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 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

Advanced Corporation Tax

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.

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ABZ Developments Ltd

Rio House

23 Bata Road

London WC2 0BX

2/5/2017

Law Services LLP

234 High Street

Oxford OX1 3NB

Dear Mrs Brown

VAT on Bristol Development

I have reviewed your letter and the information provided and I can advise as follows.

SDLT

SDLT is payable on any chargeable interest acquired by you, such as residential houses.

As you are a corporate entity and you are acquiring residential property you will be subject to the additional 3% surcharge on the acquisition.

Based on my calculations, you will be liable for

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SDLT of about £153,750 (appendix 1).

SDLT is based on the VAT inclusive price, however as you are acquiring dwellings these will not be subject to VAT and the amount payable will be £2.5m/ta

You may have scope to claim the non-residential rates of SDLT on the basis you are acquiring more than six residential dwellings in one transaction and therefore your SDLT liability will only be £115,500 (appendix 1)

You will be required to pay and submit the SDLT form within 30 days of completion.

VAT Implications

As you will not be opting to be the sole site, ~~therefore~~ this ^{may} ~~will~~ increase the VAT of measurable VAT.

Lastly, I will address the VAT liability of the supplies made received by you.

Garages

As the garages are not being sold as part of the

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dwellings but have been assigned to other users, the liability of letting of space for parking in mandatory standard rated ad use will be required to charge VAT on the letting.

In light of this, the costs incurred in relation to the garages do not relate to the construction of new dwellings or benefit from the dwellings and therefore will be standard rated.

However as the garages are standard rated let, the cost directly relating to them will be fully recoverable.

First and Second Floors

The sale of flats which have not been new built, and therefore the sale is not the first interest in a major part will be exempt for VAT.

Therefore, any VAT incurred on these areas will directly related to exempt sales and be irrecoverable. As such we need to measure the amount of VAT suffered on these elements.

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However, as the layout of these two floors are changing so much, so that the number of dwellings is being reduced from 3 to 2, they will benefit from a "changed number of dwelling concession".

Therefore, you will only be liable to VAT at the reduced rate on the costs that relate to these floors. In addition £20,000 of VAT will be charged and be recoverable across these floors.

Third Floor/Lift

As the third floor will have the same number of flats before and after the works have completed, being three, the costs incurred will not benefit from the reduced rating.

As such, they will be standard rated, and the sale of the flats will be exempt and so all VAT incurred will be irrecoverable, totaling £40,000.

Perthouses

As the two perthouses are new dwellings, provided they

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Appendix 1

$$0 - 125,000 = 125,000 \times 3\% = 3,750$$

$$= 125,000 \times 5\% = 6,250$$

$$675,000 \times 8\% = 54,000$$

$$575,000 \times 13\% = 74,750$$

$$100,000 \times 15\% = \underline{15,000}$$

$$153,750$$

Non-residential

$$150,000 \times 0 = 0$$

$$100,000 \times 2 = 3,000$$

$$2,250,000 \times 5 = \underline{112,500}$$

$$115,500$$

Total VAT owed on 1 penthouse

$$1,000,000 \times 5\% = \frac{50,000}{2} = 25,000$$

$$25,000 + 1,250 \text{ (VAT)} = \pounds 26,250$$

$$\frac{26,250}{10} \times 1 = \pounds 2,625$$

(Sorry the was meant to be after the letter)

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meet the necessary conditions of a dwelling, which I can advise if it is or if required, then the sale of the penthouses will be zero-rated as the interest granted is over 21 years.

However, as the costs relating to the penthouses are not in the course of construction, as the building was ^{not} knocked down to ground level, they cannot be zero-rated.

As a result the costs will be liable to the reduced rate of VAT, as a changed number of dwellings conversion, as after the work there are two flats and before there were ~~three~~ none.

However as the sales are zero-rated this will be fully recovered due to the link to a taxable supply.

Grant to Employee

However, as the company now had to grant a 'short lease' to an employee, which would be an exempt lease, the company is required to adjust their VAT recovery of the penthouse.

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The adjustment is because they are using the property for exempt use. However HMRC has agreed that were the exempt use is short-term and the company still intends to make a major zero-rated grant the drawback can be apportioned to the exempt rental period.

As such the company would only suffer a drawback of VAT of £2,625, which would be irrecoverable as it relates to a exempt supply.

