



# **The Chartered Tax Adviser Examination**

November 2019

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## **Cross-Border Indirect Taxation**

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Suggested solutions

**Q1.**

Mr G Sudporte  
Sudporte Partners LLP  
10 King St  
London WC2 6BF

Ross Gibb  
Tapp Advice LLP  
71 Low Street  
London EC3R 6EE

5 November 2019

Dear Guy

I am replying to your letter of 26<sup>th</sup> October regarding giving advice to your client George Pile.

For the sake of convenience I will address your queries in the order in which they are shown in your letter:

Introduction of Capital

If Mr Pile takes up the opportunity of investing in the partnership this will not be considered a taxable supply because the introduction of capital into a partnership is not regarded as the consideration for a supply for VAT purposes. There would be nothing further to consider from a VAT viewpoint.

Importation issues

Cars sourced from outside the EU will generally be liable to Import VAT at the place of import into the EU based upon their cost price plus freight, insurance, directly relevant transportation costs and any Customs duty.

If cars of EU origin have previously been in free circulation and VAT paid within the EU it may be possible to import them without Import VAT being charged, although the conditions that need to be met to establish Returned Goods Relief (RGR) generally require that the cars can be shown to have been in free circulation before their removal from the EU and that they are being imported in the same state by the person that exported them and are returned within 3 years of departure from the EU. Exceptionally it may be possible to make a case for extension of the 3 year rule. Free circulation for these purposes means that the cars are made entirely from parts originating in the EU or from parts upon which all EU customs duties have been paid and not refunded.

In view of the fact that these are rather old classic cars and it will be a considerable challenge to show that VAT has previously been paid on them, it appears unlikely that you will meet these conditions and as a consequence VAT will be likely due at import. Cars originally manufactured outside the EU will of course also be liable to Import VAT (and duty) upon importation.

Restoration work

In each case, where work is performed on a car before importation the value of that work should be included in the VAT and Customs valuation at import. In contrast, if work is performed within the UK or in Ireland following import, there will be a separate supply subject to domestic UK VAT if the restorer performs the work in the UK.

Restoration work performed in Ireland will require your client to account for VAT through a cross border reverse charge calculation on their VAT return. The effect of this will result in the calculation of output tax based on the cost of the works, but this can be recovered as input tax in anticipation of the restored cars being subject to a later sale.

The movement of cars to Ireland for repair and their subsequent return to the UK will be treated as a temporary movement of goods and they will not be liable to acquisition tax in Ireland or the UK provided

the goods are entered into a temporary import register and documentation evidencing the movement of them from and to the UK is retained.

#### Cars sourced for a fee

The cars sourced for a fee will result in a UK VAT charge being raised by the partnership to the ultimate owners, who we understand are EU nationals who are non-taxable persons. Any import VAT paid on behalf of the purchasers of the cars will not be recoverable through your VAT return as you are not the owner and will not be making an onward supply of the car on which VAT could be charged – you may therefore only recover any import VAT from your client as a disbursement.

#### Cars as trading stock

Those cars which are purchased and imported for the partnership's business will be entitled to recovery of import VAT in addition to any input VAT incurred in relation to making them ready for eventual sale e.g. parts, servicing, advertising, transportation etc. The VAT position of their eventual sale will depend on whether they are remaining in the UK or not – for those sold to UK customers VAT at 20% will be due. Unfortunately although there is a margin scheme for used cars they are ineligible due to the recovery of VAT incurred upon their import. In the event that you sell cars to EU individuals and arrange for their removal from the UK, you will still need to charge VAT at 20%. There will be no requirement for ESLs.

#### Promotional tour activities

The proposal that Mr Pile will take restored cars on a tour of France to encourage sales will require them to be treated as a deemed supply on which French acquisition tax will arise when the cars enter that country. This obligation will require the partnership to register for VAT in France and the acquisition tax will be recoverable as input tax providing the intention to sell the cars in France exists. If a sale is made the French VAT will be due on the French VAT return. Cars removed from the UK for intended sale in France will need to be included on EC Sales Lists and possibly Intrastat returns.

