



May 2021 Examination

PAPER 6

VAT

Part I Suggested Answers

Q1 (4 marks, ½ mark each)

- | | |
|--------------------|---|
| 1) Rose bushes | Standard rated (½ mark) |
| 2) Apple trees | Zero rated (live plants producing food) (½ mark) |
| 3) Homemade cakes | Zero rated (food) (½ mark) |
| 4) Chocolate bars | Standard rated (excepted food item) (½ mark) |
| 5) Charcoal | Reduced rated (fuel and power) (½ mark) |
| 6) Pet food | Standard rated (pet food) (½ mark) |
| 7) Gardening books | Zero rated (printed matter – books) (½ mark) |
| 8) Diaries | Standard rated (printed but not a book) (½ mark) |

Q2 (4 marks).

The first error is an unprompted disclosure. (**½ mark**)

HMRC will need to decide if Harriet took reasonable care (**½ mark**) or whether it was a careless error (**½ mark**).

In the case of a careless error, HMRC will need to consider the quality of the disclosure Harriet has given in correcting the error. (**½ mark**)

The second error is a prompted disclosure. (**½ mark**)

HMRC will need to consider all of the points above (**½ mark**) and also whether the penalty was deliberate (**½ mark**) and whether the error was concealed. (**½ mark**)

Q3 (4 marks)

1) Cumulative sales are as follows:

January	£4,000
February	£12,000
March	£22,000 (exclude sale of van)
April	£36,000
May	£52,000
June	£66,000

July	£81,000
August	£98,000

Therefore the £85,000 registration threshold is exceeded by 31 August 2020. **(1 mark)**

- 2) As the registration threshold was exceeded at the end of August, Ayesha will need to notify HMRC within 30 days ie by the 30 September 2020 **(1 mark)** and she will be registered from one month and one day after 31 August 2020 ie 1 October 2020. **(1 mark)**

Examiner note:

If candidates included income from the van sale in part 1 and therefore advanced registration date by one month, credit should still be given for identifying notification within 30 days and registration from the following month.

- 3) Ayesha can claim input tax on any goods which were purchased for the business in the four years before she was VAT registered provided that they are still in stock/on hand at the time of registration. **(1 mark)**

Q4 (4 marks)

- 1) The construction of a building or part of building which is used by a charity for non-business purposes is zero rated. Therefore the construction of the upper floors will be zero rated **(1 mark)** but the zero rating will not apply to the ground floor which will be used for business purposes. The construction of this part will be standard rated **(1 mark)**

Professional services such as architect services are not eligible for the zero rating for construction services and, therefore, the architects fees will be standard rated (unless part of a Design and Build contract). **(1 mark)**

- 2) If a building, which has been zero rated because it is used by a charity for non-business purposes, is used within ten years of completion for business purposes, a change of use charge applies. **(1 mark)**

Q5 (4 marks)

- 1) Input tax cannot be claimed on the purchase of cars where there is an element of private use. **(1 mark)**
- 2) Input tax can be claimed on staff entertainment. **(1 mark)**
- 3) Input tax cannot be claimed on business entertainment. **(1 mark)**
- 4) Input tax can be claimed on the cost of repairs for company cars. **(1 mark)**

Q6 (1 mark each, maximum 2 marks)

In order to join a VAT group, all companies must:

- (1) have a fixed establishment in the UK **(1 mark)**
- (2) all be controlled by the same person or entity or one entity in the group controls the others **(1 mark)**
- (3) meet both the anti-avoidance conditions, namely the 'benefits condition' and the 'consolidated accounts condition' **(1 mark)**

Q7 (4 marks)

Stoja Ltd is due to pay its VAT liability for the quarter ended 31 March 2021 via payment on account by:

- 28 February 2021 **(½ mark)**
- 31 March 2021 **(½ mark)**

and a balancing payment by 30 April 2021 **(½ mark)** ie with the VAT return

(Credit will be given to candidates who state last working day of the above months)

The payments on account are based on the total liability of the year ended to 30 September 2019 **(1 mark)**.

