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Chartered
Institute of
Taxation

Excellence in Taxation

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 Advanced Technical Paper you have attempted (if not already ticked below)

Taxation of Owner-Managed Businesses

Domestic Indirect Taxation

Inheritance Tax, Trusts & Estates

Human Capital Taxes

Taxation of Individuals

Cross-Border Indirect Taxation

Taxation of Major Corporates

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).

Advanced Technical

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

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

Email:

To: Nicole. Adler @ Grunewald.de

From: Laura. Booth @ VATEC.CO.UK

Subject: UK VAT Queries

Date: 8 MAY 2019

Dear Nicole,

Thank you for your email detailing your queries, please see my advice below;

The provision of the contract with Top Gear's PLC is for bespoke components which you will provide, to them ready to use.

We need to establish is this two supplies one of goods and one of services to determine the VAT treatment of the supply.

~~We need to~~ AS the components are designed and supplied as bespoke, as per principles in CPP case it would be artificial

from economic point of view to be reviewed as separate as the components would not be useful to ~~Top gears Plc (TGP)~~ without your modification.

Consequently, I would advise that this is a ~~single~~ ~~composite~~ supply ~~mainly~~ of ^{services} ~~services~~ and should be treated as such.

keep in please.

The place of supply for services when supplied to a business is where the business belongs so as this is a UK company, the place of supply would be the UK, ~~to~~

Provided that TGP are VAT registered the supply will be subject to reverse charge so you would account for the VAT on your German VAT registration.

This transaction

If the goods are bought using
Tubler Ltd in Ireland's Tubler would

be required to do applications. This
would be work on goods and treated as a
supply of services subject to the reverse
charge +

You have mentioned that you have an
Irish VAT registration, - do you have a
fixed or

~~If the components are shipped and
stored in the UK, ~~arrives there~~ and
supplied from the~~

The work and purchase of the manuf-
actured products in Ireland would
be subject to VAT in Ireland ~~but~~.
through your Irish VAT registration.

~~but~~ The goods will be sent from
Ireland to the UK as an EC
dispatch, ~~as you do not have a~~
~~UK VAT registration the acquisition~~
~~will trigger a requirement to~~
~~register in the UK.~~

~~The to under Schedule 1A of VATA~~

1994, there is no VAT registration threshold in the UK for non established traders.

One the components are sold to your customer this will be a standard rate sale as the goods are located and ~~imported~~^{supplied} from the UK.

Grünwald would have to charge VAT on the supply to Top Gears Ltd.

Shattsland.

if the goods are shipped in from Germany to the UK, as it is not clear whether the goods will be retained by Shattsland at the end of the contract the movement of goods will be a transfer of your own stock.

~~Get~~ This will be Sale and return of your own goods.

This is treated as a deemed supply of own goods and you would have to account for acquisition tax on arrival, ~~to~~ this would trigger a VAT registration obligation.

If ~~the~~ Shattsland do not adopt the stock, when it is sent back it will be a return acquisition into Germany.

Provided you have a UK VAT registration at this point you will be able to zero rate the return dispatch provided that you hold the required evidence and the VAT number of your German entity.

~~Turbler~~

When the goods are dispatched to the UK, as they are specifically for the Turbler contract, this can be treated

as an EC Acquisition to them directly even if you hold the stock, you would need their VAT number and they would account for the acquisition tax.

SWISSLAND

Free supply of the

Goods Shipped ^{Direct to top gear} ~~to Denmark~~

~~The goods shipped direct to Denmark when supplied to a UK company~~

Where there are three parties in the transaction who are all VAT registered and located in different member states can operate the triangulation simplification when goods are going straight from the donor supplier to the end customer.

You will need to give your ~~the UK VAT~~ ^{German} VAT number to Zieleneck SP 8 200 so that they can zero rate the ~~dispatch~~ ^{dispatch} to Denmark. Top Gears PLC ~~or~~.

You ~~will~~ ^{could} then need to get the ~~UK~~ ^{Danish} VAT number for Top Gears PLC so that you can zero rate the sale. ~~Top~~ Top Gear PLC will then treat the transaction as a zero rate acquisition.

The goods going to Denmark should be zero rated if they have a Danish VAT number, if they don't VTSR case established that alternative evidence would suffice. They would account for acquisition tax in Denmark.