In the event that cars are not sold and return to the UK, there will be an acquisition tax liability which will need to be accounted for on the UK VAT return – again this will be recoverable and there will be no effective VAT cost in conducting these activities. You may wish to or be required to appoint a French tax representative to deal with administrative matters in France and we would be happy to provide further assistance towards this if required.

Please do not hesitate to contact me if I can assist further.

Yours sincerely

R Gibb

## MARKING GUIDE

TOPIC		MARKS
1. Introduction of capital	Non-supply as nothing being done in return for capital introduced	1
2. Importation	Conditions for RGR on EU origin cars – re-import by exporter, goods in same state, within 3 years of export	2
	Unlikely to be eligible and VAT payable as for non-EU cars	1
	Means of determining VAT value at import including when pre shipment work performed.	2
3. Restoration services in UK and Eire	Services provided in the UK subject to UK VAT. Services provided in Ireland subject to reverse charge arrangements.	1
	Movement of cars entered in temporary import register	1
4. Cars sourced for a fee	Supply of services made to EU established non-taxable persons - subject to UK VAT.	1
	Any import VAT paid not recoverable by partnership as not owner and no onward supply of goods. Disbursement only.	1
5. Cars for trading stock	Input tax recoverable on supplies used on restoring owned cars.	1
	Subsequent UK sales liable to VAT on full value – not eligible as margin scheme supplies.	1
	In the case of sales and arranged removal from the UK UK VAT will still need to be charged, but no ESL is required.	1
6. Promotional tour	As intention to sell cars in France deemed supply with acquisition tax liability requiring FR VAT registration.	2
	Reporting obligations on EC Sales list and potentially Intrastat depending on annual values	1
	Returns to the UK similarly subject to acquisition tax but no overall VAT charge if cars unsold on tour	1
	Potential requirement or need for tax rep in France to handle VAT issues – offer to assist	1
PHS		2
<b>TOTAL</b>		<b>20</b>

**Q2.**

To: Kerry Blanche, Operations director  
From: Imogen Green, Indirect Tax Manager, Tax Dept.  
Subject: Forthcoming projects  
Date: 5 November 2019

Dear Kerry

Thank you for your email dated 1 November regarding forthcoming projects which I have commented upon below.

#### Falklands

The removal of equipment from the UK to the Falklands for subsequent leasing will require you to enter the goods for export using the New Export System and will be zero rated providing you retain documentary evidence of the removal of the goods from the UK, for example copy Bills of Lading etc.

The leasing charge to our Dutch established client will not be subject to UK VAT and will (normally) be treated as a supply made where the business customer is established i.e. Netherlands. However, technically because the actual use of the equipment is outside the EU, the supply will be deemed to be outside the scope of EU and UK VAT (assuming the Dutch legislation incorporates consideration of the actual place of “use and enjoyment” of specified services (similar to para 7, Sch 4A, VATA 1994). EC Sales List should normally be completed, but there will be no need to include the lease charges on an EC Sales List if the Dutch do not consider the place of supply to be in the Netherlands under “use and enjoyment” provisions. In practice therefore, you do not need to be concerned on this supply.

#### Airport runway and other works at Heathrow, London

It appears that Routaire SA, our French established business, will be providing plant to be used in the UK under a contract negotiated with the London office of Crewdrift Inc, a US established client. Consequently, the place of supply of the hire could either be the US or, as appears to be the case, if a UK fixed establishment of the US group is more closely associated with the receipt of the services, the supply would be in the UK because that is where the establishment receiving the supply is located.

Under the first scenario no UK VAT would be due and therefore no registration obligation would arise. However, if the client's UK fixed establishment is regarded as receiving the supply; the VAT treatment would depend on whether the client is already registered for UK VAT. If it is it will treat the supply under the reverse charge mechanism and account for the VAT – saving Routaire the trouble of VAT registering in the UK. If the fixed establishment is not VAT registered, the value of the received services will count towards the establishment's VAT registration threshold and there will be not be an obligation for Routaire SA to register for UK VAT.

