

Ensure this number matches your candidate number on your desk label and on your candidate attendance form)



Chartered  
Institute of  
Taxation

Excellence in Taxation

pm         Date of Examination

Tick box if you have answered in accordance with Scots Law

Tick box if you have answered in accordance with Northern Ireland Law

**Please tick which Advisory Paper you have attempted (if not already ticked below)**

Taxation of Owner-Managed Businesses

Taxation of Individuals

VAT on UK Domestic Transactions, IPT & SDLT

VAT on Cross-Border Transactions & Customs Duties

Inheritance Tax, Trusts & Estates

Taxation of Major Corporates

Human Capital Taxes

Please tick here if you have used an extra answer booklet (ensure you attach your second answer booklet to the first using a treasury tag which will be provided).

## Advisory

You must ensure that the Advisory Papers chosen are not the same as the corresponding Awareness Modules you have sat or will be sitting.

- For those candidates on the Indirect Tax Route you must sit the VAT on UK Domestic Transactions, IPT & SDLT Advisory Paper.
- For those candidates on the Indirect Tax Route you must sit the VAT on Cross-Border Transactions & Customs Duties Advisory Paper.

### Instructions

Your script will be scanned electronically. Failure to comply with these instructions may lead to your script not being marked. You must:

- Complete the details on this page and in the booklet using BLACK or BLUE ballpoint pen only.
- Write on both sides of the page.
- Not write in the margin areas indicated.
- Start a new page for each question you answer and indicate the question number in the box provided at the top of each page.
- Not remove any pages from this answer booklet or damage it in any way.

**Please do all of the above before the end of the examination.**

#### For use by examiner only

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**DO NOT WRITE ON THIS PAGE**

4) To: bob @ whatever imports . com  
From: annadise @ tax knowledge . co . uk  
Subject: RE: Preference  
Date: 1 May 2018 .

Dear Bob,

Thanks you for your email, I have addressed your points below.

### Goods that Qualify for Preference

As you may be aware, the EU regularly impose lower rates of duty on imports of certain goods from certain countries. This is done in order to encourage purchases from these countries and to promote certain industries within the countries.

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In order to qualify for preference, firstly the goods must be listed on the Europa website as ~~as~~ qualifying for preference from that country.

There are then three conditions that need to be met, as follows:

1) The goods must originate in the beneficiary country. This is defined as meaning the goods must be wholly obtained or sufficiently worked and processed there.

Wholly obtained effectively means that the goods must ~~effectively~~ be sourced ~~for~~ wholly from that country, for example live animals born there or items sourced from the ground of that country.

For goods not wholly obtained, the goods must be sufficiently worked and processed in the beneficiary country. There are different rules for every item, listed in 2015/2446 Annex 22-03, which I can help with if you detail the goods.

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2) The second condition is that the goods must not have been subject to operations, altered or transformed after leaving the beneficiary country.

However, operations to preserve the goods in good condition are permitted for this purpose, such as oiling mechanical items for example.

3) The final condition is that the goods must be accompanied by a relevant certificate of origin issued by persons in the exporting country.

You should visit the factory and understand the origin rules to ensure the certificate is valid.

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## Exported Parts

Preference can still be claimed so long as the imported goods are still sufficiently worked and processed in the beneficiary country.

Where this is the case, no account is taken of the product exported from the UK in determining preference rate.

Please note that you ~~do~~ would need to account <sup>Customs duty on</sup> for the assist but outward processing (OA) may enable you to avoid customs duty on the exported parts.

For OP, you can pay import duty on the difference in value between the exported product and the re-imported product.

This is subject to meeting conditions, but the calculation would be:

$$\text{Customs duty} = \left( \text{Value of imported product} - \text{Value of exported parts} \right) * \text{Preferential duty \%}$$

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REX

The REX system will allow registering exporters to certify the origin of goods through the system themselves. The data in this system will be available to countries in the EU, as well as to authorities in beneficiary countries that are deemed to be competent.