PoA 1 is £118,125 ie. $\frac{\pounds(725,000+720,000+715,000+675,000)}{24} \times 1$ **(½ mark)**

PoA 2 is £118,125 **(½ mark)**

Balancing payment is £443,750 ($\pounds 680,000 - (\pounds 118,125 \times 2)$) **(½ mark)**

Q8 (2 marks)

A tax avoidance scheme must be disclosed to HMRC where:

- 1) it enables or might be expected to enable any person to get a tax advantage in relation to indirect taxes;
- 2) the main benefit or one of the main benefits of the scheme is to gain a tax advantage; and
- 3) the scheme has one or more of the 'hallmarks' described in the regulations.

(1 mark each, maximum 2 marks)

Q9 (4 marks)

- 1) No adjustment is required for the first building as it is out of the Capital Goods Scheme adjustment period. **(1 mark)**
- 2) Input tax on the second building was £160,000 and the reference reclaim rate was 80%. **(½ mark)** Therefore the adjustment due is $£160,000 \times (75\% - 80\%) \div 10 = £800$ payment to HMRC. **(½ mark)**
- 3) Input tax on the refurbished building was £80,000 and the reference rate was 60%. **(½ mark)** Therefore the adjustment due is $£80,000 \times (75\% - 60\%) \div 10 = £1,200$ payment from HMRC. **(½ mark)**
- 4) Input tax on the aeroplane was £20,000 and the reference rate was 70%. **(½ mark)** Therefore the adjustment due is $£20,000 \times (75\% - 70\%) \div 5 = £200$ payment from HMRC. **(½ mark)**

Q10 (4 marks)

- 1) The place of supply for education provided to private individuals is where the education takes place and the place of supply is therefore the USA. **(1 mark)**
- 2) The place of supply for consultancy provided to a business is where the business belongs and the place of supply is therefore the USA. **(1 mark)**

- 3) The place of supply for education provided to a business is where the business belongs and the place of supply is therefore the USA. **(1 mark)**

- 4) The place of supply for consultancy provided to an individual is where the individual belongs and the place of supply is therefore the USA. **(1 mark)**

Q11 (2 marks)

Any of the following will be acceptable as evidence of export.

Official evidence such as the Goods Departed Message (GDM) or the HMRC-endorsed SAD.

Commercial evidence such as:

- sea waybills
- air waybills
- International consignment notes
- master air waybills or bills of lading
- certificates of shipment

Supplementary evidence is also acceptable 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
- evidence of the receipt of the goods abroad

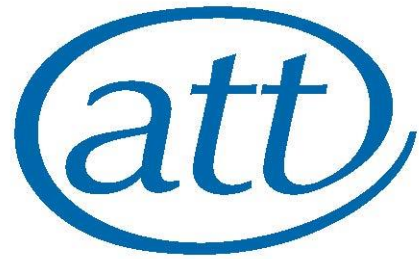
(½ mark each, maximum 2 marks)

Q12 (2 marks)

Although the television sold to the friend is sold at a discount, a friend is not a connected party and VAT is therefore calculated on the actual sale value. This is $£300 \div 6 = £50$. **(1 mark)**

Sue's brother is a connected party and therefore Sue should declare output tax on the open market value of the television. As the television normally sells for £800, the output tax due will be $£800 \times 20\% = £160$. **(1 mark)**

Credit will also be given if the candidate states that Sue could declare output tax on £200, but that HMRC may direct that the open market value should apply. **(1 mark)**



May 2021 Examination

PAPER 6

VAT

Part II Suggested Answers

13.

1)

Identifying the time of supply is important as this determines when a supply is treated as taking place for VAT purposes. VAT is accounted for, or recovered, on the VAT return for the period in which the time of supply occurs. (1/2 mark) If a business accounts for VAT in the wrong (later) VAT return it can expose itself to potential penalties (1/2 mark).