-*

Conclusion

Therefore the company will suffer irrecoverable VAT of £

Yours sincerely

Tax Advisor

* Lift

As the lift benefits the flat floor to the penthouse, this cost should be apportioned across the four floors. Therefore the cost element for each floor will be £25,000 and it will be subject to the VAT liability of that floor.

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The time of supply will be defined by the date of payment by you as the contractor will not be issuing VAT invoices for the supplies.

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From: Peter Davns

To: Will Moore

Subject: Mercedes Capital Ltd

Date: 02/05/2017

Memorandum

The pour- and way for the initial investment, is not a supply for VAT purposes as she ~~will~~ won't receive anything = return.

As employees and directors are acting on behalf of the company they are not taxable persons and won't charge VAT. However the recharge of salaries by an employer is a taxable supply.

The interest received from Amble Ltd ~~will~~ could be excluded as being a taxable supply of finance Sch 9, Group 5, item under SI 1995/2510 reg 101. However as it is ~~included~~ and a ongoing income stream to the business I would include it under Nordavia and Mercedes-Benz (they are principles).

As the Nordavia the sale of shares is exempt under item 6, Group 5

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Sec 9, but as the shares being sold relate to a company outside the EU, this is called a specified supply and is therefore entitled to credit for input tax suffered.

Costs

All costs must be ~~app~~ directly attributable to the direct and immediate link of their expected income.

I have done this in my calculations. Any costs which either relate to both taxable and exempt or neither will be treated as residual.

The ~~sale~~ ^{purchase} of shares are exempt and the exemption also applies to the legal fees on the ~~purchase~~ ^{purchase}, if the legal advisor or broker is acting in a intermediary capacity.

Intermediary capacity = defined in rule 5, group 5, Sch 9 as:

- bringing together of all or view to financial services
- ~~those~~ persons who are or may be seeking financial services, and
- those who provide financial services.

Therefore, as the broker has bought you and the seller

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Taxable income	T	E	
Director fees	6,000		
" "	6,000		
Interest		5,000	
Sale of shoes (BVI)	50,000		
" " " (Special)		36,000	
" " " (Common)		27,000	
" " " (UK)		<u>29,000</u>	
	62,000	98,000	
$\frac{62,000}{62,000 + 98,000} \times 100\% = 40\% \text{ (rounded to next whole number)}$			
Costs	T	E	R
Balance of shoes		200,000	
Bulwage charges		-	
Lawyers (Crown & SPA)		18,000	
Lawyers (UK person)		15,000	
Office rent + others			120,000
Car park			17,600
Revenue and discretion			484,000
Computers			60,000

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website	68,000	68,000
General legal advice		38,000
Financial market feeds		9,000
Company logo (pre-reg)		5,000
Company incorporation (pre-reg)		7,400
	- 33,000	809,600
Taxable draft	-	
Taxable residual	323,840	809,600 × 40%
Exempt	33,000	
Exempt residual	<u>485,760</u>	
Total recoverable	£323,840	
de-minimis tests do not apply.		
* ² In order to reclaim the input VAT on the full legal advice or incorporate the company needs to reimburse Michelle and will then be able to recover the VAT as residual, if it was received within 6 months of registration.		

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together and acted as in refunding their services will also be exempt from VAT.

The exempt does not extend to advice and therefore, if the lawyers did not act directly of the completion of the contract but merely advised this would have been standard rated services.

Depending on the value of the furniture and work of art, some of the art, might be considered as exempt by virtue of Sch 9, Cray II but we will need more details on the art purchased.

I have treated the financial market feeds as standard, as the basis some of the trades will be specified supplies and entitled to VAT recovery.

VAT on expenses re-registration may be recovered if the services were received within 6 months prior to registration and are used in the trade after registration. Therefore the company logo advice and incorporation advice are recoverable.

This period is extended for years for goods that are still held at the date of registration. *²

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Questions

As outlined the recovery of VAT is done in three stages. ~~It~~

Firstly, you attribute the VAT incurred to a future score, whether it trade or exempt.

Any VAT then relating to both a ~~or~~ retailer, is put into the residual pot and apportioned on the basis of the company's partial exemption recovery rate.

I addressed the recovery of pre-registration input VAT earlier.

As the company is in its first year of registration as a partially exempt trader, you are entitled to recover VAT based on the actual use of the costs, ~~in accordance~~ for the Linnare method.

