



The Chartered Tax Adviser Examination

May 2017

VAT on Cross Border Transactions & Customs Duties

Advisory Paper

TIME ALLOWED – 3 ¼ HOURS

- The first 15 minutes is designated as reading time. During this time you may read your question paper and legislation and annotate your question paper. You are not permitted to write in the answer booklet. The Presiding Officer will inform you when you can start writing. Calculators may not be used during this time.
- You should answer all **SIX** questions.
- Start each answer on a fresh page and do not write in the margins.
- All workings should be shown and made to the nearest month and pound unless the question specifies otherwise.
- Marks are specifically allocated for presentation.
- Candidates who answer any law elements in this paper in accordance with Scots law or Northern Ireland law should tick the appropriate box on the front of each answer booklet.
- Unless otherwise indicated by the provision of additional table information, you may assume that 2016/17 rates and allowances continue to apply for 2017/18 and future years. Candidates referring to actual or pending rates and allowances for 2017/18 and future years will not be penalised.

1. You are the Indirect Tax Manager in a firm of Chartered Tax Advisers. You have received the following letter from Philip Jones, Managing Director of Evermore Clothing Ltd. Evermore Clothing Ltd is a UK established clothing wholesaler headquartered in Birmingham.

D Jenkins
Tax Adviser
72 Mulberry Grove
Birmingham
B31 1YZ

Evermore Clothing Ltd
Chapel House
31 Whitegate Street
Birmingham
B32 1ZA

4 May 2017

Dear David

Over the last few months we have been looking at opportunities to expand our business. We have now agreed some new supply chains on which I would like your advice.

Our current suppliers in Poland and Germany are unable to increase production, so we have signed a contract with Anything Clothes Pty, an Indian established company. We have not previously purchased from outside the EU. Anything Clothes Pty can supply a full clothing range, including clothes for children. Our first container of products is due to arrive in the UK shortly.

The invoice price of the first consignment (including transport to Birmingham) is as follows:

	£
Children's outdoor clothing	20,000
Men's outdoor clothing	65,000
Less 2% discount (£1,700) if paid within 14 days	

To incentivise us to place the order, Anything Clothes Pty are providing free coat hangers with the men's clothing, which would otherwise have cost us £150. As well as this saving, we will pay the invoice within 14 days to take advantage of the settlement discount. Our Customs Agents have informed me that the rate of Customs Duty on both adults' and children's clothing is 12%. Can you advise me of the VAT due on this shipment?

We have also signed a new contract with Bon Apparel SA, a French retailer, which has stores in France and Switzerland. Product will be sourced (in the future) from Anything Clothes Pty. As we are keen to retain control, the goods will not be shipped directly from India to Bon Apparel SA, but will first be imported into the UK. We will then transport them by road to Bon Apparel SA in France and Switzerland as required. Additionally, under the contract, we are required to overprint half of the adult's hoodies with a football logo and half of the children's raincoats with images of cartoon characters.

Bon Apparel SA's Swiss stores change product ranges every six months. We have agreed to take back any stock from the Swiss stores which is unsold after that period. In order to fulfil urgent demand, we sent our first consignment to Switzerland last week; this was sourced from an existing UK supplier that we will not be dealing with in the future. Yesterday, Bon Apparel SA advised us that the zips on some of the men's coats were found to be faulty and need replacing. Rather than return the coats to us for repair, Bon Apparel SA has agreed to replace the zips with an identical type of zip before offering them for sale. In return, we have agreed to discount the price of the items to Bon Apparel SA as this was more cost effective than arranging for them to return the goods to us.

Can you please advise on any VAT implications of these new operations.

Yours sincerely
Philip Jones

You are required to prepare a letter to Philip Jones advising him on the VAT implications of the matters highlighted in his letter. (15)

2. You are a VAT adviser in a firm of accountants. You met recently with Alan Adair, the Financial Officer of Keep Britain Young Ltd, who has requested your advice on the VAT treatment of certain transactions.

