



May 2022 Examination

PAPER 6

VAT

Part I Suggested Answers

Candidates will be given credit for relevant points not on the mark scheme.

1

- | | |
|--|---------------------------|
| 1) Flat White coffee to take-away | Standard-rated (1/2 mark) |
| 2) Slice of chocolate cake to take-away | Zero-rated (1/2 mark) |
| 3) Slice of Victoria sponge cake to eat in the Deli's outdoor seating area | Standard-rated (1/2 mark) |
| 4) Tuna sandwich to eat inside the Deli | Standard-rated (1/2 mark) |
| 5) Hot toasted cheese panini to take-away | Standard-rated (1/2 mark) |
| 6) Shortbread biscuits to take-away | Zero-rated (1/2 mark) |
| 7) 'Jaffa cakes' to eat inside the Deli | Standard-rated (1/2 mark) |
| 8) Tortilla chips to take-away | Zero-rated (1/2 mark) |
- (4 marks)**

2

Chris's gross income from standard-rated sales for the period was as follows:

	£
Holiday cottage income	6,000
Plant sales	175

VAT on standard-rated sales:

Holiday cottage = £1,000 (1/6 x £6,000) (1/2 mark)

Plant sales = £29 (1/6 x £175) (1/2 mark)

Total = £1,029

No VAT due on the sale of eggs of £150 as zero-rated (1/2 mark)

Chris had the following goods on hand at the date of deregistration (input VAT was claimed on purchase where applicable):

	Market value (excluding VAT)	
	£	
Small tractor	16,000	(cost £22,000 + VAT)
Chicken coop	350	(cost £850 + VAT)
Polytunnel	1,500	(bought from a business not registered for VAT)

Goods on which VAT was recovered: Tractor and chicken coop

Tractor: VAT due thereon = £3,200 (20% x 16,000) (1/2 mark)

Chicken coop: VAT due thereon = £70 (20% x 350) (1/2 mark)

Total = £3,270

No VAT due on Polytunnel as no input VAT was recovered on purchase **(1/2 mark)**

As VAT more than £1,000 output tax needs to be paid **(1/2 mark)**.

Therefore:

Output tax	4,299 (1,029 + 3,270)
VAT liability	£4,299 (1/2 mark)

(4 marks)

3

1)

The two stages in opting to tax are:

- Making the decision to opt **(1/2 mark)** which may be an informal action (internal telephone conversation) or formally such as at a business meeting **(1/2 mark)**. HMRC recommend that a written record is kept showing clear details of the building and the date the decision was made **(1/2 mark)**.
- Notifying HMRC of the decision **(1/2 mark)** within 30 days (90 days up to 31 July 2021) of the decision being made **(1/2 mark)**. It must be in writing (or using form 1614A) **(1/2 mark)** clearly stating what land and/or building is covered and the effective date **(1/2 mark)**.

1. (Max 2 marks)

2)

Fresh and Natural Co are outside the 30 day notification period **(1/2 mark)** as they have been charging VAT on rent for 18 months. However, HMRC has discretion to accept notification outside the 30-day period **(1/2 mark)**. HMRC would need to be satisfied that the decision was made on the date stated in the notification e.g. using evidence such as Board minutes **(1/2 mark)**. As Fresh and Natural had not heard of 'opting to tax' the company could not have taken the decision to opt to tax **(1/2 mark)**. Nevertheless, the fact that the company has always charged VAT on the rental charges indicates that it always intended to make taxable supplies of the property so HMRC may accept this **(1/2 mark)**.

(Max 2 marks)

4

- 1) Services in the course of construction of a new building which is used as an office for administering and collecting donations.

These services are zero-rated **(1/2 mark)** as an office for collecting donations is regarded as having a 'relevant charitable purpose' **(1/2 mark)** OR they fall within VATA 94, Sch 8 Group 5 Item 2 **(1/2 mark)**.

- 2) Filming and production services for its new TV advert.

