VAT Issues

Dear James:

Further to your recent discussions with my colleague I write to confirm how the company's income should be treated for VAT purposes and how its input tax recovery should be calculated. **(1 mark – presentation)**.

VAT liability of income

The financial advisory services supplied by Faraday Financial Services Ltd are taxable and will be subject to UK VAT at the standard rate **(1/2 mark)**. However, the commission received for the sale of financial products is exempt from VAT **(1/2 mark)**.

Input tax recovery each quarter

The company makes a mixture of taxable and exempt supplies, and VAT recovery is determined as follows:

- Any input tax which is wholly and exclusively attributable to taxable income can be recovered in full **(1/2 mark)**;
- Any input tax which is wholly and exclusively attributable to exempt income is 'exempt input tax' **(1/2 mark)**.
- Input tax which cannot be wholly attributable to one category of income is residual input tax **(1/2 mark)**. The percentage of residual input tax which is reclaimable is calculated by taking total taxable income as a percentage of total income **(1/2 mark)**. The remainder is 'exempt input tax' **(1/2 mark)**.

The recovery percentage is always rounded up to the next whole number **(1/2 mark)**.

If the total amount of exempt input tax is no more than £625 per month and no more than 50% of the total amount of input tax incurred **(1/2 mark)**, the company is de minimis and can recover all of its input tax **(1/2 mark)**.

Annual adjustment

Each quarter, the amount of VAT recovery is calculated based upon the income received in that quarter. At the end of the VAT year an annual adjustment calculation is undertaken **(1/2 mark)**.

The annual adjustment recalculates the amount of input tax the company can reclaim based upon annual income and expenditure figures using the methodology described above **(1/2 mark)**. The total amount of input tax recovery calculated using the annual figures is compared with the amount of input tax which has been claimed on the VAT returns submitted during the year **(1/2 mark)**. If VAT has been over or under claimed in the year a VAT repayment/reclaim is due **(1/2 mark)**.

I hope that the above advice was helpful, please do not hesitate to contact me if you need any additional clarification,

Kind regards

Advisor

2.

Output VAT due:

Due on sales of financial advice £30,000 * 20%	£6,000 (1/2 mark)
Reverse charge VAT due on EU purchase £500 * 20%	<u>£100</u> (1/2 mark)
Total	£6,100

VAT Recovery %

$£30,000 / (£55,000 + £30,000) = 35.29\%$ rounded to 36%

(2 marks: ½ for £30K + £55K, 1 for the percentage and ½ for rounding)

Input tax claim

	Exempt	Residual
Office costs		£600 (1/2 mark)
Legal fee	£400 (1/2 mark)	
Advertising service		£100 (1/2 mark)
Office rent		<u>£300 (1/2 mark)</u>
Total	<u>£400</u>	<u>£1,000</u>
Recovery	Nil	<u>£360 (1/2 mark)</u>

Exempt input tax is £1,040 (400 + (1,000 – 360)). Although this does not exceed £625 per month, it is more than 50% of the total amount of input tax incurred and therefore Faraday Financial Services Ltd is not de minimis (1 mark).

VAT Liability:

Output tax:	£6,100
Input tax recovery:	<u>(£360)</u>
Net VAT payable:	£5,740 (1/2 mark)

3.

Any three of the following, 1 mark each to maximum of 3:

- Accepting deposits
- Issuing e-money
- Effecting or carrying out contracts of insurance as principal;
- Assisting in the administration and performance of a contract of insurance;
- Dealing in investments as principal or agent and arranging (bringing about) deals in investments;
- Arranging, advising on, administering or entering into a home finance activity;
- Safeguarding, administering, managing and advising on investments, which include (among other things) shares, debt instruments, deposits, e-money, pensions and regulated mortgage contracts, home reversion plans and home purchase plans;
- Operating a multilateral trading facility;
- Sending dematerialised instructions;
- Establishing a collective investment scheme;
- Establishing a stakeholder pension scheme;
- Providing basic advice on stakeholder products;
- Entering funeral plan contracts;
- Lloyd's market activities.

Question 3

1.

A sale of business assets qualifies as a TOGC if the following conditions have been met:

- the assets must be sold as part of the transfer of a 'business' as a 'going concern' **(1 mark)**;
- the assets are to be used by the purchaser with the intention of carrying on the same kind of 'business' as the seller (but not necessarily identical) **(1 mark)**;
- where the seller is a taxable person, the purchaser must be a taxable person already or become one as the result of the transfer **(1 mark)**;
- in respect of land which would be standard rated if it were supplied, the purchaser must notify HMRC that he has opted to tax the land by the relevant date, and must notify the seller that their option will not be disapplied by the same date **(1 mark)**;
- where only part of the 'business' is sold it must be capable of operating separately **(1 mark)**;
- there must not be a series of immediately consecutive transfers of 'business' **(1 mark)**.