I note that in addition to providing plant, the French subsidiary will also perform construction services of barrier and lighting installations. These services are treated as land related services and are considered to be made in the country in which the land is located, in this case the UK. Similar to the plant hire (which is not a land related service) the reverse charge mechanism requires the client to account for the VAT if they are registered. In this case Crewdrift's New York office appears to be receiving the supply and unless they are VAT registered in the UK there will be an obligation for Routaire SA to become UK VAT registered and to charge VAT on the services provided under the second contract. If both parties are VAT registered, Crewdrift would still be obliged to account for VAT under the reverse charge. I recommend therefore that we establish the UK VAT status of Crewdrift.

#### Autobahn tarmac laying, Stuttgart

The duration of the contract and the fact that we will have an office and staff living near the work site, makes it highly probable that we will be considered to have sufficient human and technical resources

present in Germany to be considered to have created a fixed establishment in respect of supplies made in connection with this contract.

The overall effect of this is that we will have a German fixed establishment providing land related services to a German business client and will therefore have to register and charge German VAT on the supplies. German VAT incurred on staff accommodation and other costs will of course be recoverable against the VAT charged under the contract and will save the requirement to seek cross border refunds. There will be no additional reporting requirements although I recommend that we appoint a German tax representative to manage our tax affairs in Germany. I would be happy to suggest some representatives we have previously used.

I hope my responses have been useful and would be happy to discuss further if you wish.

Kind regards

Imogen

## MARKING GUIDE

TOPIC		MARKS
1. Export of own goods to the Falklands	Liability and NES reporting requirements	1
	VAT treatment of leasing charge - no UK VAT as hire of goods. Need to include on EC Sales list if Dutch treat as supplied in Netherlands. Credit also for discussion of use and enjoyment provisions	Max 2
2. Plant hire contract	Correct identification of PoS, dependency of VAT registration status of FE	2
	Position if client not VAT registered	1
3. Status of construction services (second contract).	Identification of Land related services	1
	Liability shift to Crewdrift if VAT registered	1
	Position if Crewdrift not VAT registered, including UK registration requirement etc. and recommendation	2
4. Stuttgart contract with Kugelem	Fixed establishment created in Germany due to duration and " human and technical resources"	2
	Identification of client status requiring German VAT registration i.e. DE to DE B2B	1
	Ability to recover local VAT without resorting to Cross border refunds	1
<b>PHS</b>		1
<b>TOTAL</b>		<b>15</b>

### Q3.

Genusgames Inc  
Met Center  
24954 Main St  
Denver CO

Trip Ribb Ltd  
The Ropewalk  
71 Low Street  
Manchester M63 2BB

5 November 2019

Dear Kurt,

Thank you for your letter dated 30 October regarding due diligence in respect of Placeman SARL.

#### Place of supply and VAT liability

As a Luxembourg established business registered for MOSS, Placeman is liable for VAT charged on electronic game sales to non-taxable persons in five member states. Declarations are generally subject to audit by the tax authority in Luxembourg but may be challenged by any tax authority in which supplies have been made – it is therefore important to ensure there are no outstanding VAT issues in each of the relevant member states in which liabilities arise.

#### Premier Gold arrangements - income

The Premier Gold membership arrangements raise two particular issues:

1. Has the business accounted for UK VAT correctly on payments received?, and
2. Can the VAT recovered on gifts of goods be challenged by the UK?

Regarding the first point concerning the receipts of €19.99 per month, these payments would be liable to UK VAT at 20% as supplies of, Broadcasting, Telecommunication and Electronic services (BTE) made to private or non-taxable customers under VATA 1994, Sch 4A, para 15. The tax point for each of the payments received by direct debit is the date of receipt as these are continuous supplies of services. Amounts received need to be converted at the appropriate Euro rate of exchange into sterling for subsequent remittance to the UK. You should check that VAT has been accounted correctly on these supplies in addition to liabilities resulting from other sales made to UK consumers.

