



November 2017 Examination

PAPER 6

VAT

Part I Suggested Answers

1.

Arundel Ltd has ceased to make taxable supplies, therefore it is not entitled to remain registered for VAT (**1/2 mark**). It must deregister within 30 days from the date it ceased to trade (**1/2 mark**), i.e. 24 October 2017. (**1/2 mark**)

It must also account for VAT on any assets on hand on the last day of registration. (**1/2 mark**) Arundel Ltd could not recover VAT incurred on the purchase of the car (**1/2 mark**) and therefore it does not need to account for VAT on the car at deregistration (**1/2 mark**). As the open market value of the tools is less than £6,000 no output tax needs to be declared on the final VAT return (**1 mark**).

2.

- 1) French tuition provided by a sole trader – EXEMPT (**1/2 mark**);
- 2) Home insurance - EXEMPT (**1/2 mark**);
- 3) Child's car seat – REDUCED RATED (**1/2 mark**);
- 4) Subscription to the online edition of a magazine - STANDARD RATED (**1/2 mark**);
- 5) Domestic electricity - REDUCED RATED (**1/2 mark**);
- 6) Railway ticket – ZERO RATED (**1/2 mark**).

3.

Standard rated takings are as follows:

(a) Hot drinks (tea and coffee)	£850	(1/2 mark)
(b) Cold drinks (fruit juice)	£120	(1/2 mark)
(c) Muffins	£0 (zero rated item)	(1/2 mark)
(d) Chocolate bars	£225	(1/2 mark)
(e) Jaffa cakes	£0 (zero rated item)	(1/2 mark)
(f) Sandwiches	£0 (zero rated item)	(1/2 mark)
(g) Hot sausage rolls	<u>£250</u>	(1/2 mark)
TOTAL	<u>£1,445</u>	
VAT due (£1,445/6)	£241	(1/2 mark)

4.

VAT incurred on the first computer cannot be claimed because the asset is no longer used in the business (**1 mark**). VAT incurred on the second computer can be claimed because the asset was purchased less than four years before registration and it is still used by the business (**1 mark**).

VAT incurred on the first invoice from the web designer cannot be claimed because the invoice is dated more than 6 months before registration (**1 mark**). The VAT incurred on the second invoice can be claimed because the invoice is dated within 6 months of registration (**1 mark**).

5.

The annual accounting scheme simplifies VAT compliance (**1/2 mark**) because only one VAT return per year needs to be submitted (**1/2 mark**).

Because the business makes set payments on account towards its VAT liability (**1/2 mark**) its budgeting and cash flow management is easier (**1/2 mark**).

A business is able to join the scheme if its taxable turnover in the next 12 months is estimated to be £1,350,000 or less (**1/2 mark**).

A business cannot join the scheme if: (**1/2 mark for each point to a maximum of 1 ½**):

- It has left the scheme in the last 12 months
- It is part of a VAT registered division or group of companies
- It is not up to date with its VAT returns or payments
- It is insolvent.

6.

VAT recoverable is as follows;

- (a) £120
- (b) Nil – challenge to a planning application is a non-business activity, therefore the VAT cannot be claimed (**1 mark**);
- (c) Nil – receipt of legacies is a non-business activity, therefore the VAT cannot be claimed (**1 mark**);
- (d) £160

£280 (**1 mark**, half for £120 and half for £160)

7.

Blandings Hall & Galahad House – both of the developments are changed number of dwelling conversions. Therefore, the construction services will be reduced rated (**1 mark**).

Because Blandings Hall is already a residential property, the sale of the flats will be exempt and the VAT incurred on construction will not be recoverable (**1 mark**).

Because Galahad House is a non-residential building, the sale of the flats will be zero rated and the VAT incurred on construction will be recoverable (**1 mark**).

Because the façade is being retained at the insistence of the planners, but everything else is being demolished, work to 12 Baxter Street is zero rated as this is the construction of a new residential property therefore no VAT will be incurred on the construction (**1 mark**).

8.

Nottle Ltd is required to self-account for UK VAT on the movement of its own goods to the UK from France (**1 mark**). This VAT is recoverable as input tax on the same return (**1 mark**).

The time of acquisition is the 15th day of the month following the one in which the goods were dispatched to the UK (**1 mark**).

Credit will be given for any correct answer not on the mark scheme, e.g. If candidates mention that Nottle Ltd's French VAT registration may 'invoice' the UK VAT registration for the goods and that this might be the time of acquisition.

9.

Recovery % = $\frac{£25k}{£25k + £18k} = 59\%$ (1/2 mark for sum, 1/2 mark for rounding)

Taxable input tax = $£3,000 + (59\% * £1,000) = £3,590$ (1 mark)

Exempt input tax = $£1,600 + (£1,000 - £590) = £2,010$ (1 mark)

Exempt input tax exceeds £625 per month (and is more than 50% of the total input tax). Therefore the company is not de minimis and £3,590 is claimable on the return (1 mark).

10.

The directors could ask HM Revenue & Customs for the ruling to be reconsidered by another officer (1/2 mark). This request should be made within 30 days of the ruling refusing the refund (1/2 mark).

