



The Chartered Tax Adviser Examination

November 2019

Cross-Border 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.
- 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 Ross Gibb, employed in a firm of Chartered Tax Advisers and your client is Sudporte Partners LLP, a firm of lawyers. You have received the following letter from Guy Sudporte who would like your advice in relation to one of his clients, Mr Pile.

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

Sudporte Partners LLP
10 King Street
London
WC2 6BF

26 October 2019

Dear Ross

Classic Car Venture

We act for George Pile who was a member of a famous band and remains a celebrity. He is also well known as a classic car enthusiast.

Mr Pile has been approached to invest, as a “sleeping” partner, in a new VAT registered partnership that will source, import, restore and sell classic cars of US, European and UK origins, all between 20 and 25 years old. Since he will take on personal liability as a partner, he has asked us to undertake due diligence work on the partnership. Little thought seems to have been given to the VAT implications of the proposals for the partnership and we should therefore like your advice in this regard.

Whilst some cars may have originated in the EU, all cars to be acquired by Mr Pile will be sourced from outside the EU. Some of the cars will require more significant restoration, which will take place in the country in which the car is purchased before shipment to the UK. Other cars will be worked upon by third party UK garages following their arrival in the UK. A small proportion will be shipped to Ireland for specialist bodyworks following their arrival in the UK and will be returned to the UK afterwards.

We anticipate most cars will be sold on to members of the public in the UK and we need to know how VAT will apply for all of these import, restoration and sale arrangements. We understand that approximately half of all cars handled will be sourced to order for a fee charged by the partnership which will then act as agent for the EU individual buyers (non-taxable persons) in arranging import and restoration services. The remainder will be bought speculatively and sold in the UK directly by the partnership as trading stock.

It is likely that Mr Pile will be asked to promote the business overseas by accompanying some of the most prestigious restored cars on tour to France to raise awareness of the business and gain further orders. These cars will be held out for sale throughout this time and will be returned to the UK if unsold after six months. Mr Pile does not intend to charge a fee for his services.

I look forward to hearing from you.

Yours sincerely

Guy Sudporte
Sudporte Partners LLP

Requirement:

Write a letter to your client advising the VAT aspects of the proposed activities.

(20)

2. You are Imogen Green, the Indirect Tax Manager at a large specialist plant hire and construction group based in the UK with a subsidiary in France. You have received the following internal memo:

To: Imogen Green, Indirect Tax Manager
From: Kerry Blanche, European Operations Director
Subject: Forthcoming projects
Date: 1 November 2019

Dear Imogen

I would appreciate your advice on the VAT aspects of three major projects that we will soon be engaged in as part of our overseas division operations.

Repairs to Harbour Wall, Stanley, Falklands

Our client, a Dutch established civil engineering group, will be leasing specialist construction plant from us and will require us to transport our equipment from the UK to the Falklands where it will go "on contract" following Customs clearance there. The contract for hire specifies that our equipment will be placed at the disposal of the client, without operatives, and at their risk throughout the hire period.

Airport Runway and Ancillary Works, Heathrow Airport, London

Our client, Crewdrift Inc, is established in the US and has a small London office which negotiates and manages contracts for hire and leasing services across the Europe, Middle East and Africa region.

We have just been engaged to undertake two contracts for Crewdrift Inc at several European airports, including in the UK. Both contracts have been allocated to our specialist French established subsidiary, Routaire SA.

The first contract will involve Routaire SA providing plant (without operatives) for laying tarmac. This contract will be managed by our client from their London office.

The second contract will be to fabricate and install safety barriers and to install ground lighting at Heathrow airport. This contract will be entered into and managed by our client from its New York head office. Routaire SA's main concern is whether it needs to register for VAT in the UK.

Autobahn Tarmac Laying, Stuttgart

The client for this contract is Kugelem GmbH, a civil engineering contractor. This is anticipated to be a lengthy project which will take approximately 18 months to perform and will require us to have machinery and operatives on site throughout. There will be substantial costs related to us providing staff accommodation near to the works, as well as the costs to us of setting up a temporary office to manage the contract on behalf of Kugelem GmbH.

Can you please provide me with advice on how each of these contracts will be treated for VAT purposes including any reporting requirements that we will need to comply with?

Yours sincerely

Kerry Blanche
Ops Director

Requirement:

Write an email to Kerry Blanche advising on the VAT treatment of the contracts and on any reporting requirements to be complied with. (15)

3. You are Derek Danum, a Chartered Tax Adviser working for a UK legal adviser, and have received the following letter from Kurt Munderman, Chief Financial Officer, at a client, Genusgames Inc, a games company based in the US:

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

Genusgames Inc
Met Center
24954 Main St
Denver CO

30 October 2019

Dear Sirs

Due Diligence – Placeman SARL

We are in the early stages of discussions for the acquisition of Placeman SARL, a digital games developer, which has established and operated its business from Luxembourg since starting up in 2015. Placeman SARL has been registered for the EU Mini One Stop Shop scheme (MOSS) from its first day of trading.