These services are zero-rated **(1/2 mark)** as they constitute advertising to the public which, when supplied directly to a charity, qualify for zero-rating **(1/2 mark)** OR they fall within VATA 94, Sch 8 Group 15 Item 8B **(1/2 mark)**

- 3) The import of medicinal products to be administered to humans as treatment.

The import of these goods is zero-rated **(1/2 mark)**. A supply to a charity, which provides medical treatment to humans, of medicinal products which are used in that treatment is zero-rated **(1/2 mark)**. This relief

extends to the import of such products as well. OR these goods fall within VATA 94, Sch 8 Group 15 Item 9 **(1/2 mark)**.

4) Audit and bookkeeping services.

These services are standard-rated **(1/2 mark)** as there are no reliefs available to enable a charity to receive these at the zero-rate **(1/2 mark)**.

(4 marks, max 1 mark each)

5

Foxtrot Ltd:

- is not registered as a VAT group **(1/2 mark)**
 - **Is not registered as a division (1/2 mark)**
 - has not ceased to operate the scheme in the preceding 12 months **(1/2 mark)**
 - is not insolvent **(1/2 mark)**
 - does not have a rising VAT debt **(1/2 mark)**
-
- predicts no more than £1.35 million of taxable supplies in the next 12 months **(1/2 mark)** broken down as
 - standard and zero-rated supplies total £1.325M **(1/2 mark)**
 - supplies of capital assets used in the business (factory fixtures and fittings) are excluded. **(1/2 mark)**

Consequently, Foxtrot Ltd is eligible to join the scheme. **(1/2 mark)**

(Max 4 marks)

6

1) (3 marks)

- Freehold sale of a newly-constructed office block (less than 6 months old) to an insurance company. The supply is standard-rated **(1 mark)**. This is because the disposal of the freehold of a new (less than 3 years old from construction) commercial building is always standard-rated **(1/2 mark)**.
- Freehold sale of a car park (constructed 5 years ago) to a car park operator. The supply is exempt from VAT **(1 mark)**. This is because the freehold sale of a car park which is not new (more than 3 years from construction) nor opted to tax is exempt from VAT **(1/2 mark)**.

2) (1 mark)

The basic tax point is when the land is made available to the purchaser i.e. the date of the freehold conveyance. **(1 mark)**

(4 marks)

7

This process is compliant with the MTD requirements because:

- the VAT Returns (and any corresponding information necessary) are submitted electronically using the accountant's API-enabled software from data held in digital records. **(1 mark)**
- The API-enabled software enables the business to receive information from HMRC as well (which is a requirement of the MTD regulations). **(1 mark)**

- individual invoice level data is digitally recorded for each online shop sale made via the business's online sales software. **(1 mark)**
- The spreadsheet of online sales is uploaded directly into the API-enabled software, minimising manual intervention. **(1 mark)**
- daily gross takings data are digitally captured by the API-enabled software. **(1 mark)**
- The API-enabled software captures purchase invoice data (entered manually) for each supply received. **(1 mark)**

In this case the digital records to meet Making Tax Digital requirements are kept across a number of software programs. Taken together, these form the digital records for the VAT registered entity and are compliant with the digital journey requirements under MTD. **(1 mark)**

(Max 4 marks)

8

1) Consultancy services to a restaurant group in Switzerland. The work was delivered by email

Place of supply = Switzerland **(1 mark)**. B2B supply of consultancy services so place of supply is where the customer belongs.

2) A wine tutorial webinar delivered 'live' to a student living in France.

Place of supply = UK **(1 mark)**. B2C supply so place of supply is the UK. The delivery of an educational or professional course via the internet does not qualify as an electronically-supplied service.

3) Supply of her report on 'Burgundy' to a student living in The Netherlands. The student was sent an email with a link to download the report.

Place of supply = The Netherlands **(1 mark)**. B2C supply of electronically-supplied services.

4) Supplies of admission to a wine tasting event held at her home. The attendees were all employees of a US company to whom Agatha raised her invoice.

Place of supply = UK **(1 mark)**. B2B supplies of admission are taxable where the event takes place.