If the result of the reconsideration is that HM Revenue & Customs continue to state that the supplies are taxable, the company has 30 days (1/2 mark) to lodge an appeal to the First Tier Tribunal (1/2 mark).

The directors also have the right to appeal direct to the First Tier Tribunal rather than requesting a reconsideration, again the appeal should be lodged within 30 days (1 mark).

Note: Candidates will also be given credit for explaining that the directors could apply for Alternative Dispute Resolution in addition to appealing to the Tribunal.

11.

The due date for the June return and payment was 7 August 2017 (1/2 mark).

Interest will not be charged on the late payment of the June return because HM Revenue & Customs do not charge interest on VAT returns which are submitted but not paid (1 mark).

When VAT errors are made HM Revenue & Customs' policy is to charge interest only if it would represent commercial restitution (1 mark). Because double counting of input tax would have resulted in a loss to the Revenue (1 mark), interest will be charged on the input tax error from the March 2017 return (1/2 mark).



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Part II Suggested Answers

Question 1

1. The building is deemed to be a new building as it is less than 3 years old. **(1 mark)** The purchase of a freehold in a new commercial building is subject to VAT at the standard rate. **(1 mark)** Fees for storage space are excluded from the exemption available for land transactions and as such are liable to VAT at the standard rate. **(1 mark)** As the building will be used for a taxable purpose, the VAT incurred on the acquisition will be reclaimable. **(1 mark)**
2. No option to tax has been exercised on the building and the lease will therefore be exempt from VAT. **(1 mark)** As the building has not been formerly used as dwellings and is being converted to dwellings the construction costs of converting the building will be subject to VAT at 5%. **(1 mark)** The 5% rate is not available for professional fees which will be charged at the standard rate. **(1 mark)** If the seller converts the building, the sale will be zero rated as the first grant of a building converted to dwellings. **(1 mark)**

The cost of Land Holding Ltd's buying the lease and undertaking the works will therefore be as follows:

Item	Net £	VAT £	Total £
Lease	10,000,000	-	10,000,000
Construction costs	2,000,000	100,000	2,100,000
Professional fees	<u>400,000</u>	<u>80,000</u>	<u>480,000</u>
Total	12,400,000	180,000	12,580,000

(1 mark)

The price offered by the seller for the converted building is £12,500,000 therefore the alternative option would benefit Land Holdings Ltd by £80,000 (12,580,000 – 12,500,000).

(1 mark)

3. As the seller has not opted to tax the office, the acquisition of the lease will be exempt from VAT. **(1 mark)**

If the sale of the building goes ahead as an exempt sale, the seller will be required to make an adjustment under the capital goods scheme. Following the year of sale, there are five remaining intervals. The adjustments would be as follows:

Input tax incurred = £5,000,000 x 20% = £1,000,000 **(½ mark)**

Change in rate of reclaim for current interval = -10%

Capital goods scheme adjustment for year of sale = £1,000,000 x -10% **(½ mark)** x 1/10 **(½ mark)** = £10,000 payable to HMRC **(½ mark)**

Change in rate of reclaim for remaining intervals = - 50%

Remaining intervals = 5

Therefore additional restricted VAT = £1,000,000 x - 50% **(½ mark)** x 5/10 **(½ mark)** = £250,000 payable to HMRC **(½ mark)**

Total adjustment = £260,000 payable to HMRC **(½ mark)**

4. Where two clients have asked an adviser to represent them both for the same transaction, the adviser has three choices. (**½ mark**)

The adviser may represent both parties provided that both are aware of the conflict (**½ mark**) and have been given the opportunity to consider other advisers, (**½ mark**) there is full disclosure (**½ mark**) throughout the transaction so that each can form proper business judgements and there is sufficient mutuality of interest. (**½ mark**)

The adviser may choose to represent only one of the clients (**½ mark**) which would generally be the first to contact the adviser. (**½ mark**) The adviser should advise the other client of their decision and maintain confidentiality. (**½ mark**)

The adviser may choose to represent neither client. (**½ mark**)

Max 4 marks

Question 2

1.

Where a taxpayer makes an innocent error, but is exercising reasonable care in the preparation of their VAT return, no penalty will arise provided that the error is disclosed to HM Revenue & Customs. **(1 mark)**

In other cases, the rate of penalty will depend on whether the error arises as a result of carelessness, deliberate action or deliberate action which is also concealed. **(1 mark)** It will also depend on whether the error has been voluntarily disclosed (unprompted) or is disclosed as a result of HM Revenue & Customs intervention (prompted) **(1 mark)**. Co-operation with HM Revenue & Customs in disclosing and quantifying the error can also reduce the rate of penalty. **(1 mark)** The table below illustrates the penalty ranges applicable.

<i>Behaviour</i>	<i>Penalty range for unprompted disclosure</i>	<i>Penalty range for prompted disclosure</i>
Careless	0% - 30% (½ mark)	15% - 30% (½ mark)
Deliberate but not concealed	20% - 70% (½ mark)	35% - 70% (½ mark)
Deliberate and concealed	30% - 100% (½ mark)	50% - 100% (½ mark)

2.