Alternatively, you could apply in writing to HMRC to agree a special method for VAT recovery, however you must agree the method before you begin using it.

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Email

From: <hdwest@Tax Manager>

To: <Derek Baker>

Subject: VAT registration - Jack Morris

Date: 02/05/2017

Dear Derek,

I have reviewed the information you have provided and can advise as follows.

The first question is whether Jack was acting as an employee of Hampton or a self-employed contractor.

Employees are not taxable persons and therefore cannot be required to register for VAT. However the status is defined in the contract and facts of the case.

Based on the fact Jack has right of substitution and there is no liability to Hampton to provide him with work, and that he needs to provide his own raw and tools, I would conclude Jack is a self-employed trader and therefore eligible to be a taxable person.

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As a result we now need to consider whether he has an obligation to register for VAT.

There are two tests, however the future test will not apply so I will only discuss the historic test.

The historic test is for traders to check on a monthly basis whether their income for the previous 12 months has exceeded the VAT threshold.

If so, they have an obligation to notify HMRC within 30 days and the registration will begin from the 31 day.

Therefore, as Jack's income in 12 months to 31 March 2018 exceeded the £73,000 threshold he was required to notify HMRC.

However, as you explained Jack's wife fell ill and this severely affected his income for 2018. HMRC allow traders where they expect their next year's income to fall below the de-registration threshold, in this case £71,000 exemption from registration.

As Jack notified the illness and intended drop in income to

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HMRC, the breach is 31/3/2012 can be ignored.

As a result, Jack did not breach the VAT threshold again until the year ended 31/3/2014. Therefore I would conclude that HMRC's assessment of 1 April 2012 is incorrect.

As a result, Jack would have had a liability to notify HMRC of his obligation to register by 30 April 2014 and the registration would have been effective from 1 May 2014.

As his intended sales for the next year would not have been below the de-registration limit and he did not apply for exemption to registration, there were no mitigating circumstances this time to avoid VAT registration.

As a result, I have calculated his potential VAT liability to be £38,824.

Mitigation of Liability

I have calculated the VAT liability on the basis that the VAT due was based on value being received as gross as a result the amount of output VAT is smaller than it

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they were net.

I also suggest that we treat the calculation of the VAT on the cash basis, as Ted will be added to automatic bad debt relief.

As a result, he will not need to account for VAT on the value of supplies made to Hampton that will not be paid.

Therefore the VAT liability will be reduced for the periods 1 April 17 onwards, as the inspector will not be allowed these periods to date once he has completed his historical assessment.

In conclusion, I advise that we appeal his decision and this is done in writing with our calculations within the 30 day limit stated by the inspector.

We can also appeal for an independent review if the inspector still doesn't agree with our effective date of registration.

Note that interest will be due on the unpaid VAT till the date it is paid.

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Income

$$Y/E \ 31/3/15 \quad \frac{83,000 \times 11}{12} = 76,083$$

$$Y/E \ 31/3/16 \quad 88,000 = 88,000$$

$$Y/E \ 31/3/17 \quad = \underline{88,000}$$

$$252,083$$

$$VAT \ income \ \therefore \ vat \ liability = 42,014$$

Expenses

$$Y/E \ 31/3/15 \quad \frac{1320 \times 11}{12} = \frac{1}{6} \times 1320 = 220$$

$$Y/E \ 31/3/16 \quad = \frac{1}{6} \times 420 = 70$$

$$Y/E \ 31/3/17 \quad = \frac{1}{6} \times 600 = \underline{100}$$

$$(390)$$

Pre-reg inputs

$$\text{Goods (4 years)} \quad \underline{12,000}$$

$$\text{Van} \quad \text{12} \quad \underline{2400} \quad 12,000 \times \frac{1}{6} = 2,000$$

$$\text{Tools} \quad (2,400 + 1,200) \times \frac{1}{6} = 600$$

$$\text{Clothing} \quad (600 + 180 + 180) \times \frac{1}{6} = 160$$

$$\text{Van repairs (2 years i.e. 6 months)} \quad \left(\frac{480}{2} \right) \times \frac{1}{6} = \underline{40}$$

$$\text{pre-reg input} \quad (2,800)$$

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Notes:

From: VAT specialist

To: Adept Manager

Subject: VAT - Cars.

VAT recovery

VAT is recoverable on cars if the car is input VAT of the car or being used as stock in trade.