(4 marks)

9

1) Supply of blankets to a VAT-registered business in Belfast (Northern Ireland).

This is treated as a domestic supply of goods and Totesalpaca should charge UK VAT. **(1 mark)**

2) Supply of scarves to a private individual living in Bulgaria.

This is a zero-rated export of goods to Bulgaria. **(1 mark)**

3) Purchase of cardboard boxes from a business in Belfast.

This is treated as a domestic standard-rated purchase of goods. **(1 mark)** Totesalpaca can reclaim the UK VAT charged by the Belfast supplier as input tax.

4) Purchase of cotton from a business in Portugal.

This is a standard-rated import of goods into the UK. **(1/2 mark)** Totesalpaca will need to pay and reclaim the import VAT due or use postponed VAT accounting. **(1/2 mark)**

(4 marks)

10

Q/E	Late VAT return	Late VAT payment	VAT due (£)
30 Jun 2021	Y	Y	15,000
Surcharge Liability Notice issued first so no default surcharge to pay (1 mark)			
30 Sep 2021	Y	Y	12,000
Subsequent default so chargeable at 2% (£240) but as this is less than £400 there will be no surcharge to pay. (1 mark)			
31 Dec 2021	Y	N	13,000
VAT paid on time so no default. (1 mark)			
31 Mar 2022	Y	Y	12,000

Subsequent default so chargeable at 5% (£600). As this is more than £400 the £600 will be levied by HMRC. **(1 mark)**

(4 marks)



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Candidates will be given credit for relevant points not on the mark scheme.

11. (20 marks)

1(a) (5 marks)

The two new houses built in the garden area will be zero rated as sale is by way of the grant of a major interest. (1 mark) This will also include the sale of the garage with one of the houses (1 mark.) The sale of the house using the façade of the old house will be exempt from VAT (1 mark) as the construction was not of a new building due to the retention of the façade which was not a condition or requirement of planning consent (1 mark).

The grant of a major interest includes both leases over 21 years (or 20 years in Scotland) and freehold sales so it will make no difference whether there is a lease or freehold sale. (1 mark)

1(b) (3 marks)

The additional requested works will be zero rated if they are ordinarily incorporated into a dwelling. This will cover the fitted kitchen. (1 mark)

If the cooker and fridge freezer are free-standing then they will be liable to VAT at 20% or if they are incorporated into the building then the input tax will not be recoverable and this will be added to the cost of the sale (1 mark).

Carpets are not incorporated into the building and will be subject to VAT at 20% (1 mark).

1(c) (6 marks max, 7 marks available)

Building materials are standard rated in both cases as they are not supplied alongside a supply of construction services. (1 mark).

The cooker, freezer and carpets will all be subject to VAT at 20%. (1 mark)

The services of an architect are excluded from the zero-rating available for construction services and will therefore be liable to VAT at 20%,(1 mark)

The services of the electrician will be zero rated as services supplied in the course of construction of a new building for the new houses (1 mark) but will be standard rated for the existing house (1 mark). This will be accounted for via the reverse charge for construction services. (1 mark)

The carpet fitters fee will be zero rated as a service supplied in the course of construction. (1 mark)

2) (3 marks)

The conversion of the ground floor from commercial use to residential use will be liable to VAT at 5% as the use is changing from commercial to residential. (1 mark)

As the second floor contains the same number of dwellings before and after the works, the work will be liable to VAT at 20%. (1 mark)

As the top floor is changing from three flats to one flat, VAT will be due on the works at the 5% VAT rate. (1 mark)

3) (3 marks)

- 1) People do not own land, but instead own a period of time in relation to land (**1/2 mark**). For a freehold estate that period of time is without end (**1/2 mark**) and throughout that period, the freeholder has the right to enjoy the property and to sell it. (**1/2 mark**) A leaseholder has rights over land for defined duration (**1/2 mark**). They are regarded as the owner of the land during this time (**1/2 mark**), but their rights may be constrained by terms of the lease. (**1/2 mark**)

12. (15 marks)

1) (12 marks max, 13 marks available)

Jennifer will be a limited cost business as she is expecting to buy goods of less than 2% of turnover per year. (**1/2 mark**) As such the flat rate applicable will be 16.5% (**1/2 mark**) though this will be subject to 1% deduction in the first year of her VAT registration. (**1/2 mark**)

Calculation for the proposed contract terms.