#### Premier Gold - gifts

The VAT recovery through the cross border refund scheme of VAT on goods provided as incentives needs to be considered closely as only a proportion of the goods have been provided to individuals who subsequently received supplies of games. Where no supply of gaming services was ultimately made there will have been a disposal of business assets. This will create an output liability unless the goods were freely provided and their cost to Placeman was not greater than £50 per person in a 12 month period. You say that the cost for each potential customer's gifts was €120 which is clearly more than £50 (€120 = £108). In the circumstances although your VAT recovery claim is valid you have a potential output tax liability in the UK - but are not required to be registered for VAT in the UK due to your MOSS registration in Luxembourg. Ordinarily, providing the overall value of gifts over £50 does not exceed the registration limit for each year then you would not be required to return any VAT as a consequence of these activities. However as a consequence of legislation introduced following the Schmelz case, *CJEU C-97/09*, this limit is £0 and a higher threshold does not apply to non-established businesses. Because of the potential requirement to have registered for VAT due solely to gifting goods valued above £50 I recommend you should encourage the current owners to disclose the position to HMRC so that we can be sure there are no unexpected liabilities in the event that you purchase Placeman. For completeness, there can be no potential liabilities where goods have been given to customers who have subscribed and paid for services since the input tax incurred can clearly be linked to the gaming supplies subsequently made. The company should continue to account for UK VAT on services under MOSS but also needs to address this aspect regarding the UK VAT treatment of goods.

#### Skateman SARL UK branch

The UK branch is involved in making distance sales to other member states although the values are, with one exception, below annual EU thresholds of €35,000 or €100,000. At these low levels there would be no obligation to register in other member states but the UK branch should have registered and charged UK VAT on supplies made. You should therefore check that UK VAT has been accounted for on these sales. The anticipated sales to Germany are expected to be greater than the higher threshold and would require registration there, however this will only be relevant if you exceed the German threshold before the end of December – it is possible that with management of your receipts and despatch dates you could defer sales into January 2020 and avoid a 2019 registration – you will of course need to continue to account for UK VAT on these sales.

I hope this is helpful and will enable you to make an informed decision on the potential purchase of Placeman SARL. Please do not hesitate to contact me if I can be of further assistance.

Yours sincerely  
 Derek Danum  
 for Trip Ribb Ltd

**MARKING GUIDE**

TOPIC		MARKS
1. Place of supply	Required to account for MOSS supplies made across 5 member states through Lux returns	1
	Tax point of supplies will be date of receipt of card payment from customer for SMS code.	1
2. Premier Gold income	Liability of supplies made for €19.99 pm incl tax point and rate of exchange. Telecommunications, Broadcasting and Electronic Service treatment TBES applies.	2
3. Premier Gold “gifts”	Cross border refund arrangements allowing retention of some VAT claimed but potentially not that relating to gifts over £50 equivalent.	2
	Analysis of treatment of gifts and deemed supply/registration interaction and requirement to register under Sch 1A within 30 days of making gift for which no subsequent MOSS supply is made	2
	Identification that supplies made to Lux head office and not UK subsidiary thereby not precluding cross border refund claim.	1
4. Sales made by Skateman UK branch	Distance sales to OMS below thresholds and liable to UK VAT for which Branch will need to register.	2
	DS sales above threshold may be managed to avoid breaching annual thresholds, otherwise registration required in Germany. Annual threshold reset would allow 2020 sales to start at zero again	2
	Recommendation to disclose any irregularities to HMRC	1
PHS		1
<b>TOTAL</b>		<b>15</b>