The Keep Young Foundation, a Canadian charity whose purposes include helping elderly people remain active, recently established Keep Britain Young Ltd in the UK to further its charitable activities. Keep Britain Young Ltd is a company limited by guarantee and a UK-registered charity. It will operate charity shops and provide yoga classes for the elderly. These classes may be provided free-of-charge, or alternatively for a fee designed to cover costs. A sister organisation, Keep Ireland Young Ltd (which is established in Dublin), is already carrying on similar activities in the Republic of Ireland.

In the set-up period, The Keep Young Foundation will receive donations of goods in Canada and send them free-of-charge to Keep Britain Young Ltd to sell in its shops. Keep Ireland Young Ltd will also second some of its yoga instructors to assist in providing the yoga classes, in return for Keep Britain Young Ltd arranging and paying for their hotel accommodation.

AB Clothes Inc, a multinational manufacturer of fitness clothing, has agreed with The Keep Young Foundation to donate selected clothing to all the Keep Young charities. Under this agreement, one of its subsidiaries, AB Clothes GmbH, will send goods direct from its German factory to Keep Britain Young Ltd, which will sell some of these goods in its shops while giving others away to those attending the yoga classes.

Using charitable funds, Keep Britain Young Ltd will purchase items of diagnostic equipment from Power Pulse Ltd, a UK manufacturer. It will then loan some of these items without charge to the elderly to help them plan their exercise regimes, and will send the remaining items free-of-charge to Keep Ireland Young Ltd.

Keep Ireland Young Ltd places a monthly order for specialist stationery with Magritte Papers Ltd in Ireland. Keep Ireland Young Ltd has agreed that each month, Magritte Papers Ltd will despatch part of its order direct to Keep Britain Young Ltd (for which Keep Ireland Young Ltd will recharge Keep Britain Young Ltd at cost). Keep Britain Young Ltd will sell some of the stationery in its shops and use the rest for writing to potential donors for fund-raising purposes.

In addition to the expenditure already described, Keep Britain Young Ltd will purchase certain goods from independent suppliers in Canada, namely: books, gifts, maple syrup (for sale in its shops) and yoga mats (for use in the classes).

You are required to write a memo to Alan Adair, advising him on the UK VAT treatment of Keep Britain Young Ltd's proposed transactions. You are NOT required to advise on Customs Duty. (20)

3. You are an Indirect Tax Manager in a firm of accountants. You have received the following email from Joachim Sommer, who is the Tax Manager for Worldwide Corporation GmbH.

To: a.taxmanager@countersllp.co.uk
From: j.sommer@worldwide.de
Date: 2 May 2017
Subject: United Kingdom VAT

Dear Andy

It was a pleasure to meet you at the International Trade Seminar in Düsseldorf last week. I should be glad to receive your advice on some VAT issues arising from the development of our business in the UK.

As you know, Worldwide Corporation GmbH sells tableware in bulk to hotels and restaurants, many of which are in the UK. We are a German established company and currently have no UK presence. Goods are shipped direct from our warehouse in Germany to our business customers and, more recently, to our internet customers; last year we launched a website offering private individuals the opportunity to buy our products in small quantities over the internet. This new internet business has been going well (see attached turnover figures), and to date we have been accounting for German VAT at 19% on sales to our UK internet customers.

We are looking at how best to structure our UK operations for the future, whether through use of a branch or a subsidiary. We have also been approached by Mr Anson, who has offered to act as our agent in promoting and selling our products in the UK and this is a further possibility. I should like to have a clearer understanding of any UK VAT issues for these three options. Your colleague, Gordon Bright, is already looking into the Corporation Tax aspects.

I also attach details of UK VAT we have incurred recently and would wish, if possible, to recover.

I look forward to receiving your advice.