This system will be an electronic way to record origins and will be a more efficient way for the information to be shared between countries.

Guarantee

Importing goods does not usually affect a guarantee provided all conditions are met on import.

However, where the required certificate of origin is not available, a guarantee is required in order to cover any potential duties that may become due.

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The guarantee will then be used if no certificate is provided within the specified time limit.

The form A is only valid for 10 months, so if not provided within the 10 month period, preference can't be claimed. The 10 months applies to when the documents are provided, not when the import takes place.

Please let me know if you have any questions.

Many Thanks:

Tax Advisor.

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6) To: John @ wholesalers.com  
From: Julie @ Customs advice.com  
Subject: RE: Authorized Economic Operator  
Date: 1 May 2018

Dear John,

Thank you for your email, I have added my comments below.

### AEO Definition

Becoming an AEO allows an importer to benefit from certain simplifications, for example ~~the~~ moving goods in temporary storage.

More specifically, there are two types of AEO under the UCC, the AEO5 and the AEOC.

### AEO5

Becoming an AEO5 means that your goods will be subject to fewer safety and security checks and essentially confirms that Customs have a high level of trust in your imported/exported products.

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This is attractive to foreign buyers who may not know your business so well and need this confirmation of trust.

Furthermore, certain countries have reciprocal arrangements with the EU, whereby AEO can afford certain simplifications in other ~~countries~~ ~~states~~ provided we as the EU offer similar simplifications if that country has a similar simplification.

For AEOs, this could ensure the goods receive speedier clearance through Customs as the goods are subject to less scrutiny.

An AEO operator is subject to fewer physical controls.

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The conditions to be met to be a certified AEO are that you should:

1) Have a good level of compliance with Customs rules. This means that in the past 3 years, the company or the employee in charge of customs matters can't have committed any serious or repeated infringements of Customs legislation.

They can also have no record of serious criminal offences in relation to their economic activity.

2) ~~The~~ Your company must have a satisfactory system of managing commercial and transport records, which complies with generally accepted principles in the UK.

3) Your company must have a high level of financial solvency i.e. no bankruptcy proceedings or missed payments in relation to the import/export of goods.

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4) You must also meet certain security and safety standards in relation to your premises -

Once you have been approved, the ATO certificate will take effect on the 10<sup>th</sup> working day after the date of issue, with no limitation to its time period of validity.

This certificate will be recognised in all member states.

### AEOC

In order to become an AEOC, there is an additional condition that you as a company must have practical standards of competence or professional qualifications.

This applies to the person in charge of customs, and states they must have a minimum of 3 years of customs experience or a qualification recognised in a member state.

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As an AEOC, you will be subject to fewer documentary controls, and you are able to complete a simplified C88 when goods are imported/exported.

Due to the administration time this could save you, I would recommend that you apply to be an AEOC too so long as you meet the competence condition, which I would assume you would if you already export all over the world.

Please let me know if you have any questions.

Many Thanks

Julie.

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|    |  |               |
|----|--|---------------|
| 1) | FAO: ALG Course<br>384k Satellites Ltd.  | TOP Advice    |
|    | Meteor Avenue  | 71 Low Street |
|    | Interstellar Boulevard   | Poole         |
|    | Rutland  | BMI ITA       |
|    | LG156BF  |               |
|    | 1 May 2018   |               |
|    | Dear Al,   |               |
|    | Thank you for your letter, I have provided responses to each of your queries below.  |               |
|    | <u>Supplies made in respect of French and Italian operations</u>   |               |
|    | The first point to consider is from where you are making the supplies.   |               |
|    | Your business establishment is clearly in the UK as this is where your head office is and where your business is managed and run from. |               |
|    | In absence of a fixed establishment elsewhere, this is where supplies are deemed to be made from.                                      |               |

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In order to have a fixed establishment, you must have the human and technical resources at this establishment necessary for providing or receiving services permanently present.