You would zero rate the supply and report in box 6 and 8 of VAT return. EC sales will be required if you receive VAT number and Intra-stat declaration if required.

~~At~~ The fact that you have a UK registration ^{by} ~~at~~ this point will not affect the treatment as you do not have an establishment in the UK. as you are a non established trader. So triangulation will apply.

+ would need to account for reverse charge ^{**} ~~to~~ from Ireland. VAT in box 1 and recovered in box 4 and the net in box 6 and 8.

I trust that the above was helpful but let me know if you have any queries

Kind Regards

Laura

Email

To: John Sweetman

From: Tax Advisor

Date: 8 May 2019

Subject: VAT queries

Dear John,

Thank you for your email detailing your queries. Please see my responses below;

1)

In order to make a zero rate export sufficient evidence must be held within 3 months of export. This evidence includes - goods received message and airway bill numbers.

~~As~~ BCE Ltd The goods as there is no evidence of export should be treated as a standard rate supply of goods.

However as the BCE branch

Dispatched the goods to Croatia
It may be possible that the
transaction is treated as a zero
rate dispatch as the goods were
removed to ~~Vietnam~~ Croatia.

As the customer arranged the dispatch
further evidence would be required.
Such as: route, transport tickets,
name of shipping company.

If this additional evidence is not
available it may not be possible
to zero rate the transaction.

2) In order to recover the import tax charged you must hold sufficient evidence which would be the C79 import certificate.

It is wrong that the import VAT was claimed in its absence.

~~A disclosure should be made to HMRC to advise of the error as~~

Errors can be corrected in the next VAT return if the error is no more than the greater of £10,000 or 1% of box 6 (maximum) of £50,000. as the turnover on a monthly basis is £6 million, it is possible for the error to be corrected in the next VAT return as the import VAT claimed was £40,900 which is less than maximum allowed. ~~and~~ £50,000 and 1% of box 6.

Due to the amount would also recommend that a VAT652 is completed to notify HMRC of the error as this will mitigate any interest.

The box which advises that the mistake has been corrected in the return can be ticked.

In the event that evidence can't be held for the zero rate dispatch for item 1 and VAT must be charged.

A disclosure would need to be made to HMRC to advise of the errors as it would be over the amount permitted to be amended.

The same form can be used for the disclosure.

The if disclosure required should.

be notified as soon as possible to mitigate any penalties as it would be unprompted disclosure.

~~Maximum penalty 30%~~ Maximum penalty of 30% for a careless error which could be mitigated down.

Substantially on the quality of disclosure and if seen to be telling, helping and providing required information.

3) The ~~training event~~ supplied by yourse team event supplied by yourselves would be considered to be a supply of services.

VAT treatment of Business to Business services is where the recipient belongs so it is outside the scope of UK VAT. but subject to reverse charge.

The Invoice to the Irish company should have had the Irish company's VAT number and reverse charge.

narrative on the invoice.

The Irish company would have self accounted for the VAT

You should report the transaction only in box 6 of UK VAT return.

This would be for the whole supply including the travel.

Supply of Chocolates

The goods have been sold to the Irish company but have requested shipment to France.

→ Supply of goods in UK is normal a standard rate supply but it is possible to zero rate the dispatch on receipt of Irish VAT number.

You would also need to hold sufficient

evidence that the goods were dispatched to France within 3 months.

Sufficient evidence would be commercial invoice, goods received notification.

You will report in VAT return in box 6 and 8.

You will complete an EC sales list using customer's Irish VAT number and an ~~the~~ intrastate declaration (if req) for dispatch to France.

Please let me know if you have further queries.

Kind Regards
Tax Advisor.

Jasmine Hawks

Everypainter Ltd.

Main Street

Bolton

BL1 1AR.

Josh Fry

CTA Advisors

11 Castle Lane.

Preston

Lancashire.

PR1 0LD.

08/03/19.

Dear Jasmine,

Thank you for your
customs queries, please see my advice
below

There are couple of Customs
procedures which I believe will give
you savings in relation to your
customs duty the first is Inward
processing relief.

Inward Processing relief ^(IPR) is a special
procedure which enables you to
suspend Import duty and VAT.

It allows you to import components which will be processed into a compensating product.

The processing can be simple or more complex as you are doing

with IPR. If the goods are then exported outwith the EU then the duty will never become payable. If they ~~are~~ released to free circulation the duty will be payable.