#### Q4.

Flyover (1948) Ltd  
c/o 47 Fulton Drive  
Lower Denton  
Oxford OX4 2KK

Timely Went and Co  
The Catacomb  
71B Lowly Road  
Birmingham B19 1AA

5 November 2019

Dear Mr Pilchard

#### Exploiting your photographic archive

Thank you for your letter dated 5 November regarding your Photographic archive. I have addressed your queries in the order in which you have raised them and can advise as follows:

- 1) a) Granting licences to view images on-line is a supply of services for which the place of supply is determined by the status and place of belonging of your customer. In the case of supplies to EU businesses, the place of supply will be in the country in which your customer has established their business and it will be their responsibility to account for any VAT due using the reverse charge mechanism. The exception to this is where the use and enjoyment of the images actually takes place outside the EU in which case the place of supply would be outside the EU and would not be subject to VAT.

To establish that a customer is in business you can usually rely upon your customer providing their VAT registration number issued in their member state, the details of which you can check on-line at the European Commission website. Alternatively, company registration details, bank account documentation or similar commercial evidence can be used to establish business status. For sales to VAT registered businesses in other member states you will also need to complete EC Sales Lists to report the identity and value of sales to such customers.

In contrast, where your EU customer is a member of the public or a non-taxable person, the place of supply is where they belong and you need to account for the VAT at the rate applicable in their country. This can be done by registering for VAT in every member state in which your customers belong or by using the Mini One Stop Shop (MOSS) scheme by registering to use it in the UK – this is dictated by you having to register in the country in which you are established irrespective of whether or not you make supplies to customers in that country. If you were to use this option you would be allowed to make sales to UK individuals without having to charge UK VAT providing UK sales were below the annual turnover threshold.

When similar supplies of images are made to non-EU individuals the VAT treatment will be regarded as outside the scope of UK VAT and no UK VAT needs to be accounted for.

b) If you make a sale for private purposes to a business person belonging in another member state in which you are not yet registered for VAT you would need to do immediately as there is no VAT registration threshold for non-established businesses. If you decide that MOSS is a more suitable alternative, you must register for MOSS in the UK by the 10th day of the month following the month of your first sale. Once registered for MOSS you may make sales to customers in many member states without a continuous need to advise numerous tax authorities that you are liable to register. There are penalties for late registration for MOSS so I recommend you decide which of the two options will be most suitable before making any sales.

c) The costs of website maintenance will be made without French VAT being charged providing that you can show your supplier that you are in business in the UK. It isn't dependent upon you being registered for VAT in the UK, so that is not a critical aspect. I recommend that you provide a letterhead, bank business account documentation or company registration certificate as evidence of your business status. However, if you have not registered for UK VAT because you favour registering in each member state in which you make supplies, the value of supplies purchased from your wife's company, along

with any other supplies of reverse charge services purchased from non-UK suppliers will count towards your UK taxable turnover and may require you to register for UK VAT if your supplies exceed £85,000 in a 12 month period. You may wish to closely monitor and manage the value of services you are purchasing from overseas suppliers as you can inadvertently become liable to register for UK VAT solely as a result of this activity.

- 2) The potential sale of your image archive would be a disposal of the company's assets and if made following the company registering for UK VAT and being able to show that there was an active business in existence (either using MOSS records or registrations in other countries), the sale of assets could be made VAT free as a Transfer of a going concern (TOGC). If you were not already registered for UK VAT a sale of assets would not require you to become registered. As a non-VAT registered business, the photo archive could be sold without you charging UK VAT and no further UK VAT issues should arise for your company.
- 3) You will need to demonstrate where your customer belongs for each image licensing sale that you make to a non-taxable person. This is important to allow you to declare VAT for the correct country. The most practical way to decide where your customer belongs is to use the guidance in the EU Implementing Regulations which allows you to presume that your customer belongs in the country determined by two of the following three features: IP address, SIM card identity and bank details. Providing that you can show that you have followed the guidelines and can evidence that you have made no sales to customers belonging in the UK as determined by these indicators you will have no UK VAT liability.