Any four of the above – 1 mark each

2.

Provided that the companies all register for VAT and so become taxable persons **(1/2 mark)**, the transfers to Franklin Chemicals, Grain and Metals Ltd will all qualify as TOGCs **(1/2 mark)** because all of the conditions above have been met **(1/2 mark)**. **Max 1 mark**

As the sale is a TOGC the transfer will be outside the scope of VAT **(1/2 mark)**.

The transfer of staff and assets to Franklin Data Ltd will not qualify as a TOGC **(1/2 mark)**. Franklin Data Ltd is starting a new business and therefore the employees and assets are not part of a 'business' which is a 'going concern' **(1 mark)**. **Max 1 mark**

Because the transfer is not a TOGC, VAT will be due on the supply of the business and its assets **(1/2 mark)**.

Max 3 marks

3.

Input tax incurred on professional fees associated with selling a business as a TOGC is reclaimable according to the VAT recovery position of the business being transferred **(1 mark)**. Because Franklin Chemicals, Grain and Metals Ltd are all fully taxable, the VAT incurred by Franklin & Co Ltd on the transfer is claimable in full **(1 mark)**.

Because the sale of assets to Franklin Data Ltd will be taxable, VAT incurred on the costs associated with this sale will be claimable in full **(1 mark)**.

4.

Holding companies are not entitled to be registered for VAT unless either:

- they are making supplies of management services to their subsidiary companies **(1 mark)** or
- they register as part of a VAT group with subsidiaries which make taxable supplies **(1 mark)**.

5.

A member is recommended to have the following procedures in place (**1 mark each, max 5**):

- Each client should be informed in writing of the name and status of the person to be contacted in the event of a client wishing to make a complaint;
- Clients should be informed of the ability to complain to the Taxation Disciplinary Board;
- Each complaint should be acknowledged promptly and in writing;
- Each complaint should be investigated thoroughly and without delay by a person of sufficient experience and seniority. Preferably this person should not be directly involved in the cause of the complaint and the client should be told about the investigation;
- If the investigation finds that the complaint is justified in whole or in part, any appropriate action should be taken.

Question 4

1.

Liability and invoicing (max 2 marks)

Hardware sold to an EU customer will be zero rated (**1/2 mark**), provided that the following conditions are met:

- The EU customer's EU VAT number, including country prefix, should be quoted on the sales invoice (**1/2 mark**);
- Evidence that the goods have been removed from the UK must be obtained and retained (**1/2 mark**).

Hardware sold to a non-EU customer will also be zero rated (**1/2 mark**), provided evidence that the goods have been exported from the EU is obtained and retained (**1/2 mark**).

In both cases, goods must be removed/exported from the UK within three months of the time of supply (**1/2 mark**).

Evidence (max 5 marks)

In respect of goods exported from the EU, Hawking Ltd will need to retain official or commercial evidence of export (**1/2 mark**) and supplementary evidence (**1/2 mark**).

The evidence retained must clearly identify the supplier, the consignor (where different from the supplier), the customer, the goods, an accurate value, the export destination, and the mode of transport and route of the export movement. (**1/2 mark for each item to a maximum of 2 marks**).

Official evidence of export is produced by Customs systems (**1/2 mark**). Commercial evidence of export includes authenticated sea or airway bills, certificates of shipment and International Consignment Notes. (**1/2 mark each item to a maximum of 1 mark**).

Supplementary evidence includes documents such as customer's order, sales contract, inter-company correspondence, copy of export sales invoice, advice note, consignment note, packing list, insurance and freight charges documentation, evidence of payment, and/or evidence of the receipt of the goods abroad. (**1/2 mark each item to a maximum of 2 marks**).

2.

Goods purchased from EU suppliers will be zero rated in the country of origin (**1/2 mark**), provided that Hawking Ltd gives the supplier its UK VAT number (**1/2 mark**). Hawking Ltd is required to self-account for UK VAT on the purchase via its VAT return (**1/2 mark**). This VAT is recoverable as input tax provided the invoice from the supplier is retained as evidence. (**1/2 mark**)

Goods imported into the UK from outside the EU are charged to import VAT when they enter the country (**1/2 mark**). Import VAT is recoverable if the correct evidence is held – normally a C79 import VAT certificate (**1/2 mark**).

3.

Output VAT:	
UK Sales (£10,000 * 20%)	£2,000 (1/2 mark)
EU sales and exports (zero rated)	- (1/2 mark)
Acquisition VAT due on goods from EU Suppliers (£4,000 * 20%)	£800 (1/2 mark)
TOTAL OUTPUT VAT	<u>£2,800</u>
Input VAT:	
Overhead VAT	£600 (1/2 mark)
Acquisition VAT	£800 (1/2 mark)
Import VAT	<u>£1,500 (1/2 mark)</u>
TOTAL INPUT VAT	<u>£2,900</u>