Those Authorisation is required to use the relief and once obtained it can be valid for upto 5 years although it is normally 3.

To get authorisation you must show HMRC that you are financially solvent, have good compliance and adequate record keeping.

You will need to provide HMRC with ^{customs comprehensive} an guarantee so that if

the conditions are not met it will be called upon to clear the debt.

In addition you will ~~also~~ ^{also} need to advise HMRC of throughput period, this is the time you expect to take to import, process and re-export, normally this is six months.

It is also necessary to provide a rate of yield which determines the rate of finished product to imported product. The economic test will not be required as not importing agricultural items. The above procedure would be most suitable for the goods being re-exported.

For the goods which are remaining in the EU, there is an alternative procedure which is part of IPR.

The procedure is called PCC - processing
~~PCC~~ under customs control.

As it is part of IPR and the authorisation
procedure is exactly the same but
this is for goods which are being
processed to remain in EU. To use it;

The imported goods should be identifiable
in the end product, and it must not
be economically viable to remove
the material once processed.

~~Then use PCC~~ once the goods have been
processed, there is four methods for
calculated duty on release to free
circulation.

They can be valued on identical goods
imported, similar goods to be imported
the ~~to sales price less~~ deductive
method or you can use the
imported cost of imported materials
plus the processing costs to calculate

the duty required.

If you use the identical method then you could use the 0% you mention so you wouldn't have to pay duty at all on these items.

I trust that the above is helpful but let me know if you require further information

Kind Regards

Josh.

Daniel Whyte

Simone Jackson

Beroak Ltd

Hobson & Dwyer LLP

Manchester

Coronation Building

M3 1X4

Manchester

M1 7ZZ

~~08/05/2019~~ 08/05/2019

Dear Daniel,

Thank you for your letter detailing Project Pecunia. Please see my advice below regarding your queries.

The provision of Services in relation to currency is an exempt supply in the UK under Item 1, group 5, Schedule 9 of VATA 1994,

This involves the supply of intermediary services ~~at~~ where you are doing more than introducing the parties. ~~However following a recent case back office support such as processing payments would not be sufficient to me~~

As you are registering the participants and processing the payments for the currency sold in addition to charging 10% of the commission for currency seller this will meet the criteria as an exempt supply.

As it is an exempt supply no VAT should be charged on the commission as directly linked to exempt supply.

The advertising ~~costs~~ space however will not meet the definition of exempt supplies and would therefore be standard rated and will therefore be subject to VAT.

This applies even if supplied to currency sellers.

Advertising is a supply of services and the business to business rules for services is that place of supply is where recipient belongs therefore.

for business clients outwith the UK the supply would be subject to reverse charge and customer would account for VAT.

When supplying to individuals the place of supply is where the recipient belongs, as you have an establishment in the UK where operations are supplied from they would be subject to VAT at standard rate.

Where supplied to individuals outwith the EU, use and enjoyment rules would apply, and so ~~may~~ ^{may not} be subject to UK VAT if not used in the UK.

The supply of exempt services to business clients outwith the EU is a specified service so even though an exempt supply you would be entitled to recover input tax on costs associated with the supply.

COSTS

The costs for the IT service as directly attributable to a taxable supply would be fully recoverable.

However the overheads would only be recoverable to the extent that they relate to taxable plus percentage of residual.

The recharges will ~~be~~ not be disregarded although they are intra group as they relate to a supply.

The recharges between the branch and the other members would not be disregarded as they relate to an exempt supply so VAT should be accounted for and recovered as per partial exemption call as per anti avoidance provisions ~~to prevent~~ as the supplies of advertising and project management would have been taxable if supplied in UK.

Calculations - Appendix

Taxable - ~~2,500,000 + 15,000,000~~ = 17,500

Exempt -

Exempt - $\frac{114,700,000}{8,200,000 + 57,000,000 + 1}$

Taxable - 31,000,000

Total = 145,700,000

% recovery = $31,000,000 / 145,700,000 \times 100$
= 21%

<u>COSTS</u>	net	VAT	VAT	Netto Recoverable
Project management	33,000,000	6,600,000		1,386,000
DMZ Inc Market Research	55,000,000	11,000,000		2,310,000
Kogan & IT Services	528,000	105,600		105,600
Legal B Stat	450,000	90,000	→	18,900
Overheads	2,130,000	4,272,000		<u>1,537,920</u>
15% + 21% = 36% rec.				
Total VAT		22,067,600		
Recoverable VAT				5,358,420

As per ~~note~~ - I have included appendix 1 which calculates the ^{provisional} recoverable amount of input tax which would be available.

