



The Chartered Tax Adviser Examination

May 2018

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, annotate your question paper and use your calculator. You are not permitted to write in the answer booklet. The Presiding Officer will inform you when you can start writing.
- 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 2017/18 rates and allowances continue to apply for 2018/19 and future years. Candidates referring to actual or pending rates and allowances for 2018/19 and future years will not be penalised.

1. You are an indirect tax adviser in a firm of accountants. You have received the following letter from Alf Cookidge, the Tax Manager at a new client.

Derek Gibb
Top Advice
71 Low Street
Poole
BH1 1TA

384k Satellites Ltd
Meteor Avenue
Interstellar Boulevard
Rutland
LE15 6BF

26 April 2018

Dear Derek

VAT on Satellite Services

We are a UK established business engaged in providing satellite launching, monitoring and recovery services for satellites belonging to our business clients. We currently have one launch site in the UK near our head office, but we are planning to expand in the next 12 months and will soon have completed the construction of two new launch sites in France and Italy. We will have a small number of staff at the Italian location that will launch as well as monitor satellite movements for all of our customers who require that additional service. The French site will have the minimum requirement for a launch site with no permanent staff and satellites will be taken to it and prepared for launch by staff travelling temporarily from the UK.

We will be treating our French and Italian operations as two separate cost centres of 384k Satellites Ltd and need to understand how VAT will apply to the services we make and in which EU member states we will be making supplies. In addition, some of our Italian business clients will receive a package of launch and monitoring services utilising both our UK and Italian sites.

Since all sites will use some shared IT, finance and corporate services provided from the UK, we intend to recharge these quarterly to the cost centres for France and Italy. How should we handle the VAT aspects of recharges for those locations?

We also expect to incur VAT costs from a company which calibrates machinery at all of our sites. It is established in Italy and we anticipate it will invoice our UK office. Please advise how this service will be treated for VAT and whether we will need to recover anything from the tax authorities in France or Italy?

Finally, if our future plans are fulfilled we will be looking to purchase a new satellite monitoring and recovery vessel (600 tons gross) from a shipyard in Finland. The ship will then need to be fitted out with specialist lifting equipment and undergo adaptations to navigational systems before being brought to its home port of Southampton. We have options to have the fitting out and adaptation work performed in Germany or the UK and need to know how the vessel purchase and additional works will be treated for VAT purposes in each case.

Yours sincerely

Alf Cookidge
Tax Manager

You are required to write a letter responding to your client's enquiry. (20)

2. You are a Chartered Tax Adviser working for CP Blenkinsop & Sons Ltd, Fine Coffee Purveyors and have received the following email from the Commercial Director:

To: ctadviser@cpb.com
From: Chris Spawson, Commercial Director, cspawson@cpb.com
Subject: New Ideas for fiscal warehousing
Date: 17 April 2018

Dear Bob

I wonder if you could let me have your views on an interesting matter I heard about last week at a trade conference. I believe it is called fiscal warehousing and wondered if it would be useful for us as importers and blenders of roasted and unroasted coffee. As you know, we are always looking to control costs relating to procurement from suppliers in the EU, Switzerland and Central America; and I wondered what this was about and whether it could help us?

I am cautious if there are large set-up costs involved, but trust you can tell me just what the whole thing might entail. I am particularly interested in establishing whether this provides us with an opportunity to increase income by storing goods and possibly providing sorting and repackaging services to our suppliers and other third parties, and would appreciate your considered views and recommendation including whether this might be useful to our customers who make wholesale and retail sales of coffee in the UK.

I will be out of the office for the next two weeks but would like to use your views at an informal Directors' meeting I have on the day I return.

Kind regards

Chris

You are required to write an email to the Commercial Director in response to his request.

(15)

- 3 You are a tax adviser working in a leading law firm and have received the following letter from Andrew Flint, the Finance Director at your client, Flintcentral Ltd. Flintcentral Ltd is a market leading fleet electric car specialist.

Tinker Taylor-Adviser LLP
Top Floor Suite
Canary Wharf
London
E20 9PP

Flintcentral Ltd
Flintcentral House
144 Portman Street
Birmingham
B75 1PJ

30 April 2018

Dear Mr Taylor-Adviser

Re: Request for advice on VAT recovery proposals

We have recently conducted market research across the UK amongst our largest customers which has led us to the view that VAT is an unnecessary and avoidable burden on business owners and users of motor cars. We are therefore considering introducing a number of arrangements which will enable our customers to gain full input tax recovery on the purchase, import and acquisition of cars for all types of businesses.

However, before committing further resource into this venture, we wish to ensure that we do not fall foul of the relevant legislation and Court of Justice of the European Union judgments.

- 1) One of our proposals is based upon us marketing multi-function vehicles as "mobile batteries". As far as we are aware there is no VAT legislation restricting input tax on "mobile batteries". The vehicles will incorporate highly efficient batteries which can be charged from solar panels mounted on the vehicles as well as having the ability to being connected to conventional building-mounted solar panels. When parked they can also be used as power sources to provide electricity for lighting in remote locations (i.e. garages) and will provide effective security and alarm systems by allowing the on-board cameras to capture and record images of the premises at which they are parked.

Are you aware of any obstacles that might prevent our customers obtaining the VAT treatment we seek (full recovery) by describing vehicles in this manner?

- 2) We recently submitted a non-statutory clearance on the above recovery point to HM Revenue & Customs and got a reply which was more favourable than we were expecting. We plan to use the ruling as our in-house legal team believe we can claim "legitimate expectation" that our customers can recover all the VAT incurred on car purchases. Can you please confirm this view?
- 3) Alternatively, the purchase of electric cars to carry passengers is similar to purchasing a van to carry goods, but the VAT incurred can be claimed for the van and not for the car. We think this might infringe "Fiscal Neutrality". What is your view on this please and can we use this as a defence to any challenge by HM Revenue & Customs?