Without Flat Rate Scheme, Jennifer has income of £100,000 (**1/2 mark**)

less expenditure of £20,000 (agents fee)

£1,600 (Laptop and phone)

£2,000 (train fare)

£3,000 (accountancy)

Total expenditure = £26,600 (**1 mark**)

Net income = £73,400 (**1/2 mark**)

Exclude VAT from calculation as wholly reclaimable from/payable to HMRC (**1/2 mark**)

Using Flat Rate Scheme:

Flat Rate Scheme liability = £120,000 x 15.5% = £18,600 (**1/2 mark**)

Income: £100,000 plus £20,000 VAT = £120,000 (**1/2 mark**)

Expenditure = £24,000 (agents fee including VAT)

£1,920 (Laptop and phone including VAT)

£2,000 (train fare – no VAT as zero rated)

£3,600 (accountancy including VAT)

£18,600 (Flat Rate Scheme liability)

Total expenditure = £50,120 (**1 mark**)

Net income = £69,880 (**1/2 mark**)

Therefore, it would not be worth Jennifer using the scheme under the proposed contract terms: **(1/2 mark)**

Calculation for the alternate contract terms.

Without Flat Rate Scheme, Jennifer has income of £80,000 **(1/2 mark)**

less expenditure of	£1,600 (Laptop and phone)
	£2,000 (train fare)
	£3,000 (accountancy)
Total expenditure =	£6,600 (1 mark)
Net income =	£73,400 (1/2 mark)

Credit will be given if candidates simply identify that net income is the same as in the first scenario but that the agents fee is no longer a deductible item.

Using Flat Rate Scheme:

Flat Rate Scheme liability = £96,000 x 15.5% = £14,880 **(1/2 mark)**

Income: £80,000 plus £16,000 VAT = £96,000 **(1/2 mark)**

Expenditure =	£1,920 (Laptop and phone including VAT)
	£2,000 (train fare – no VAT)
	£3,600 (accountancy including VAT)
	£14,880 (Flat Rate Scheme liability)
Total expenditure =	£22,400 (1 mark)
Net income =	£73,600 (1/2 mark)

Therefore, there is only a very small benefit (£200) for Jennifer using the scheme under the proposed contract terms: **(1/2 mark)**

However, as the 1% deduction in the percentage applicable is only available for the first year, it is unlikely that Jennifer would benefit financially in subsequent years if the trading pattern remained the same. **(1 mark)**

2) **(3 marks)**

The financial statements should show income as the gross amount less the flat rate payments made to HMRC. **(1 mark)** Expenditure should be shown as inclusive of VAT, **(1 mark)** unless it is reclaimable such as on a large capital item. **(1 mark)**

13. (15 marks)

1) (Max 8 marks)

Answer in email format (1 mark)

To: Hattie

May 2022

Subject: VAT liability of each offer from potential buyers

Thank you for the information that you sent me. Please find below details of the VAT liability for each offer:

The sale of shares in a company is exempt from VAT (**1/2 mark**), so if you sold your shares to Buyer 1, there would be no output tax declared on the VAT return. (**1/2 mark**)

Buyer 2 intends to continue to operate the farm as a sheep farm and it will therefore qualify as a Transfer of a Going Concern (TOGC). (**1/2 mark**) which is outside the scope of VAT (**1/2 mark**) It is not necessary to sell all the assets of the business in order to be a TOGC provided that those which are sold are capable of separate operation as a business. This would appear to be the case here. (**1/2 mark**) The sale of the equipment will not qualify as a TOGC and the company will need to declare VAT on the income received from the sale. (**1/2 mark**)