Stock in trade is defined as "new or second hand cars that are intended to be sold by a manufacturer or dealer within the next 12 months. (SI 1992/3222 art 2)

If the cars are then moved from trading stock, then a adjustment will only be required if the move is not temporary.

If the move is permanent, the trader must account for VAT as a self-supply and the VAT will then be irrecoverable.

Private Use

Any cars made available for private use to employees or family members will be a supply for VAT purposes, if VAT was

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recovered on the original purchase

The value of the self deemed supply is determined by Sct 6 and HMRC can state that a market value condition is met. Therefore the company will need to work out the cost of the still new motor vehicle sold to.

This will apply to any employee or family member whether or not a charge is made for the supply.

Licensed Cars.

Cars loaned to potential customers are not a supply for VAT, as the company receives no benefit in return therefore no VAT is due or payable on these supplies.

The market value provision does not apply as the company and the potential customer are not connected. (per CTA 2010 s.11(2))

VAT on Breakdown

The supply of breakdown cover is deemed a contract of insurance, therefore the supply of an insurance service commission

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will be exempt from VAT under Sch 9 Group 2 item 4. It will however be subject to income person tax at the higher rate.

Fuel

Fuel used by employees and family member may be accounted for in one of the following ways:

1. Company does not recover any VAT on the fuel and no output charges to worry about.

2. Employees or family member reimburse company for private fuel cost, and when the company recovers all of the input VAT.

3. The company recovers all of the VAT on the fuel and then applies a fuel scale charge. This account for output tax at a rate dependent on the car being used for the fuel.

HP contracts

The VAT payable ^{usually} is determined by the value of financing consideration provided by the customer.

Therefore, VAT will be due on the full selling value of the new

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car at the commencement of the HP contract.

However, in the case where values have substantially been inflated, VAT should be chargeable at the value of the actual price of the new car and will also be due at the commencement of the HP contract. (including the part exchange)

The company cannot recover VAT on the purchase of the part exchange as the car is not qualifying and it will fall under the second hand car margin scheme.

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Explanation - Zero-rating food

The provision of food in the course of catering is always subject to VAT at the standard rate.

Catering is considered as any supply of food for consumption on the premises that it was supplied. Sect 8, Group 1, note 3.

Scenario One

Therefore, as the food in the case of Chattergate and Wilkesborough were consumed on the cafe premises, these are supplies of catering and therefore standard rated, in contrast to the standard liability of the food being sold.

It appears that the shops at Wood Street and Crest Road are correctly charging the VAT to the customer but have incorrectly notified it for their declarations to HMRC, resulting in a overpayment of VAT.

Scenario Two

If the customer asks for the pie to be heated, it will be deemed to be hot food in line with Sect 8, Group 1, note 3B(b) and therefore

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be standard rated.

As such the shop appears to be correctly charging VAT to the customer, but once again under-declaring the VAT to HMRC. This will also result in a underpayment of ~~VAT~~ VAT.

Scenario Three

The supplies of crisps, chocolate, packaging and cleaning services are all subject to VAT at the standard rate as the food items are specifically excluded from zero-rating. Sect 8, Cpl. 1, item 1

Therefore, in order to recover the VAT as input tax, the ^{Out Pie} ~~Company~~ must retain proof of a valid VAT invoice.

If a valid VAT compliant invoice is not retained, HMRC will block any entitlement to VAT recovery until such evidence is obtained. This will therefore mean that Out Pie will suffer the gross cost of the goods and reduce their profits.

Taxpayer Notice

A taxpayer notice, is a letter from HMRC notifying the

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taxpayer that they wish to inspect the taxpayer's records.

The notice ~~compels~~ ^{obliges} the taxpayer to respond to any reasonable request for information.

If the taxpayer fails to comply, HMRC are entitled to make assessments to the best of their knowledge, which then become payable by the taxpayer.

Therefore, it is always better to respond to these notices and assist HMRC with their enquiries.

Powers of Inspection

HMRC are given powers of inspection by the UK tax law and these enable them to review and request reasonable information to determine whether Oxfam has correctly declared the VAT treatment of its supplies and paid the correct amount of VAT to the revenue.

Once again if ~~you~~ Oxfam fail to comply, they have the right to use the best guess estimate for the amount of unpaid tax.

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HMRC have to assess for unpaid VAT by the later of:

Two years from

- The ^{end of} period in which the underpayment occurred, or
- 1 year from the date of information.