There are no permanent staff in France, only staff temporarily there from the UK, so there is no fixed establishment in France.

However, in Italy, there are permanent employees who are located there to provide services that are purchased by clients. This would therefore be deemed to be a fixed establishment in my opinion.

As the launching and monitoring is undertaken in Italy by these staff, this establishment is the one from which human and technical resources are utilised, so the supply is made from here.

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For the supplies to French customers, these are made from the business establishment in the UK.

These would likely follow the B2B general rule for place of supply of services, so ~~are~~ place of supply is France. The customer is treated as supplying and receiving the supply under the reverse charge. They should self account for the VAT. This is provided they have provided a valid French VAT number.

No UK VAT chargeable, mention 'reverse charge' on the invoice. This hits box 6 of UK VAT return and needs to go on ECSC, indicator 3.

~~The Italian~~

The supplies to Italian customers that use the Italian sites are deemed to be made from Italy, and hence Italian VAT may be due, with an obligation to register there.

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The supplies from the UK site are reverse charged in the same way as for the French customer.

As this is a single contract, it may be required for you to apportion the costs charged from each site in order to charge the correct VAT.

### Shared Services

~~When shared service functions are received by the UK head office, they are treated as the recipient of the whole supply.~~

### Shared services

The provision of shared services is effectively a supply made by the head office, when supplied to separate entities.

In this instance, the services are all provided within the same legal entity.

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~~Much~~

Following the principles of FCT bank which apply for a branch, services provided within the same legal entity are not supplies for VAT purposes, they are outside the scope.

No VAT should be charged on these recharges, they are simply internal accounting entries. No entry should be made on any VAT returns (i.e. VAT return or E/S).

### Machinery Calibration

This would follow the general place of supply rule for services.

For the French site, there is no fixed establishment, so the invoice will not have VAT on it. It is outside the scope of Italian VAT. You should reverse charge this invoice in the UK as the place of supply is where the customer (i.e. you) is based.

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The VAT should be accounted for in box 1, and recouped in box 4 to the extent it is used to make onward taxable supplies.

The net figures hit box 6 and 7 of the UK VAT return.

For Italy, I would suggest that the services will be deemed to be received by the fixed establishment in Italy, so Italian VAT will be charged. This will be recoverable ~~under the cross border refund scheme~~ to the extent it's recoverable in Italy.

KBRS

You can't use the cross border refund scheme as you have a fixed establishment in Italy.

If you do not already have a registration requirement in Italy, I recommend you register to recover this VAT. You will need to charge output VAT on your supplies but your business customer should be

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able to recover it if they are fully taxable.

### Ship from Finland

Where the adaptation work is carried out in the UK by a UK supplier, UK VAT is due on the supply.

When the ship enters the limit of a UK port for permanent basing, it is treated as imported. VAT is not due on the import as it is a 'qualifying ship' under VATA 1994 Sch. 8 Para. 12. So is zero rated in the UK. No C79 will be issued as there is no VAT to recover.

If the ~~goods~~ ship is imported to Germany, you need to ensure German VAT is not paid as their zero rating is non-existent. You would need to submit a refund claim cross-border if it was charged. Use processing under Customs control to ensure this is the case.

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If the services are provided by a German supplier, reverse charge in UK, otherwise UK VAT & UK Supplier.

~~Do~~ Please let me know if you have any questions.

Yours Sincerely,

Dave Derek

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2) To: cs.panson@cpb.com  
From: (TA) duse@cpb.com  
Subject: RE: New Ideas for Fiscal Warehousing  
Date: 1 May 2012

Dear Chris,

Thanks for your email, my comments are below.

Points

Basics

A fiscal warehouse enables certain commodities to be traded VAT free within the European Community.

In order to be used the goods must be in free circulation within the EC. For the beans from EU suppliers, this condition is automatically met assuming ~~all~~ they were in free circulation when sold to you.