I hope this advice is helpful to allow you to make a final decision about your business and the VAT issues associated with its proposed future activities.

Please do not hesitate to contact me if I can be of further assistance.

Yours sincerely

For Timely Went & Co.

## MARKING GUIDE

TOPIC		MARKS
1. Licences to EU businesses and individuals and non EU individuals	Overview of VAT supply position of digital images	1
	Supplies to EU businesses without UK VAT but subject to reverse charge and ESL reporting.	1
	Options of registration in each customer's member state or Union MOSS scheme in the UK due to establishment being here.	2
	Supplies for private/non-business purposes to businesses or those unable to provide VAT registration to be treated as B2C and require immediate registration or MOSS	1
	Outside the scope supplies determined by location of customer outside EU – evidence requirement	2
.2. Sales in advance of registration	Sales made to customers in EU member states require immediate registration. If MOSS is to be used deadline is 10 <sup>th</sup> day of month following the month of sale.	2
	MOSS attractive as it doesn't require numerous notifications each time a sale to a customer in a new market is made.	1
	Possibility of penalties if late registration(s) made	1
3. Website maintenance charge	No VAT charge into UK if able to show in business (not dependent on holding UK VAT registration).	1
	However – purchases of such services contribute to taxable turnover and may require registration if exceed £85,000 in a 12 month period. Manage website and other overseas costs.	1
4. Sale to overseas purchaser	Rules for TOGCs, dependent on a going concern so needs to be trading/revival of business.	2
	VAT registration waiver as capital assets. No VAT to be accounted for on sale.	1
5. Customer location	Correct tests to apply and rebuttable presumptions	2
PHS		2
<b>TOTAL</b>		<b>20</b>

**Q5.**

From: tony.smith@customscta.co.uk  
To: joanne.taylor@britishstuffltd.com  
Subject: Export declaration processes  
Date: 5 November 2019

Joanne

Thank you for your email, I will explain your options below.

1) Full Entries

Anyone can make full declarations to HMRC, no authorisation is needed.

The full entry declaration containing all the information relating to the export is legally lodged when the goods arrive at the port. You may submit the full declaration at the time of the arrival; although it is usually more convenient to “pre-lodge” the declaration with most of the information and to just notify HMRC that the goods have arrived at the port; which formally lodges the declaration.

[1 mark]

2) Simplified Procedures

You must apply to HMRC for an authorisation to use any simplification. They will consider your record of compliance; whether you export regularly; have documented procedures and good records. If you meet these conditions, an authorisation will be granted. Depending on the simplification applied for, HMRC will consider your compliance with different Authorised Economic Operator – Customs Simplifications (AEOC) criteria.

[1 mark]

(a) SDP – Simplified Declaration Procedure

This allows you to submit a pre-shipment entry, or pre-shipment advice, with minimal information before the goods leave the UK. You must submit a full supplementary declaration, containing the same information as would have been on a full entry, within 14 days of the goods being shipped.

[1 mark]

(b) EIDR – Entry In The Declarant’s Records

This is similar to SDP but has more stringent conditions attached. The pre-shipment advice must be made electronically in your records. A full supplementary declaration is required 14 days after the goods have been shipped.

There are also restrictions on the types of goods which can be declared such as electricity, goods transported in pipelines and aircraft parts which mean that this is unlikely to be of use to you.

[1 mark]

(c) CSE – Customs Supervised Exports

CSE allows you to have any physical examination of your goods, carried out for fiscal rather than anti-smuggling purposes, carried out at your premises before the goods are shipped.

[1 mark]

You may either submit full pre-shipment declarations or use SDP, if authorised.

[1 mark]

Recommendation

When you export goods, you will know what goods you are exporting; who your customer is and so on; so you are able to supply all this information before the goods are shipped.

Using SDP would require you to submit two declarations, as above, which is a greater administrative burden with no obvious benefit.

[1 mark]

EIDR is too restrictive to be useful to many businesses and has few benefits, so I would not recommend this. CSE can be useful where your goods are frequently stopped for examination at the port, if this is not the case, then it is of no benefit.