Buyer 3 also intends to operate the business as a farm and this is likely to qualify as a TOGC. (**1/2 mark**) Even if HMRC were to consider that cattle farming is a different business to sheep farming, the farm will be operated initially as a sheep farm. (**1/2 mark**) As before no output tax would be due on the final VAT return. (**1/2 mark**)

The sale to buyer 4 cannot be a TOGC as there will be an immediate transfer of the assets on to another party. (**1/2 mark**) The sale is likely to be viewed as a mixed supply, with the land and house being exempt from VAT (**1 mark**), the sheep will be zero rated (**1/2 mark**) and standard rate of VAT will be due on the equipment. (**1/2 mark**)

As buyer 5 intends to immediately carry on a different kind of business the sale cannot be a TOGC. (**1/2 mark**) The VAT position will be the same as the sale to buyer 4. (**1/2 mark**)

If you would like to discuss this any further, please do not hesitate to contact me,

Best wishes

VAT advisor

2) (3 marks)

The option to tax will have no impact on the sale to buyer 1 as the sale is solely a share transfer (**1/2 mark**). For those transactions which were eligible to be treated as TOGC (buyers 2 and 3), the buyer would also need to opt to tax the land (**1/2 mark**) and provide Hattie with a declaration that their option to tax would not be disapplied after the transfer (**1/2 mark**). If the declaration is not provided, the land element of the sale is excluded from TOGC (**1/2 mark**) and Hattie will need to charge VAT on this. (**1/2 mark**) Where, TOGC treatment is not applicable (buyers 4 and 5), Hattie would need to charge VAT on the land element, but not the farm (**1/2 mark**)

3) (4 marks)

Once the transaction is complete and it is agreed that you will no longer act for Hattie, you should write to the client to confirm that you are no longer acting. **(1/2 mark)** The letter should include the following points:

A summary of services provided up to the date of ceasing to act; **(1/2 mark)**

A note of any further action to be taken by the member; **(1/2 mark)**

A note of any matters that Hattie will need to address; **(1/2 mark)**

Whether you are willing to assist Hattie in resolving any outstanding matters with HMRC; **(1/2 mark)**

Details of any impending deadlines and action required; **(1/2 mark)**

Details of any outstanding fees; **(1/2 mark)** and

A note indicating whether you or Hattie should advise HMRC of the change. **(1/2 mark)**

14. (10 marks)

1) (4 marks)

Ashraf Holdings Ltd could be included in a VAT group as it is UK based entity **(1/2 mark)**.

Steady and Stable can also be included as it is also a UK entity which is wholly owned by Ashraf Holdings Ltd. **(1/2 mark)**

Fields of Dreams Ltd can also be included as it is UK based. **(1/2 mark)** It does not matter that the company makes no taxable supplies and is not currently VAT registered. **(1/2 mark)**

Foreign Fields s.r.o. cannot be registered as it does not have a UK establishment. **(1 mark)**

Ashraf could himself be included in the group as he owns the shares in Ashraf Holdings Ltd and so controls the group. **(1 mark)**

2) (3 marks)

Forming a VAT group including Fields of Dreams Ltd will have some benefit as it will mean that VAT will no longer need to be charged on supplies of management services from Ashraf Holdings Ltd **(1/2 mark)** and consultancy services from Ashraf himself **(1/2 mark)** to the company. However, supplies of accounting and IT services from Foreign Fields s.r.o. will continue to be subject to the reverse charge in the UK when received by the other group companies. **(1 mark)** The group will become partially exempt as it will have exempt income from Fields of Dreams non-group lease income and therefore may not be able to reclaim all its input tax. **(1 mark)**

3) (3 marks)

There are rules which apply to valuing transactions between connected persons **(1/2 mark)** where one person is not entitled to full VAT recovery. **(1/2 mark)** Where such supplies are made at less than open market value, HMRC can direct that the open market value should apply and the proposal to reduce the charges made is unlikely to be effective. **(1 mark)**

Where services are provided in return for receiving other services, a barter transaction takes place and VAT is due on any part of the barter which is taxable. This proposal is also unlikely to be effective. **(1 mark)**