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For ~~raw~~ coffee beans purchased from outside the EU (Switzerland & Central America), you need to ensure that ~~a~~ all import procedures are undertaken and all duty paid to release them to free circulation.

### Eligible goods

Roasted coffee beans are not eligible to be fiscally warehoused. Any services applied to them would follow the normal VAT rules, and VAT is due on any sale of these roasted coffee beans. They can still be stored in the same warehouse.

The unroasted coffee beans should meet the conditions as they ~~are~~ are commonly traded in large quantities in the international market, and I assume you have entered them to ~~grant~~ ~~grant~~ free circulation. Subject ~~to~~ to these conditions being met, they are specifically included as eligible goods.

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## Benefits of fiscal warehouse

Fiscal warehouses allow relief on VAT on supplies of the unroasted coffee beans both when entering the warehouse and when supplied whilst in the warehouse.

Certain services supplied within fiscal warehouses may ~~also~~ be zero-rated, and I would suggest that your sorting and repackaging services would fall into this.

VAT only becomes due on the value of these services when the goods are removed from the fiscal warehouse. As you will be selling the coffee beans on, VAT will be due on the sale value.

If your supplier owns the goods when they are entered into the fiscal warehouse, you can repackage them while they are in it as these fall under usual forms of handling allowed in a fiscal warehouse.

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For wholesale and ~~retail~~ customers, customers, there is a cash flow benefit as no VAT is due on the sale to the customer. They only need to pay VAT when the goods are removed.

### Requirements

To operate a fiscal warehouse, you need to meet the following:

- UK VAT registered
- High standard revenue record
- Comply with conditions of authorisation
- Sound organisation of your business
- Proven satisfactory record if already using another duty suspension regime
- Accounts must meet requirements

If authorised, you would need to keep a record of all eligible and non eligible stocks stored in the warehouse which can be onerous.

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You would also be responsible for the security costs of the warehouse.

~~When you~~

You could just use another person's physical warehouse however this may be costly due to the onerous requirements they have to meet.

~~Please let~~

Please let me know if you have any questions.

Many thanks

James.

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3) Flint central Ltd  
Flint central House  
144 Portman Street  
Birmingham  
B75 1PJ

Tinke - Taylor - Advise LLP  
Top Floor Suite  
Canary Wharf  
London  
E20 9PP

1 May 2018

Dear Mr. Flint,

RE: Request for Advice on VAT-recovery proposals

Thank you for your letter. I have included my comments below.

### Multi-Function Vehicles

In order to advise on the treatment, ~~it is~~ we need to consider what an ordinary consumer would consider has been supplied, a car or a battery or both.

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Due to the fact that the primary purpose of the vehicle is transport, and the other features a license and vehicle registration would be required, I would suggest a car is the supply not the battery.

It is worth exploring the following principles from the CIP case in the OEU, to see if the supply could be treated as multiple supplies, with the car being one, but then the VAT may be recoverable on the supplies of, for example, the battery -

- A supply should not be artificially split if it distorts the functioning of the VAT system
- Single supply is clear principal supply with other elements ancillary.
- Single price may indicate single supply

~~Here~~ Following these principles, it's clear that the principal supply is that of a car. Any other supplies or benefits are ancillary and form part of the single supply of a car. ~~No VAT is recoverable.~~

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The customer may however still recover the VAT if the cars are only available for business use and no private use is possible.

It is worth noting that the fact you describe the cars as vehicles may suggest that ~~cars~~ calling them mobile batteries is inaccurate.

### Non-statutory clearance

Where HMRC definitively confirm a treatment and they have been provided with all of the relevant facts, this may be provisionally relied upon by a taxpayer.

A ruling described as 'more favourable than we were expecting' would most likely not fall into this.

In terms of ~~stand~~

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Legitimate expectation is the concept that a right ~~was~~ awarded to a taxpayer under EU law/case law: ~~they~~ that they expect to be able to rely on can not be taken away by national law.

