



Chartered
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The Chartered Tax Adviser Examination

November 2019

Domestic Indirect Taxation

Advanced Technical 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.
- Questions may be answered with reference to Stamp Duty Land Tax or Land and Buildings Transaction Tax, as appropriate.
- 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 information, you may assume that 2018/19 legislation (including rates and allowances) continues to apply for 2019/20 and future years. Candidates answering by reference to more recently enacted legislation or tax cases will not be penalised.

1. You are Monty Robinson, a VAT adviser in a firm of Chartered Accountants. You have received the following email from Andrew Trew, the Finance Director for your client, Student Halls Ltd, a commercial provider of student accommodation.

To: mrobinson@vatadvisers.co.uk
From: andrew.trew@shl.co.uk
Date: 28 October 2019
Subject: New development

Dear Monty

I wanted to get in touch with you to request your advice regarding the VAT treatment of a new development which we are planning.

Student Halls Ltd has recently purchased some land with an existing office building in a dilapidated state. VAT was not charged by the seller. Our intention is to demolish the current building and construct a new block of student residences and outline planning permission has been granted for this. The new block will contain residences for 50 students, being grouped into clusters of five bedrooms around each kitchen. All of the student bedrooms will be en-suite. The building will also contain a common room for use by the residents and a gym for use by residents and other students of the local university. Student Halls Ltd will let the residences direct to students of the local university.

Student Halls Ltd will be appointing a main contractor to develop the site (including the demolition and construction works), which will in turn subcontract some elements of the development to third parties. Student Halls Ltd has also awarded a contract to an architect to finalise the design of the new building and oversee its construction.

Kind regards

Andrew

Requirement:

Write an email to the Finance Director advising on the VAT treatment of the development including any requirements for certification. (15)

2. You are Susan Smith, the Indirect Tax Manager in a firm of Chartered Tax Advisers. An audit partner, Andreas Rivers, has referred a client to you: Inner City Stays Ltd. The client owns and operates a chain of London hotels from which its main income stream is from bedroom rates. Andreas has identified a number of areas which may require review from a VAT perspective, and he has asked you to undertake this work and report back to him.
- 1) Inner City Stays Ltd is attempting to increase trade from coach holiday organisers and has therefore introduced an incentive for tour operators whereby the coach driver is offered a complimentary room when there is a booking for a group of 20 or more paying guests.
 - 2) Recently a party of 10 people has requested a stay for the whole of December and Inner City Stays Ltd has specifically asked how to treat this supply.
 - 3) Due to the nature of the business some staff are required to be available on site even when they are 'off duty', therefore Inner City Stays Ltd offers accommodation in hotel rooms for these staff, for no charge.
 - 4) Inner City Stays Ltd has just updated its terms and conditions of booking as some guests who have booked have failed to turn up. In future, guests who do not turn up will now be charged the full room rate for the first night of their stay if they have not given prior notice of their cancellation by 1.00pm on the date of the stay. This is aimed as an incentive to notify Inner City Stays Ltd in advance of any cancellations, and also to cover costs as the client has reserved a specific room for each guest which cannot then be made available to another guest at such short notice.
 - 5) Income from car parking has always been relatively low as hotel guests are only charged a nominal fee to park on site, rather than a rate equivalent to other nearby public car parks. However, some guests and coach drivers were parking outside of the hours they have paid for, and some non-guests were using the car parks, so Inner City Stays Ltd has outsourced all matters relating to the car parks with effect from 1 January 2019 to its subsidiary company, Inner City Stays Parking Ltd. Inner City Stays Parking Ltd already operated a number of city centre public car parks and in relation to the hotel car parks, it will manage them including the administration of parking fines. Inner City Stays Parking Ltd retains the income from parking charges and fines and has no other income streams. The fines relating to our hotels have been unexpectedly high at £55,000 for the year to date, in comparison to parking income of only £20,000.

Requirement:

Prepare an email to Andreas advising on any VAT issues arising from the points identified by him. You should quote case law where relevant. (15)

3. You are Peter Gordon, an indirect tax adviser in a firm of accountants. Your contact is Kirsten Compton, the Tax Manager at a large bank, Bank of Avon plc, which has a corporate group of 10 companies which are all part of the same VAT group. The VAT group is partly exempt and is only able to recover a very small percentage of its input tax.

Bank of Avon plc requires a new banking platform but doesn't have the necessary skills or resources to do so itself. Given the risks for long-term support if a third party is used, it wishes to acquire a business and then use it to develop the platform. It has identified a software development company, Techbox Ltd, which appears suitable.

Techbox Ltd has existing software platforms relating to retail and logistics and is in the process of developing a banking platform business which Bank of Avon plc could acquire and tailor to its own requirements. Techbox Ltd runs each of the business areas through separate divisions.