[1 mark]

CSE requires to you hold the goods for a set period at your premises during which HMRC may examine them – this brings an extra administrative burden. Unless your goods are frequently stopped for fiscal examinations, CSE is unlikely to be of any benefit to you.

I would recommend that you use the full declaration procedure.

[1 mark]

I hope that this answers your query.

Regards  
Tony

PHS

[1 mark]

## MARKING GUIDE

TOPIC	MARKS
<u>Full Entries</u>	
Anyone can make full entries – no authorisation required. All information is lodged when goods arrive at port. May pre-lodge and notify “arrival”.	1
<u>Simplified Procedures</u>	
Must apply for authorisation. HMRC will consider compliance; whether export regularly; whether you have documented procedures and good records.  If satisfied HMRC will issue authorisation.	1
<u>SDP – Simplified Declaration Procedure</u>	
PSA with minimal information before export.  Within 14 days of export – rest of information.	1
<u>EIDR – Entry In The Declarant’s Records</u>	
Similar to SDP with more conditions. PSA is made electronically in records.  Restrictions on types of goods it applies to means it is unlikely to be of any use.	1
<u>CSE – Customs Supervised Exports</u>	
Physical exam for fiscal purposes will be carried out at your premises before shipped.	1
SDP or Full Declarations may be submitted.	1
<u>Recommendation</u>	
Use full declaration procedure.  You know what you are exporting and where goods are going so can submit full declaration.  SDP adds extra administration.	1
EIDR is too restrictive.  CSE can be useful if goods are examined frequently, otherwise it just adds delays while you hold goods.	1 1
PHS	1
<b>TOTAL</b>	<b>10</b>

**Q6.**

Ray Johns  
Tobacco And Jacket Ltd  
7 High Street  
Farnborough  
GU12 3RD

Martin Tevis  
CTA Advisers  
1 Short Lane  
Guildford  
GU1 1SE

8 November 2019

Dear Ray

Re: Amounts due at import

Thank you for your letter dated 2 November 2019.

The Customs Duty is calculated on the "Customs Value". In your examples this is made up of the invoiced cost of the goods plus freight and insurance to the EU border. Import VAT is charged on the 'Import VAT value'. This is made up of the Customs Value, the Customs Duty, Excise Duty and any freight from the EU border to your premises.

[1 mark – Customs / VAT]

Where you supply any item to the manufacturer of the jacket free of charge, the amount you paid for the item must also be added to the Customs Value, in your case this is the labels which are attached to the smoking jackets.

[1 mark]

Here are the amounts that you would need to pay based on the figures you supplied:

Example 1 – Smoking Jackets

CUSTOMS VALUE	£
Invoice for Goods:	150,000
Value of Assist: (20,000 * 0.10)	2,000
Freight to EU Border:	3,000
Insurance:	150
Sub-total Customs Value	<u>155,150</u>
Duty at 8%	12,412
VALUE FOR VAT	
Customs Value	155,150
Duty	12,412
Inland Freight:	300
Sub-total Value For VAT	<u>167,862</u>
VAT at 20%:	33,572
Total Payable:	<u>£45,984</u>

Example 2 – Pipes

CUSTOMS VALUE	£
Invoice for Goods:	300,000
Freight to EU Border:	1,500
Insurance:	30
Sub-total Customs Value	<u>301,530</u>
Duty at 2.7%	8,141
VALUE FOR VAT	
Customs Value	301,530
Customs Duty	8,141
Inland Freight:	150
Sub-total Value For VAT	<u>309,821</u>
VAT at 20%:	61,964
Total Payable:	<u>£70,105</u>