Best regards

Joachim

Attachment 1: turnover for UK internet sales

<u>Month</u>	<u>Turnover</u> £
May 2016	15,464
June 2016	16,548
July 2016	14,648
August 2016	19,543
September 2016	15,985
October 2016	17,465
November 2016	21,874
December 2016	18,542
January 2017	23,886
February 2017	19,853
March 2017	26,587
April 2017	27,166
Total	<u>£237,561</u>

Continued

3. Continuation

Attachment 2: VAT incurred

<u>Date</u>	<u>Type of supply</u>	<u>Value</u>	<u>VAT</u>	<u>Total</u>
		£	£	£
19 January 2016	Advertising in UK media	4,000	800	4,800
9 February 2016	Purchase of Flash drive	150	30	180
5 June 2016	Hotel accommodation	700	140	840
2 July 2016	Flights	400	0	400

You are required to write an email to Joachim Sommer, providing the requested UK VAT advice. (15)

4. You are the Customs Duty specialist at a firm of Chartered Tax Advisers. You have received the following letter from a UK-based client, Import Processors Ltd.

Tax Advice
High Street
Leeds
LS1 1SL

Import Processors Ltd
George Street
Headingley
LS2 4ED

1 May 2017

Dear Joanne

As you know we are authorised for Inward Processing Relief (Suspension) ("IP") from 1 January 2016 to 31 December 2018. Under this authorisation we import goods, process them and re-export all processed goods to one customer outside the EU.

We were authorised for Customs Freight Simplified Procedures ("CFSP") from 1 January 2012. We use CFSP both for imports to free circulation and for our imports of IP goods.

We have never applied for Authorised Economic Operator – Customs Simplifications ("AEOC") but we do have Authorised Economic Operator – Security and Safety ("AEOS") status.

We understand that the new Customs law will affect our IP and CFSP authorisations but are uncertain how and when. Would being an AEOC benefit us?

I look forward to meeting with you next week, as arranged, to discuss the likely impact of the new rules on our business and any action which must be taken.

Yours sincerely

Peter Baron

You are required to write notes for a meeting with your client. (10)

5. You are the Customs Duty specialist at a firm of Chartered Tax Advisers. You have received the following email from a UK-established client, Pastel Kitchens Ltd, which imports goods for sale in its chain of kitchenware shops. Neither Pastel Kitchens Ltd nor its directors are related to any of its suppliers.

From: patty.w@pastelkitchens.com
To: reg@taxadvice.co.uk

1 May 2017

Re: Imports of Kitchenware and Coffee

Dear Reg

I set out below details of various activities that we undertake. I have some uncertainties regarding the Customs Value which we declare to HM Revenue & Customs.

Cookware

We import cookware from a manufacturer in China, Nanjing Kitchenware Company Ltd. We like our retail products to be nicely packaged for sale and accordingly, Nanjing Kitchenware Company Ltd put the cookware in cardboard boxes printed with our logo. These boxes are made for us by another Chinese company, Guandong Crates Ltd and then delivered to Nanjing Kitchenware Company Ltd. Guandong Crates Ltd invoices us for the boxes and for delivery to Nanjing Kitchenware Company Ltd's factory.

We do not charge Nanjing Kitchenware Company Ltd for the boxes and they charge us slightly less than if we had used their boxes. We declare the Customs Value as the invoice value from Nanjing Kitchenware Company Ltd plus the freight and insurance costs to get the goods from them to our UK premises. Could you confirm this treatment?

Electrical Items

We use a buying agent, Mr Zhang, to find Chinese suppliers of electrical items. Mr Zhang finds suppliers, negotiates on our behalf and generally ensures that our imports from those suppliers happen smoothly. For this we pay him a commission of 10% of the invoice value of goods (excluding freight and insurance charges) for all purchases where he represents us. He sends us a commission-only invoice for each shipment when the goods are loaded aboard the ship in China.

About six months ago we started using another agent in China, Miss Yang. She is the exclusive representative of her father's microwave manufacturing company, Yang's Electricals Ltd. They are going to produce a range of microwaves for us in pastel colours. We agreed a deal with her along the same lines as that with Mr Zhang. We pay her 10% commission on the invoice price from her father's factory and she invoices us each quarter for all shipments despatched from Yang's Electricals Ltd in that quarter.

Please can you explain the Customs Valuation treatment of these commissions?

Coffee Machines

I have arranged directly, not using either agent, with a Chinese-established company to supply us with coffee machines at 75% of the price at which they sell to other UK importers. This amount will be due at the time of import. We will also have to pay them 10% of the eventual selling price of each item. We will pay this in arrears at the end of each six month period.