There are two options available for the acquisition:

- 1) Bank of Avon plc acquires the Techbox Ltd banking platform division as a business, which would involve intellectual property, staff, and some computer equipment (valued at £100,000) for a price of £1.8 million; or
- 2) Techbox Ltd will transfer the division into a new company (Newco Ltd) and Bank of Avon plc will then acquire the shares of this company at a price of £2 million. Newco Ltd would then join the existing Bank of Avon plc VAT group.

Kirsten has asked for your advice on the implications of these two options from an indirect tax perspective. She is obviously aware of the detailed criteria of Transfers of Going Concerns (TOGCs) and does not require these to be set out.

Requirement:

Write a letter to the Tax Manager advising on the indirect tax implications of the proposed corporate transaction, quoting case law where relevant. (20)

4. You are John Doe, a Chartered Tax Adviser at Townfoot Advisers LLP, a firm of Chartered Tax Advisers. You have received the following letter from Joshua Martinside, who is the sole shareholder and director of J Martinside Plumbing Ltd, a small plumbing company, which trades below the VAT registration threshold at present and is not VAT registered.

Mr J Doe
Townfoot Advisers LLP
3, Townfoot
Anytown
Somewhere
XY1 4XX

J Martinside Plumbing Ltd
6, The Cottages
A Village
Somewhere
XY7 6AB

29 October 2019

Dear John

VAT

In addition to my work for local householders (fixing leaks and blocked drains, altering or installing plumbing for bathrooms and kitchens and work on domestic heating systems, etc.), I have recently won a contract to supply and install the sanitary ware, plumbing and central heating systems, washing machines and dishwashers, in the new houses on the Jerry Builders Ltd Hillside development.

My turnover in the 12 months to 30 September 2019 was £65,000 and I expect my work for local householders to continue at that level. I expect the Hillside development contract to add about £100,000 to that figure over the next year. I billed £8,000 in October and expect to invoice about £10,000 a month to Jerry Builders Ltd until the work is completed.

In addition, Jerry Builders (Care Homes) Ltd is building a residential home for the elderly, which it will be operating. I am hoping to work on that project as well.

These contracts will be a good opportunity to use up stocks of pipes and fittings, and various tools bought over the years, but I may sub-contract some of the work on the Hillside development; and if my bid for the care home work is successful, at least some of that work will be sub-contracted too.

I gather that one consequence of this expansion of the company's business will be that it may have to register for VAT. I should be grateful for your advice on that, and on the VAT treatment of the various projects mentioned above.

You will recall that the company bought a new van in 2017 for £20,000 plus VAT, which is used solely to travel to and from sites, to carry materials and so forth. If I do need to register for VAT, will I now be able to recover that VAT? In addition, my lawyer advised on the Jerry Builders Ltd contract and sent me a bill dated 12 September 2019 for that work. I wondered if I might be able to reclaim the VAT on that, and on his bill dated 7 August 2019 for advice on a dispute we had with a customer who refused to pay for work I did last year if I need to register?

I shall look forward to receiving your advice on these matters.

Yours sincerely

Joshua Martinside

Requirement:

Draft a letter to Joshua Martinside advising on the issues raised in his letter. (15)

5. You are Bill Dodds, a Chartered Tax Adviser working for A N Accountants LLP. John Buck, one of the partners in the firm, has asked you to respond directly to the following letter, which he has received from Arthur Beck. Arthur is VAT registered as a sole trader running a pub. His wife Anne runs the catering at the pub, cooking and serving the food, and clearing away when customers finish their meals. She is not VAT registered.

Mr J Buck
A N Accountants LLP
A Street
Somewhere
XX1 1AX

Arthur and Anne Beck
The Rose and Crown
Any Road
Somewhere
XX3 4AB

29 October 2019

Dear John

VAT

I need your help to deal with various matters raised by HMRC in a letter following their visit to the pub on 16 October. Here is what they said:

“I am writing to confirm the VAT issues raised during my visit on 16 October.

- 1) My comparison of your recorded purchases and sales in the year ended 31 March 2018 revealed that an unexpectedly low mark-up was achieved. Are you able to provide an explanation for that?
- 2) I note that food is served at the pub, but the VAT returns you have filed do not reflect that. I understand that there is a separate till for food takings and that food is served in the bars, using the bar furniture, and that the normal bar staff take food orders, collect payment (using the same card machine that is used for the “wet” trade for debit and credit card payments). I am not convinced that it is appropriate to omit the catering income in this way, and I should welcome your views on why you consider that the catering income should be omitted, and details of that income. I may have to consider issuing a formal direction in this regard.
- 3) I note that the returns you have filed have been late on several occasions since the summer of 2017. You should note that you will continue to incur penalties for late filing (and late payment of VAT) and I would strongly recommend that you file your returns and make payments on time in future.”

We have been serving food at the pub since 7 March 2015. Anne has her own till which is used to record the food income. The officer seems to think that since Anne’s customers use the tables and chairs in the bar, and because I (and my bar staff) take food orders and we use my credit and debit card reader when customers pay for food (and drinks) by card, we should be including the food sales on my VAT return.

I have set out below some figures for my, and Anne’s takings and profits.