Example 3 – Hand-rolling tobacco

CUSTOMS VALUE	£
Invoice for Goods:	2,250,000
Freight to EU Border:	10,000
Insurance:	1,000
Sub-total Customs Value	<u>2,261,000</u>
Duty at 74.9%	1,693,489
EXCISE CALCULATION	
30,000 * 221.18	6,635,400
VALUE FOR VAT	
Customs Value	2,261,000
Customs Duty	1,693,489
Excise Duty	6,635,400
Inland Freight:	1,500
Sub-total Value For VAT	<u>10,591,389</u>
VAT at 20%:	2,118,278
Total Payable:	<u>£10,447,167</u>

Example 4 - Cigarettes

There are several elements to the cigarette duty calculation which make it quite complex. The Customs Duty is calculated separately from the Excise Duty and is based on the normal Customs valuation. The Excise Duty calculation requires you to carry out the two calculations and pay the higher figure. This is because there is now a minimum amount of excise duty due at import.

[1 mark Customs / Excise]



You have to identify the “retail price”; this is the higher figure of the recommended sale price in the UK or the price shown on the packaging. If neither of these figures is available, the highest price at which the cigarettes are normally sold is used.

[1 mark - Excise]

The Excise Duty calculation is then either 16.5% of this retail price plus the fixed amount of £217.23 per 1,000 cigarettes or £280.15 per 1,000 cigarettes; whichever is higher.

[1 mark - Excise]

It is important to note that the Excise Duty calculations are based on a cigarette of 8cm length (ignoring the filter or mouthpiece) and each extra 3cm or part of 3cm is counted as an additional cigarette. So, a pack of 20 cigarettes that are 12cm long, for duty purposes is counted as up to 60 cigarettes, depending on the length of any filter.

[1 mark - Excise]

#### Leather Tobacco Pouches – Price Reduction

The Customs Value for these going forward will be £8 as this is the price paid or payable and this includes freight and insurance.

[1 mark]

As the detail of the price reduction was included in your original contract and you have received a rebate of £2 per item, you may make a repayment claim to reclaim the overpaid Customs Duty and include goods on entries made in the last three years as the price paid or payable has now reduced.

[1 mark]

You will not be able to reclaim any overpaid Import VAT, as a VAT registered business you will already have reclaimed this through your VAT returns and so HMRC will not repay it again.

[1 mark - VAT]

Please let me know if I can be of any further assistance.

Yours sincerely

Martin Tevis

PHS

[2 mark]

## MARKING GUIDE

TOPIC	MARKS
Customs Duty is calculated on Customs Value: Invoice plus freight and insurance.	1
VAT on Customs Value plus Duties	
When supply an item to seller FOC, its value must be added to goods – as with labels here.	1
<u>Example 1 – Smoking Jackets</u>	
Customs Value £155,150	1
Duty £12,412	1
Value for VAT £167,862	½
VAT £33,572	½
<u>Example 2 – Pipes</u>	
Customs Value £301,530	1
Duty £8,141	½
Value for VAT £309,821	½
VAT £61,964	½
<u>Example 3 – Hand-rolling tobacco</u>	
Customs Value £2,261,000	1
Customs Duty £1,693,489	½
Excise Duty £6,635,400	1
Value for VAT £10,591,389	½
VAT £2,118,278	½
<u>Example 4 – Cigarettes</u>	
Customs Duty calculated as normal based on Customs Value.	1
Excise Duty calculation requires two calculations – pay higher – minimum excise duty.	
“Retail price” is higher of RRP or price on packaging. If neither available used use highest price sold at.	1
Duty due is higher of 16.5% plus fixed amount of £217.23 or £280.15 per 1,000 cigarettes.	1
These are based on 8cm cigarette. Each extra 3cm = another cigarette. 20 * 12cm could be counted as 60 cigarettes depending on length of filter.	1
<u>Leather Pouch Price Reduction</u>	
Customs Value going forward is £8 – price paid or payable.	1
As detail of reduction was in contract can make a repayment claim for entries in last three years.	1
Can't reclaim Import VAT – already reclaimed through VAT return and won't be repaid again.	1
PHS	2
<b>TOTAL</b>	<b>20</b>