This would not provide any defence for Flintcentral as you ~~are~~ are not relying on principles from EU law.

Van

The concept of fiscal neutrality is that the treatment of essentially ~~similar~~ similar supplies ~~it should have~~ should be the same from a VAT perspective.

A van is clearly very different to a car, especially in this instance as they both have very different functions (a van is for goods, a car is used to transport passengers).

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The supplies are not similar enough to be caught by the fiscal neutrality provisions so this defence would not be valid.

Please let me know if you have any questions in respect of my advice.

Yours Sincerely,

~~tax~~ Tax Advisor.

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5) To: P. Daniels @ Future.co.uk  
From: M. Advise @ tax.com  
Subject: RE: New developments  
Date: 1 May 2018

Dear Per,

Thank you for your email, I have considered your queries below.

### Stock of Goods for EU Customers

The call-off stock regime allows you to send goods to another member state to be 'called off', or used, by an individual customer.

~~The~~ Each stock must only be available or intended for sale to one single customer either for consumption in their business or for onward sale to their own customers.

As individual customers are asking you about this, you should meet the conditions if you have a

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separate, pre-defined stock, for each customer.

The usual rule for this would be that you would be treated as making a ~~movement of~~ movement of our goods (dispatch in UK, arrival in the member state) with an onward domestic sale, leading to a registration liability in several member states.

~~The~~ The simplification allows you to treat the sale as a dispatch from the UK (boxes 6 and 8 in the VAT return, ECSE indicator 0, dispatch intrastate if total dispatches exceed €250,000 in a calendar year). The ~~customer~~ customer then accounts for an acquisition in the member state of arrival.

Where more than one customer can use the stock, it is consignment stock and should be treated as per the normal rules (dispatch to the member state, ~~then an acquisition~~ then an acquisition and domestic sale in member state is destination).

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Sale or Return

Goods sent on sale or return are treated as not supplied until the customer explicitly or impliedly accepts the goods.

The goods sent in this way are treated as a transfer of own goods, so the supplier would acquire the ~~member~~ goods in the destination member state and supply them in that member state.

There is a nil registration threshold (the EU member state will have provisions equivalent to our ~~Sch.~~ VAT 1994 Sch. 1A) so compulsory registration in each member state where you sell goods to on a sale or return basis.

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Goods sent to another Member state

Provided you have a valid EU VAT number for the customer, you may zero rate the supply as ~~and~~ a dispatch to their member state.

Following the VSTR case, this acquisition would lead to VAT for the customer on acquisition, only recoverable if it relates to taxable supplies of theirs in that member state.

Alternatively, the customer may be registered in the member state of destination in which case you would use their VAT number from this member state to zero rate the dispatch.

Supply from Cyprus

This supply would follow the B2B general rule for services, so you need to reverse charge it in the UK (VAT in boxes 1&4, not in boxes 6&7).

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When the final customer was deemed to be the recipient, this would follow a B2C override as work on goods and place of supply would be Cyprus. Output VAT would be chargeable.

I consider the true recipient to be Filmtime, so B2B general rule.

### USA Transactions

The licence fee should be reverse charged by Filmtime in the UK

As there is no VAT on this invoice it is not a requirement for the GBP value to be quoted on it.

The invoice should be converted using the UK market selling rate at the tax point of the invoice, unless another method has been previously agreed with HMRC.

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The tax point for the invoice is the earlier of payment date and completion of the service.

As it is a continuous service, no tax point is created by completion and would only occur if no invoices were raised in the year from 1 January to 31 December.

They are raised monthly so this is not the case, the tax point is the payment.

Lawyers fees are reverse charged in the UK. The credit notes just create an entry that is a negative version of usual reverse charge supplies. This should be recorded in the period in which the credit note is received.

If GST is charged on any invoices from the USA, VAT is applied on the GST inclusive value.

Please let me know if you have any questions.

~~Many thanks~~ Many thanks

Peri -

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**MAN**