Maximum 1 mark

2)

For goods, the basic tax point is the date goods are collected by, delivered or made available to the customer. (1/2 mark)

For services, the basic tax point is when the service are performed, i.e. all the work has been completed. (1/2 mark)

The basic tax point can be overridden by an actual tax point in two instances:

- 1) where a payment is received or invoice is issued prior to the basic tax point, the earlier date of either becomes the actual tax point (1/2 mark); or
- 2) where an earlier tax point has not arisen, if a tax invoice is issued in the 14 days after the basic tax point, then this date becomes the actual tax point. (1/2 mark)

The trader can waive this 14 day rule if they prefer to have an earlier tax point. (1/2 mark)

Maximum 2 marks, 2 ½ available

3)

<u>Customer</u>	<u>Transactions</u>	<u>VAT Return</u>
Mr Blue	Deposit of £500 on 5 September 2020	Basic tax point of 1 October (1/2 mark) overridden by earlier payment creating an actual tax point on 5 September when £500 paid (1/2 mark), so £500 properly reported in September 2020 VAT return (1/2 mark).
	Balance of £4,500 paid on 30 September 2020	Basic tax point of 1 October overridden by earlier payment of £4,500 creating an actual tax point on 30 September (1/2 mark). Invoice issued within 14 days doesn't affect tax point since there was payment before basic tax point (1/2 mark). £4,500 incorrectly reported on 31 December 2020 VAT return, should have been on September 2020 VAT return (1/2 mark)
Mr Pink	The customer paid £100 for his annual maintenance check the day his tub was installed on 26 November 2020 .	Basic tax point has not occurred yet as maintenance check not until 25 November 2021 (1/2 mark), however earlier payment on 26 November 2020 created actual tax point (1/2 mark). Should have gone on 31 December 2020 VAT return (1/2 mark)
Miss Purple	The customer paid a deposit of £600 on 12 March 2021.	Basic tax point of 31 March 2021 overridden by creation of actual tax point when deposit paid on 12 March 2021 (1/2 mark) so £600 correctly reported in 31 March 2021 VAT return (1/2 mark)
	Customer paid £400 administration fee on 25 March 2021.	Basic and actual tax points at same point being 25 March 2021 (1/2 mark) so reported in correct VAT return to 31 March 2021 (1/2 mark)
	Payment of balance of £6,000 on 20 April 2021	Invoice issued for balance within 14 days of basic tax point (1/2 mark) so this creates an actual tax point on 4 April 2021 (1/2 mark). £6,000 balance incorrectly reported on 31 March 2021 VAT return; should go in to 30 June 2021 VAT return (1/2 mark)

Maximum 7 marks, 8 available

(Total 10 marks)

14.

1)

To : Bob

From: You (presentation as email 1 mark)

Date: xxxx

Subject: VAT

Dear Bob

a)

The option to tax can be revoked in three scenarios:

- 1) Within the first six months after having made an option to tax (1 mark), provided that no supplies have been made which are affected by the option. (1 mark)
- 2) Where no interest has been held in the property for over 6 years (1 mark), the option will automatically lapse.
- 3) Once 20 years have passed since the option to tax was made (1 mark)

Train Again will not be able to revoke the option to tax as it does not meet any of the conditions above (1 mark)

Maximum 6 marks, including the 1 above for presentation as email

b)

If the existing property is sold to Mr Ayton VAT will be charged at the standard rate, as this is a sale of goods or services in the course of furtherance of a business (1/2 mark) where an option to tax exists.

However, if the property is sold to Mrs Beem it may be treated as transferred as a going concern (TOGC) (1/2 mark). The supply is then outside the scope of VAT and therefore no VAT is charged (1/2 mark).

There are a number of conditions which must be met to ensure that a transfer qualifies as a TOGC as follows: (3 marks, 1/2 mark for each)

- 1) The assets are to be used by Mrs Beem in carrying on the same kind of business as that carried on by Train Again Ltd; in this case property rental.
- 2) As Train Again Ltd is a taxable person (i.e. registered or liable to be registered for VAT), Mrs Beem must already be a taxable person or immediately become, as a result of the transfer, a taxable person.
- 3) The effect of the transfer must be to put Mrs Beem in possession of a business which can be operated as such (ie the rental business).
- 4) The rental business must be a "going concern" at the time of transfer ie the tenancies must be in place at the time of transfer with expectation to continue thereafter.
- 5) There should be no significant break in the normal trading pattern before or immediately after the transfer. ie the tenancies must continue to exist at the date of, and after, the transfer.
- 6) There must not be a series of consecutive transfers of the trade and assets (this can happen in property transactions but is not happening here).