We are hoping to re-price and rebrand in the UK, (and possibly expand into Europe) by relying on arrangements that incorporate the principles set out above and so would appreciate your views and advice as soon as possible.

Yours sincerely

A Flint

You are required to reply by letter to Andrew Flint addressing all the points raised in his letter and referring to relevant EU case law. (15)

4. You are the Customs specialist in a firm of Chartered Tax Advisers. You have received the following email from the Head Buyer at an existing client.

From: bob@whateverimports.com
To: annadviser@taxknowledge.co.uk
Subject: Preference
Date: 1 May 2018

Dear Ann

As you know we import an ever changing range of goods to sell on to retailers based all over the EU. They tell us what they want and we source and import the goods. As the demand for different products changes, we change suppliers depending on who can supply at the lowest cost.

We are in the process of obtaining quotes for goods for the summer season next year. We have been introduced to a couple of manufacturers based in less developed countries. I have done a little research and understand that products from these countries may attract "preference" as the EU wishes to encourage economic development in those countries.

I am quite pleased with the research that I have done, as I have managed to identify that all these suppliers are in countries which are covered by the Generalised System of Preferences (GSP) rules and I have found the normal and preferential duty rates.

I have been able to determine that their products could be quite attractive because of the lower duty rates.

However, at that point the material became too complicated for me, so I need your help with some points please.

Would you please explain, in simple terms, which goods can qualify for preference and which can not? What rules do I have to follow to get the benefit of the preference rate of duty?

Some of the products we are looking to have made might require some precision parts that the GSP manufacturers would not be able to source in their countries. We could export these parts to the manufacturers so that they could incorporate them into the finished product. Would that prevent us claiming preference at import? I do understand that we would have to account for this as an "assist" at import, so no need to cover that aspect.

I understand that some of these goods will be covered by REX, the Registered Exporters Scheme, in the near future. Would you explain what that means please?

We already have a deferment account with guarantee. We have decided that the extra time and cost of becoming an AEOC is not worth the effort at present so we have not bothered with that. We do not use any Customs procedures other than CFSP SDP, so do not have a potential debt guarantee.

Would importing preference goods have any effect on our guarantee?

Regards

Bob

You are required to write an email responding to your client's queries. You do NOT need to discuss any valuation implications of the scenario. (15)

5. You are an indirect tax adviser in a firm of accountants. You have received the following email from Peri Daniels, the Business Development Director of an existing client.

To: M.Adviser@tax.com
From: P.Daniels@funtime.co.uk
Subject: New Developments
Date: 20 April 2018

Dear Mel

We would appreciate your advice on a new contract we have entered into that will see our toy production and distribution business potentially double in the next five years following us signing a deal with a major American film studio.

Toy procurement and distribution

We currently manufacture various toys in Cambodia which we import into the UK and then make onward sales to distributors both within and outside the EU. In the future we will solely be using our existing Cambodian factories to produce film and TV character toys under licence from the film studio. We are contracted to support four new film releases in the Europe, Middle East and Asia (EMEA) distribution area in 2019 and need to make sure that we have the correct VAT advice for all aspects of our new business.

After import clearance at port to home use we plan to move the character toys into our distribution warehousing in the UK and soon after we will transport some of the goods to wholesalers in EU member states who will supply them to retailers, cinemas and the public; in support of the launch of each film.

Wholesalers in various EU member states are already beginning to contact us to ask about the following points:

- 1) Can we provide a stock of goods for them to hold in their warehouse before title passes from us to them?
- 2) Can we provide goods on sale or return terms?
- 3) Can we ship goods to a member state to the order of a wholesale business established in a different member state?

In addition, some toys in transit from our UK warehouse to customers in the Middle East are expected to require repackaging in transit in Cyprus. How will we treat the supply to us by the Cyprus repackaging business?

We are unsure how all of these transactions should be treated for VAT purposes and would appreciate you advising us of the correct procedures and any options or simplifications that may apply. We do not have and are not interested in using a Customs Warehouse and do not need advice on any other Customs matters.

Transactions with the USA

We will be charged a 6% licence fee by the US film studio which will be invoiced to us in US dollars one month in arrears based on the gross value of our sales in the previous month. How should we deal with this for UK VAT purposes?

We have already incurred lawyer's fees in the US for negotiations leading to the signing of the contract, we have been charged US Sales Tax but please provide advice on whether this is subject to UK VAT and how the total invoice for legal work completed in December 2017 should be treated by us. We have been given and intend to take six months credit from the invoice date of 1 February 2018.

Continued

5. Continuation

I realise there are a lot of points on which we need answers and hope that you can provide us with clear advice on these issues. Thank you.

Regards

Peri Daniels

You are required to write an email to Peri Daniels addressing all the points raised. You are NOT required to comment on any Customs Duty aspects. (20)

6. You are the Customs specialist in a firm of Chartered Tax Advisers.

You have received the following email from a new client.

From: john@wholesalers.com
To: julie@customsAdvice.com
Subject: Authorised Economic Operator
Date: 1 May 2018

Dear Julie

Wholesalers Ltd are a UK based manufacturing company operating from a factory in London. We import components from outside the EU as well as sourcing them in the EU and export our finished products all round the world.

It has been suggested to us that becoming an Authorised Economic Operator – Security and Safety (AEOS) might make our exports more attractive to foreign buyers.

Would you please explain to me what is involved in becoming an AEOS; what benefits there are and whether I would be better off being an AEOC as well?

I look forward to hearing from you.

Regards

John

You are required to write an email responding to your client. (15)