~~Note~~ In addition the input tax attributable to ~~exempt~~ exempt supplies to outside EU clients ~~would also~~ should also be added to the calculation. This could increase recovery percentage ~~by approx~~

Let me know if you have any questions

Kind regards -

Simone

Email:

To Alex Smith

From: Tax Advisor

Date: 08/05/2019

Subject: Tax Advice

Dear Alex,

Thank you for the information you have provided. Please see my advice below regarding your queries.

The provision of transport service is considered to be a supply of services.

The place of supply for transport is determined by whether the recipient is considered to be a taxable person or not.

Provided that the charities ~~are~~ have an economic activity of some sort ~~etc~~ then they can be considered to be a taxable person without a VAT number as per principle VAT.

Directive article 9.

consequently the supply to the charity would be a business to business supply.

Thus treatment would be where the transport is carried out, therefore some could be outside the scope of UK VAT. where it relates to the contracts which are wholly taken. ~~The sale of the business to Swiftpost Ltd is a combination of the sale of a business services and a supply of the software~~

~~However as part of the supply~~

outside the UK; and would be subject to the reverse charge mechanism.

If the transport takes place wholly in the UK then the transport would be subject to

ON VAT, ~~however~~ reverse charge. UK
VAT.

The

The purchase of the business will be
subject to reverse charge as it is a
business to business supply of services.

Swiftpost would need to self account for
applicable VAT of £56,000 on the
UK VAT return in box 1, provided
business is fully taxable this can
be recovered in box 4 in full.

The net amounts would go in box 6 and
7. The net effect to Swift would
be nil.

The royalty payment would also be
subject to reverse charge so you would
need to self account for the VAT once
invoice received.

The time of supply for the royalties as it is a continuous supply of services would be the receipt of invoice or making the payment.

Agent Agreement

The provision of insurance services is an exempt supply if provided from a UK insurer.

Making an exempt supply will make the business partially exempt and would impact input tax recovery.

If he acts as an undisclosed agent he will be responsible for the whole supply and the supply from the Dutch insurer will be treated as received and made by him.

If he acts as a disclosed agent then the transaction will be between the Dutch.

Insurance company and the customers,
who will be acting directly with the
~~the~~ insurance company.

~~It is pos: the supply is if you act as~~
~~principal you will be respon~~ Alternatives said
me to incorporate an indemnity clause into
contracts.

Please let me know if you would like further
assistance

Kind Regards

Tax Advisor

Meeting NOTES: Joe Bydon

- You have already responded to the right to be heard notification and have received the C18.
- It is possible that you can appeal the decision and request that it is reviewed by an independent advisor who has not been involved with the ^{case} transaction.
- This must be done in writing within 30 days of receipt of the C18 demand.
- HMRC will then have 45 days to review the case.
- They will either uphold, withdraw or amend.
- If you don't hear from HMRC after the 45 days they will have upheld the decision but not given written communication.

- If you ~~receive~~ do not get response that you were looking for from review can request appeal to first tier tribunal.
- Must be done in writing within 30 days of ~~receipt~~^{response} of Independent review.
- It is possible to go direct to tribunal and skip the review and this must be done within 30 days of receipt of demand.
- It can look better from your point of ~~go~~ view if you get an independent review first as you are giving HMRC time to review again.
- You should consider the cost factor as going to tribunal can be costly. ~~is~~
- Costs are your responsibility unless

It is considered to be a complex case which may be unlikely given the costs.

It can also take a considerable amount of time to get to tribunal

- HMRC can also ^{force} request that the amount of debt is paid prior to tribunal unless this will create hardship to business.

- You may have a defence under section 119 of the Union Code if you can establish that there was an error made by HMRC by signing off the customs declaration incorrectly.

- You would need to show that you acted in good faith and had no reason to believe they were wrong.

- In addition you should check what agreement you have set up with

Freight agent, if it is indirect representation, they are jointly & severally liable with you for any customs debt.

• If you do end up having to pay debt you could seek to recover some of the amount for them.

• Import VAT would be recoverable upon receipt of C79.

• If freight agent is direct representative the liability is solely on you to clear the customs debt if no successful appeal.

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