As this is a transfer including property and Train Again Ltd has opted to tax the property:

- 1) Mrs Beem must also opt to tax and it must be effective and notified to HMRC by the date of transfer (1 mark)
- 7) The purchaser must also confirm in writing that it will not disapply the option to tax. (1 mark)

If any of these conditions is not fulfilled then the sale to Mrs Beem will also be a standard rated supply (1/2 mark).

Maximum 6 marks, 7 available

c)

The freehold sale of a newly constructed (less than 3 years old) commercial property is standard rated for VAT purposes (1 mark) hence why VAT at 20% is being charged on the sale of both properties.

The VAT charged on the property which will be used wholly by Train Again will be fully recoverable from HMRC, as Train Again's business activities are wholly taxable. (1 mark)

Train Again will be renting out the second property to tenants which is an exempt activity and therefore the VAT incurred on the purchase of the building will not be recoverable from HMRC. (1 mark)

Train Again however could opt to tax the second building meaning the rent to tenants would be subject to VAT at 20%; this would then allow Train Again to fully recover the VAT on the purchase of the building. (1 mark)

Consideration however should be given to the impact this may have on tenants as a VAT charge on rent will not be attractive to tenants with either exempt or non business activities as they will unlikely be able to recover such a VAT charge on the rent (1 mark)

Maximum 4 marks, 5 available

2)

Prior to taking on a new client, you must consider:

- 8) Whether the potential client will be acceptable in terms of the risks which will arise for the practice in taking on the client, and whether the member has the capability and resources to manage those risks. (1 mark)
- 9) Whether the member and firm will have the required skills and ability to service the client's requirements during the course of the engagement. (1 mark)
- 10) Whether there is any conflict of interest in accepting the client and, if so, whether and how it might be managed. (1 mark)
- 11) Undertaking a professional enquiry (obtaining professional clearance). (1 mark)

Maximum 4 marks

(Total 20 marks)

15.

1)

A default happens if a VAT return is submitted late or a VAT payment is made late and a surcharge may be imposed by HMRC (1/2 mark).

The first time a default happens, HMRC will issue a Surcharge Liability Notice (SLN) which is a written warning and is effective for a 12 month period. (1/2 mark)

A subsequent default during this 12 month period means a surcharge arises (1/2 mark) and then the surcharge period is extended for a further 12 months from the end of the quarter of the default. (1/2 mark) A surcharge however will not apply if a nil or repayment return has been submitted late (1/2 mark) or where the VAT has been paid on time but the return has been submitted late. (1/2 mark) The surcharge period will be extended but the rate of surcharge for the next default will not increase. (1/2 mark)

Maximum 3 marks, 3 1/2 available

2)

December 2019 VAT return

First late return, so no surcharge but SLN issued – covers the period to 31 December 2020 (1/2 mark)

March 2020 VAT return

This is a first default within the surcharge period therefore the 2% rate applies (1/2 mark) to £1,390 of tax paid late. A surcharge of £27.80 therefore applies ($£1,390 \times 2\%$) (1/2 mark). However, this is less than £400 (1/2 mark) at the 2% rate therefore HMRC will not collect this (1/2 mark)

The surcharge period is extended to 31 March 2021 (1/2 mark)

June 2020 VAT return

This is the second default within the surcharge period therefore the 5% rate applies (1/2 mark) to £8,240 of tax paid late. A surcharge of £412 will apply ($£8,240 \times 5\%$) (1/2 mark).

The surcharge period is extended to 30 June 2021 (1/2 mark)

September 2020 VAT return

This is the third default within the surcharge period therefore the 10% rate applies (1/2 mark) to £238 of tax paid late. A surcharge of £23.80 applies (1/2 mark). HMRC impose a minimum surcharge of £30 where the 10% or 15% surcharge applies, so £30 will be collected (1/2 mark). It will still be collected even though it is less than £400 since this de minimis limit does not apply at the 10% and 15% rate (1/2 mark)

The surcharge liability period is extended to 30 September 2021 (1/2 mark)

December 2020 VAT return

This is the fourth default within the surcharge period therefore the 15% rate applies (1/2 mark) to unpaid tax of £4,578. A surcharge of £686.70 applies (1/2 mark).