<u>Year ended</u>	<u>My turnover</u> £	<u>My profit (loss)</u> <u>allowing for cost</u> <u>of goods sold,</u> <u>bar staff wages</u> <u>and</u> <u>consumables</u> £	<u>Anne’s turnover</u> £	<u>Anne’s profit</u> £
31 March 2016	280,000	14,000	40,000	20,000
31 March 2017	300,000	15,000	50,000	25,000
31 March 2018	275,000	(10,000)	30,000	10,000
31 March 2019	310,000	18,000	62,000	35,000

Continued

5. Continuation

My father used to do the books for Anne's catering business and the pub, until he died about 18 months ago. Since then, Anne and I have found it hard to cope with running our businesses and keeping up with all the paperwork. I've had to pay a couple of penalties when my returns were late. Is there anything that might make my VAT accounting easier?

Following my father's death, we stopped serving food for a few months in 2017, which reduced Anne's turnover (and profit) for that year. At the same time, I took on a number of temporary staff to run the bar. HMRC seem to be focussing on the period around my father's death. I noticed that the takings were lower than usual while we had temporary staff working in the bar. I thought at the time that it was because we were not serving food for a few months but looking back, I am wondering if the temporary bar staff were giving drinks away or taking cash from the till. The takings have returned to their usual levels since we dispensed with the temporary bar staff.

I would appreciate your thoughts on all this.

Yours sincerely

Arthur Beck

Requirement:

Write a letter to Arthur Beck advising him on the VAT issues arising from his letter and the letter from HMRC. (15)

6. You are Charles Fotherington, a Chartered Tax Adviser at Arnold Bloggs & Co LLP, a firm of accountants. You have received the letter below from Albert Smythe, the recently appointed Finance Director at Provodit plc, a manufacturing business that is in the process of reorganising its business following a downturn in demand for its products.

Mr C Fotherington
Arnold Bloggs & Co LLP
Sunshine House
A Street
Somewhere
ZZ2 6XY

Provodit plc
Provodit Court
Any Road
Somewhere
ZZ10 8AB

25 October 2019

Dear Charles

Group Reorganisation

As you may be aware, our subsidiary Provodit Manufacturing Ltd (which is wholly owned by, and VAT grouped with Provodit plc, which is the representative member of the group) owns 18 freehold properties that are, or were, used in the manufacturing business. All of the properties were acquired more than 20 years ago.

Five of these properties are still in use for manufacturing and storage and the remaining 13 properties are surplus to our needs. We have already opted to tax, redeveloped and let out two of these surplus properties and, we plan to redevelop or otherwise dispose of the other 11 surplus properties.

We have decided to move all of our properties out of Provodit Manufacturing Ltd. Some of the properties will be transferred into three new subsidiaries which we have incorporated, and others will move into a joint venture with a third party.

Provodit Properties Ltd

The five properties that are still used by Provodit Manufacturing Ltd will be transferred to this company and leased to Provodit Manufacturing Ltd.

Provodit Developments Ltd

The two properties that Provodit Manufacturing Ltd has already redeveloped and let (now valued at £5,000,000 and £6,000,000) will be transferred to this company, subject to the existing leases. In addition, there are three other surplus properties, currently valued at £1,000,000, £500,000 and £2,500,000 that we propose to develop for commercial use that we will transfer to this company. It will also be used to acquire and develop other properties if and when the opportunity arises.

Provodit (Sales) Ltd

This company will hold six of the remaining eight properties that are surplus and earmarked for disposal as and when the opportunity arises. These are properties that are now vacant following the downturn in the manufacturing business and are valued at £1,250,000, £350,000, £650,000, £850,000, £150,000 and £500,000. It has been suggested that we might dispose of this company (and the properties it owns) at some point but at present, this is no more than an idea that may, or may not, come to fruition.

Continued

6. Continuation

Joint Venture

We are going to enter into a joint venture with Hardnutt & Co Ltd, a third party residential property developer, on some housing development opportunities. We have identified two of our freehold properties that would be suitable for residential development by the joint venture company. They are valued at £2,500,000 and £750,000 and will be transferred to JV Co Ltd at those prices. In both cases the land is the site of an existing factory that we plan to demolish so that new houses can be erected in its place. The intention is that Provodit plc should provide £6,000,000 of funding for the joint venture and Hardnutt & Co Ltd a further £4,000,000, and that this funding should be used to pay for the properties and development costs. Assuming that the joint venture prospers, we may transfer other suitable properties to this company, or use it to acquire suitable sites for development.

As I am unfamiliar with VAT and Stamp Duties, I would appreciate your advice on the VAT and Stamp Duty issues here, procedures that we will need to follow, and any VAT and Stamp Duty costs that we may need to take into account, before we make final decisions on what we should do.

Yours sincerely

Albert Smythe

Requirement:

Draft a letter advising Albert Smythe on the VAT, Stamp Duty and Stamp Duty Land Tax issues, and calculate the Stamp Duty Land Tax and Stamp Duty costs that the group may incur. (20)