

THE ADVANCED DIPLOMA IN INTERNATIONAL TAXATION

June 2019

MODULE 3.02 – EU VAT OPTION

ADVANCED INTERNATIONAL TAXATION (THEMATIC)

TIME ALLOWED – 3¼ HOURS

This exam paper has **three** parts: **Part A**, **Part B** and **Part C**.

You need to answer **five** questions in total.

You must answer:

- **Both** questions in **Part A** (25 marks each)
- **The** question in **Part B** (20 marks)
- **Two** questions from **Part C** (15 marks each)

Further instructions

- All workings should be made to the nearest month and in appropriate monetary currency, unless otherwise stated.
- Start each answer on a new page and clearly indicate which question you are answering. If you are using the on-screen method to complete your exam, you must provide appropriate line breaks between each question, and clearly indicate the start of each new question using the formatting tools available.
- Marks are specifically allocated for clarity of presentation of your answers.
- The time you spend answering questions should correspond broadly to the number of marks available for that question. You should therefore aim to spend approximately half of your time answering Part A, and the other half answering questions in Parts B and C.
- The first 15 minutes of the exam is reading time. You will be allowed to annotate the question paper during this time; however, you will **not** be permitted to start writing or typing your answer. The Presiding Officer will inform you when you can start answering the questions.

PART A

You are required to answer BOTH questions from this Part.

1. Montezuma Ltd is a restaurant business established in Astoria, an EU member state. The directors have decided to expand the business by opening new restaurants in Bordonia, a neighbouring member state. Both member states are in the Eurozone.

The following activities will take place:

- Importation of tables, chairs and cutlery from outside the EU into Astoria and then for removal to Bordonia;
- Leasing of coffee making machines and refrigerators from a company established in the Cederlands, an EU member state;
- Fitting-out building works on labour-only terms by contractors established in Astoria, who are not VAT-registered in Bordonia; and
- Provision and fitting of carpets by a supplier established in Estaria, another EU member state.

Accommodation will be provided for an employee manager above one of the restaurants by converting storage rooms. The conversion will be performed by a contractor established in Estaria. The accommodation will then be let by Montezuma to the manager for €1,000 per month.

After the opening of the additional restaurants, the business will sell gift vouchers, denominated in euros, for use in all of its restaurants. These will be issued by the Astoria established company.

You are required to write a letter to the finance director of Montezuma Ltd, detailing the VAT treatment of each of the proposed activities and advising on the actions that Montezuma and its suppliers need to take. (25)

2. Folgate Sarl is the parent of a European business group, established in Astoria. The Folgate group has customers in several member states who subscribe by monthly direct debit payments to its camping and outdoor activities club.

The payments entitle customers to vote at the annual general meeting and book camping pitches for tents and static caravans, on favourable terms, directly with the operators of 30 different campsites across eight member states, including Astoria. Customers also receive a monthly newsletter, delivered by email, and special discount vouchers (in paper form) which can be used in club shops, launderettes and bars. Approximately 10% of customers claim to use the club membership and campsites for business purposes when traveling to other member states, and Folgate wish to know how to be deal with those claims.

Campsites, shops, launderettes and bars are run directly by the Folgate group through separate companies which are VAT-registered in each member state in which the campsites are located. Discount vouchers issued to club members can be used at these outlets, and the operator is reimbursed by payments from the Astorian parent for vouchers redeemed in club shops and launderettes (but not bars).

At peak season it is often necessary to move static caravans (which do not have engines) owned by the group companies, between campsites in different member states. These arrangements are usually for periods of between four and six months, following which the caravans are returned to their “home” campsite, and no charge is raised between companies for these arrangements.

The group has a central TV advertising contract with a Swiss advertising agency which provides coverage to encourage visitors to all of the group’s campsites.

Overheads for the use of advertising, central administration, computer systems and staff are charged annually from the Astoria registration to the businesses registered in each member state. It is expected that in July 2019 at least one of the companies in a member state will change to become a branch of Folgate Sarl.

You are required to write a memo describing the correct VAT treatment, including place of supply, for all of the Folgate group’s current and future activities, supporting your views with reference to EU VAT legislation and case law. (25)

PART B

You are required to answer THIS question.

3. Bioflet is a not for profit organisation, established in an EU member state, which performs research on plants for the advancement of medicine. Bioflet is partially funded by a government grant, and raises additional funding from medical industry contributions determined by the EU turnover of the contributor businesses.

A small amount of income and profit is obtained from selling plant and forestry products to the public from Bioflet's shop at a forest estate which was opened in 1995. Bioflet has recently incurred VAT on the construction of a covered walkway leading from a car park to the forest estate shop; the works were funded by a grant.

Bioflet's finance director has asked you to provide an overview of the treatment of VAT incurred on purchases which are used to support the organisation's various activities, including the covered walkway. In particular, she is interested to understand the meaning of the term "economic activities", which input tax is deductible and whether any VAT charged to the organisation will be recoverable.

You are required to write a letter to the finance director, responding to her request.

(20)

PART C

You are required to answer TWO questions from this Part.

4. The Court of Justice of the European Union (CJEU) has considered several referrals from member states regarding the application of Article 19 PVD.

You are required to provide an overview of the reasons and effect of Article 19, the circumstances in which Article 19 may apply, and a summary of the key cases on which the CJEU has made judgments, including their main points. (15)

5. **You are required to explain the meaning of the phrase “use and enjoyment” in the context of EU VAT legislation. Your answer should describe the features which indicate where the term applies, and summarise Court of Justice of the European Union (CJEU) cases in which the term has been considered in judgments. You should include reference to EU legislation where appropriate. (15)**

6. In addition to a supply being made for a consideration, in European VAT law a liability may arise as a result of a “deemed supply”.

You are required to provide examples of three types of deemed supply in EU VAT law, outline the circumstances in which each applies and how the taxable amount for a deemed supply is determined. (15)

7. You have been asked to advise a Malaysian business which supplies electronic services to end consumers based in the EU (B2C). The business does not have an establishment in the EU and is registered for the VAT Mini One Stop Shop (MOSS) in Bordonia, an EU member state. The business has been incurring VAT charges since June 2017 on packaging which it has purchased in Astoria, another member state.

You are required to write a letter to the business, detailing whether it can recover any of the VAT charged to it since June 2017 and what conditions it would need to meet for VAT recovery. (15)