Once an assessment is being made within the time limits above, the assessment may cover the previous four years.

They are also entitled to charge simple interest for the debt the VAT was due, until the date it has been paid.

Further, they are entitled to issue penalties in line with the law at GA07, Sch 24 and these can range from 30% to 100% of the value of unpaid VAT, depending on the reason and behaviour of Oct Pie.

Don's Personal Liability

As Don is merely an employee of Oct Pie and was only appointed in February 2017, HMRC cannot pursue him personally for any underpayments of VAT.

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HURC must prove Oct file the health person or any under payment of VAT and they are a limited company they can only prove the Director's = cases of serious fraud.

~~However, based on the facts provided it appears that Paul might be defending the revenue of his VAT. As such, I believe he may be want to make a voluntary disclosure to HMRC on this matter.~~

Therefore as Dan is now a Director of Oct Pre HURC could prove him in the capacity if they feel that the company is defending the revenue of VAT it is due.

In conclusion, I would advise Dan to notify HURC of these errors and make a voluntary disclosure and try to explain to him that he has had these historic errors, the remaining are putted for HURC to prove him personally.

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Email:

From: <Alex.Edwards>

To: <Liz.Williams>

Subject: Express Ltd IPT issues

Date: 02/05/2017

Dear Alex,

I have reviewed for email and all of the information included and I can advise as follows.

Liability of Supplier

The direct supply of extended warranty products sold through your own website will be a standard rated contract for insurance and be liable to IPT at 9.5% ^{and} increased to 10% from 1 October 2016.

The supply of extended warranties to customers via the high street retailer for which you pay a fee is liable to the higher of IPT at 20%.

This is because there is room for value shifting and so

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Such HMRC introduced some anti-avoidance legislation, in certain ~~circumstances~~ circumstances.

The fact you are paying a fee to the seller of the domestic appliances for the extended warranty means you are caught by the anti-avoidance legislation.

Repair contracts are not a contract of insurance for IPT purposes as you are not indemnifying the customer against a potential like loss.

These are monthly contracts that enable the customer to pay for annual or periodic services and as they are a supply of services subject to VAT.

*

Special Accounting Schemes (SAS)

The SAS method enable a trader to account for IPT when the payment is due to you as shown in your accounting system, rather than the cash basis.

Therefore, if you make the entry in your records stating that the due date of the payment is 31 March, then for IPT purposes

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The tax point is deemed to be the 31 March, even if the premium is received before or after that date.

Therefore as you mentioned that you are having issues with collecting direct debit for various contracts but entering the full contract value into the accounts, you are paying over the IPT long before you have received the premium.

Consequently as you are having issues with the collection of premiums via direct debit, this is likely delaying the receipt of cash compared to the payment of IPT.

As a result, it would be more beneficial for a cashflow method for you to revert to the cash based method. This will mean you are not paying over IPT to HMRC until you are in receipt of the premium payment from your customer.

This cannot be done until the SAs has been used for at least ^{a year}

Reeddata Project

As you are now complying the cover under the Platinum Scheme and providing a refund of the premium, you are entitled to adjust the amount of IPT you paid on the

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original contract.

You will be allowed to adjust the IPT paid as a credit note ^{but} ~~and~~ ~~there are no time limit restrictions.~~ ^{for you the cap will apply}

The IPT will be reclaimed at the rate that was charged on the person in the first place.

You will also be required to pay back the reclaimed IPT to the customer that paid it in the first place, otherwise you will be rightly breached and HMRC will not refund the IPT.

You will have to sign a declaration to the effect that you will refund the IPT reclaimed.

The input paid to the customer, i.e. compensation and therefore outside the scope of IPT and VAT.

Please contact me should you have any queries

~~Yours~~ Kind regards

Liz Williams

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* The change in rate from 1 June 2017 will be subject to the anti-forfeiture provisions ~~there~~ but the product will still be held to the standard or higher rate as advised above.

Where the customer makes advance payments from now onwards that the contract relates to period after 1 June 2017 the new rate from 1 June 2017 will apply to the contract.

Where new contracts are taken out or extended between now and 1 June 2017, and the contract covers both periods before and after 1 June 2017, the contract will be apportioned between the new rate and the current rate accordingly.

But these provisions will not apply to contracts normally exceeding 12 month such as years gold packages.

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32/9