Honesty Ltd appears to have made an innocent error which has been disclosed to HM Revenue & Customs without being prompted. As such, it should be possible to argue that no penalty is applicable. **(1 mark)**

Liberality Ltd has made a deliberate error, which has been concealed. The disclosure of the error is prompted and the company has refused to assist HM Revenue & Customs in the calculation of the error. **(1 mark)** Consequently a penalty of 100% should be expected. **(1 mark)**

3. The Money Laundering Regulations 2007 require tax advisers to:

- have a risk assessment in place in respect of money laundering;
- conduct their client due diligence on the basis of that assessment.;
- identify the beneficial owner of a client;
- monitor, on an ongoing basis, their relationship with the client;
- have evidence of identity in place for all clients, even those which have been on the books for many years; and
- monitor their firm's compliance with the Regulations.

(1 mark each, max 5 marks)

Question 3

1.

Advantages of using the scheme are:

- simplified record keeping, as businesses do not have to keep detailed records of sales and invoices;
- it helps manage cash flow;
- it may reduce total VAT liability.

(Any three, ½ mark each)

Disadvantages of using the scheme are:

- if customers are VAT registered, scheme users have to calculate the VAT and issue VAT invoices in the normal way;
- for businesses who buy and sell goods from outside the UK, the scheme may become more complex;
- input tax cannot be claimed;
- the flat rate may result in higher payments of VAT than on normal VAT accounting.

(Any three, ½ mark each)

2.

VAT due on sales of £24,000 (½ mark) and £15,000 (½ mark) = £39,000 x 4% = £1,560 (½ mark)

VAT due on disposal of refrigerated display as capital item on which input tax reclaimed = 900 x 1/6 = £150. (1 mark)

Acquisition tax due on goods acquired from France at £600 x 20% = £120. (1 mark)

No input tax is claimable on goods bought for resale. (½ mark)

No input tax is claimable on the overheads (utilities) or capital items (computer) costing less than £2,000. (1 mark)

Input tax can be claimed on the refrigeration display as this is a capital item costing more than £2,000 including VAT. (1 mark)

Total VAT due = £1,560 + £150 + £120 = £1,830 - £3,000 = £1,170 reclaimable from HM Revenue & Customs. (1 mark)

Question 4

To: Captain.Insensible@unbrandedemail.com

From: An Advisor

Subject: Summer tour VAT issues

Dear Captain,

Thank you for your recent note. **(Format 1 mark)**

1. The place of supply of an admission to an event is where the event takes place whether the customer is an individual or a business customer. **(1 mark)** The sales of tickets will not therefore be subject to UK VAT when sold either to the fans or the corporate clients. **(1 mark)**

The agents' fees are a business to business supply and will be supplied where the customer is based. **(1 mark)** Therefore the UK based agent will charge UK VAT **(½ mark)** and the fees of the Swedish agents will be subject to reverse charge VAT in the UK. **(½ mark)**

2. The short term hire of a vehicle is supplied where the vehicle is made available **(½ mark)** and the supply of the large van will therefore be in France and subject to French VAT **(½ mark)**. (Short term is a continuous period not exceeding 30 days.) **(½ mark)**

The long term hire of a vehicle is subject to the normal business to business rules **(½ mark)** and the hire of the smaller van will therefore be in the UK and subject to reverse charge VAT. **(½ mark)**.

The hire of a venue is a supply of land and the place of supply is where the land is located **(½ mark)** and the venue hires will therefore be subject to VAT if applicable in the countries where they are located. **(½ mark)**

Equipment hire is subject to the normal business to business rules when the supplier is based in the EU **(½ mark)** and the equipment hired in Sweden will therefore be subject to reverse charge VAT. **(½ mark)**

Where equipment is hired outside the EU, the place where the equipment is used and enjoyed determines the place of supply. **(½ mark)** Therefore the equipment hired in Norway will be outside the scope of UK VAT. **(½ mark)**

Max 5 marks.

3. The sale of the recording rights will be subject to the normal business to business rules. **(½ mark)** However, as the customer has two places of establishment, you will need to determine which place is most closely associated with the supply. **(½ mark)** On the basis of the information provided, it seems that the Swedish studios are most closely associated with the transaction and the supply will therefore be outside the scope of UK VAT. **(1 mark)**

Digital downloads will be subject to UK VAT when the customer belongs in the UK. **(½ mark)** For fans based in Sweden and Norway the supplies will be treated as electronically supplied services **(½ mark)** and will be subject to VAT where they are received. **(½ mark)** The band will need to register under the Mini One Stop Shop in order to declare Swedish VAT. **(½ mark)**

4. Where a mobile phone is used in the EU, the normal place of supply rules apply **(½ mark)** and charges for phone usage in Sweden will therefore be subject to UK VAT. **(½ mark)**

Where the use of the phones is outside the EU, the use and enjoyment rules apply **(½ mark)** and the charges for use in Norway will be outside the scope of UK VAT. **(½ mark)**

Please let me know if any of the above needs clarification. Enjoy the tour!

An Adviser

Max 16 marks