What value should we declare to HM Revenue & Customs at import and why?

Continued

5. Continuation

Prior Sales

For a few products we buy, we have always declared the price our supplier pays (with appropriate additions for freight and insurance) as a prior sale.

We import whole roasted coffee beans from a distributor, Kona Java Inc based in Hawaii, who ship it from Hawaii. Kona Java Inc buy from a nearby coffee roaster, Roasting Java Inc. We buy at Kona Java Inc's normal list price on an occasional basis and, because I know him, their salesman lets us have details of the price they pay Roasting Java Inc.

We have also been importing coffee from Guatemalan Coffee Roaster Inc in Guatemala for a number of years. They provide us with full information on the price they pay for raw coffee beans.

In March 2016 we entered into a contract to buy toasters from Wong Electricals Ltd in China for the next two years. As part of the contract, they supply us with enough information to allow us to rely on the prior sales value at import.

I understand that the rules for using prior sales may be changing: will these changes affect us?

Regards

Patty Williams
Finance Director

You are required to write an email responding to your client. You are NOT required to consider Import VAT or penalties. (20)

6. You are Samuel Jones, the VAT Manager of Advance plc, a UK-established IT Solutions company based in London. You have received the following email from Sally Smith, Head of Marketing at Advance plc.

To: Samuel.Jones@AdvancePlc.com
From: Sally.Smith@AdvancePlc.com
Subject: VAT treatment of Madrid conference
Date: 2 May 2017

30 April 2017

Dear Samuel

I trust you are well?

We have been busy organising a software development and training conference, aimed at IT professionals, involving lectures and workshops. The conference will take place in Madrid next month. As this is the first time we have held an event outside the UK, I would like your advice in relation to VAT.

We have organised most of the conference ourselves, but have engaged Viva SA ("Viva"), an events management company established in Spain, for help in sourcing Spanish suppliers.

Members of the marketing team visited possible venues in Italy and Spain before deciding on Madrid. We incurred €570 Italian VAT and €420 Spanish VAT in respect of hotel accommodation, evening meals and car hire for these employees. In addition, I have today received the first invoice from Viva. It has charged €315 Spanish VAT in respect of initial fees. Can all this VAT be reclaimed on Advance plc's UK VAT return?

We are charging delegates a fee to attend the conference which includes all meals and accommodation. Confirmed attendees have paid a deposit of €100 per person. The balance of €250 is due six weeks before the event. We have accounted for UK VAT on the deposits received. Any delegates who cancel will forfeit the deposit as a cancellation fee.

We will bear the costs of the conference, but will recharge a proportion of the costs for organising the conference to our branch in Dublin which is VAT registered in the Republic of Ireland. Employees of our UK office and our Dublin branch will attend the event to act as hosts.

We are taking the opportunity to showcase our latest digital printer at the event. The demonstration model will be shipped from the UK to Spain and will be returned to the UK once the conference has finished.

Continued

6. Continuation

We have been working closely with our IT development team for a major client, Empowerco UK Ltd, to develop a mobile phone application ("App"). Empowerco UK Ltd is a UK established VAT registered company with a number of branches in the Far East. The App will be used by its employees when working remotely in order to access the group's intranet and receive online training. Empowerco UK Ltd considers that use of the App will increase productivity and reduce costs. Final sign-off of the project was agreed by Empowerco UK Ltd's board and a contract has been signed which provides for Empowerco UK Ltd to pay us £10.49 (excluding VAT, if chargeable) for every download. I do not know whether Empowerco UK Ltd is planning to recharge a proportion of this to its overseas branches. During the first month, over 10,000 employees have downloaded the App (5,789 being employees resident in the UK and 5,040 being resident in the Far East). We will raise monthly invoices to Empowerco UK Ltd based on their downloads in each previous month. We now need to raise an invoice for the first month's downloads, but I am unsure of the correct VAT treatment.

I should be grateful for your advice on the VAT treatment of all the above transactions.

Kind regards

Sally Smith

You are required to prepare an email to Sally Smith advising on the VAT treatment of the transactions and on how Empowerco UK Ltd should be invoiced for the App downloads.

(20)