The surcharge liability period is extended to 31 December 2021 (1/2 mark)

March 2021 VAT return

This return is submitted and paid on time so no surcharge is applied (1/2 mark) and the surcharge period remains to 31 December 2021 (1/2 mark)

The total surcharges to be paid to HMRC is therefore:

<u>VAT return to:</u>	<u>Surcharge imposed</u>
December 2019	0.00
March 2020	0.00
June 2020	£412.00
September 2020	£30.00
December 2020	£686.70
Total	£1,128.70 (1/2 mark, for totalling own figures)

Maximum 10 marks

3)

The Supply of Goods and Services Act 1982 (SGSA) implied terms in relation to services provided by a tax advisor to a client that are designed to protect the client include: (2 marks, 1 mark for each below)

- 1) The tax practitioner will carry out their work with reasonable care and skill to a proper standard of workmanship
- 2) Where no time limit is stipulated in the contract, the tax practitioner will perform the contract within a reasonable period of time, and
- 3) Where the price to be charged is not stipulated in the contract, the client will pay the tax practitioner a reasonable charge for performing the contract.

Maximum 2 marks

(Total 15 marks)

16.

1)

VAT on goods and services purchased is recoverable only to the extent it is attributable to a taxable supply (1/2 mark). VAT that is attributable to exempt supplies is not recoverable from HMRC. (1/2 mark)

A partial exemption calculation must therefore be performed on VAT that is not directly attributable to either taxable or exempt supplies to determine the proportion of VAT that is recoverable. (1/2 mark).

As Health Plus now makes both taxable (zero rated) supplies of dispensing medication and exempt supplies of medical services, it can claim only the VAT attributable to the dispensing activities plus the element of VAT on the overheads which can be apportioned to the taxable dispensing activities. (1/2 mark)

The VAT that is directly attributable to the exempt medical services plus the balance of the overhead VAT that apportioned to the exempt income is not recoverable from HMRC unless it fall within the de minimis limits. (1/2 mark)

Maximum 2 marks, 2 1/2 available

2)

Taxable income - 12 month to 31 March 2022 = £35,000 x 12 = £420,000 (1/2 mark)

Total income – 12 months to 31 March 2022 = £135,000 x 12 = £1,620,000 (1/2 mark)

Taxable / Total income = 420,000 / 1,620,000 = 25.93% (1 mark) rounded up to 26% (1/2 mark)

Recoverable VAT = VAT related to taxable dispensing activities = £19,200 (12 x (£8,000 x 20%)) (1/2 mark)

Plus 26% of overhead VAT = £400 (£2,000 x 20%) x 12 x 26% = £1,248 (1/2 mark)

Total = £19,200 + 1,248 = £20,448 (1/2 mark)

Irrecoverable VAT = VAT related to exempt medical services = £24,000 ((12x(£10,000 x 20%)) (1/2 mark)

Plus balance of overhead VAT (74%) = £4,800 - £1,248 = £3,552 (1/2 mark)

Total = £24,000 + £3,552 = £27,552 (1/2 mark)

De minimis rules:

The exempt related VAT of £27,552 is less than £7,500 over the year (1/2 mark) and it is also more than 50% of total input tax of £48,000 (1/2 mark) therefore the de minimis test is not met. (1/2 mark)

So, despite being VAT registered, Dr McGee cannot reclaim all input VAT incurred by the practice, as he thought (1 mark)

Maximum 8 marks

3)

A newly partially exempt business has the option of using a use-based method (1 mark) during either:

- 1) its registration period (1/2 mark) (that is from date of registration to the day before its first tax year) (1/2 mark)
- 2) its first tax year (normally the period of twelve months starting on either 1 April, 1 May or 1 June (1/2 mark), provided it did not incur input tax related to exempt supplies during its registration period (1/2 mark) or
- 3) during any tax year, provided it did not incur exempt related input tax in its previous tax year (1/2 mark)

Using a use-based method in these circumstances is automatic and does not need prior approval from HMRC (1/2 mark)

Maximum 3 marks, 4 available

4)

Dr General overheads (P&L account) 3,552

Cr VAT account (B/S) 3,552

1 mark for getting each of the Dr and Cr accounts correct, lose ½ mark if amount wrong or no amount stated at all.

Maximum 2 marks

(Total 15 marks)