Placeman SARL develops free mobile phone apps and also sells games which can be played on its free apps. Its customer base extends across five EU member states, including Luxembourg and the UK. Games can be purchased individually by credit or debit card payment. The customer will then receive a text code by SMS or “scratch-off” voucher which enables them to start playing the game for a specified period of time.

For UK customers only, an offer was introduced in 2017 of “Premier Gold” membership in which three months free gaming is given to new customers who enter into an agreement to pay €19.99 per month by direct debit. The first payment is taken at the end of the “free” three month period.

During their first three months of membership, new “Premier Gold” customers are provided with phone accessories and goods to promote gaming which have a cost to Placeman SARL of €120. We have been informed that approximately 35% of new customers cancel their agreements before making their first payment, however we understand they have been allowed to keep any “free” goods that may have been provided to them before the date of cancellation. Placeman SARL’s head office has been arranging purchase and recovering the VAT incurred in the UK on the purchase of these goods via the EU cross border refund scheme.

Placeman SARL has a wholly owned subsidiary, Skateman SARL, which has a small UK operation run from a UK branch which sources, sells and delivers gaming wallcharts to non-taxable customers in other member states. All annual sales have been below €30,000 in each member state, although the branch appears likely to sell over €105,000 of goods in Germany in the current year due to Christmas orders for next year’s wallcharts.

Continued

3. Continuation

We would like you to consider the main VAT issues for Placeman SARL and Skateman SARL and report to us how these VAT matters should have been managed. We would be particularly concerned if there are VAT liabilities that may need to be paid in the future as this would affect the price we would pay for the business.

I look forward to hearing from you.

Yours faithfully

Kurt Munderman
CFO Genusgames Inc

Requirement:

Write a letter to Kurt Munderman advising on any VAT issues in relation to Placeman SARL and Skateman SARL.

You should assume an exchange rate of £1 = €1.11. (15)

4. You are an indirect tax adviser working in an accountancy practice and you have received the following letter from your client.

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

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

5 November 2019

Dear Sirs

Exploiting our Photographic Archive

As you may be aware, our family business, Flyover (1948) Ltd, ceased trading three years ago but still owns and retains an extensive archive of aerial photos taken in the 1970s and 1980s of French coastal resorts.

At a previous meeting three months ago, the company directors decided to try to commercially exploit the archive of photos, which is its only asset, by making images available on-line for time limited access and outright purchase, through granting licences for their use. The main demand is likely to be from overseas customers but there may be some demand for the images from UK individuals. The UK market is very competitive so we don't wish to re-register for VAT.

There were a number of areas we discussed, the most important of which require your input. Could you therefore please provide us with your advice on the following?

- 1) What is the VAT treatment of:
 - (a) Licences granted to EU individuals, EU businesses and non-EU individuals to view the images on-line.
 - (b) The purchase of an image for non-business purposes by an EU business established in a country in which we are not registered.
 - (c) Monthly payments to a French IT company to manage the website. In case it is relevant, my wife is a majority shareholder of this IT company.
- 2) It is possible that the company may sell the entire image archive to an overseas customer as a going concern within the next 12 months. Are there any VAT issues if we do this?
- 3) Obviously, with online image sales, it is sometimes difficult to establish where our customers belong. How do we overcome this?

I look forward to hearing from you.

Yours faithfully

Paul Pilchard
Chairman

Requirement:

Write a letter to Paul Pilchard advising on the VAT treatment of the proposed activities and specific points raised. (20)

5. You are Tony Smith, the Customs Duty specialist at a firm of Chartered Tax Advisers and your client is British Stuff Ltd. You have received the following email from Joanne Taylor, the Finance Manager at British Stuff Ltd.

From: joanne.taylor@britishstuffltd.com
To: tony.smith@customscta.co.uk
Date: 02/11/2019
Subject: Export declaration process

Dear Tony

As you know, we export EU-manufactured car parts by sea to many countries and use an agent who submits the export declaration to HMRC when the goods arrive at the port. All of our exports travel directly from the UK to third countries. Since the goods that we export are in Free Circulation, we do not use any Customs reliefs.

As part of a general review of business processes, we are considering bringing the declaration process in-house. I have researched the different means for submitting the electronic declarations to HMRC, such as through the web or by email; so I do not need advice on this aspect. Where I am less clear is in relation to the precise declaration procedures we should use. What would you advise?

Regards

Joanne Taylor
Finance Manager

Requirement:

Draft an email to Joanne Taylor advising on the export declaration procedure which should be used by British Stuff Ltd. (10)

6. You are Martin Tevis the indirect tax specialist at a firm of Chartered Tax Advisers. You have received the following letter from Ray Johns, Finance Director at one of your existing VAT registered clients, Tobacco And Jacket Ltd.

Martin Tevis
CTA Advisers
1 Short Lane
Guildford
GU1 1SE

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

2 November 2019

Dear Martin

Amounts Due at Import

As you know, we retail tobacco and smoking products in the UK. We currently buy all products except for our leather tobacco pouches from UK suppliers duty paid.

We have the opportunity to start importing some of our other products (as outlined below) directly. We would want to import them directly to free circulation without using any storage duty reliefs.

Before we undertake a trial period for importing directly, we would like some advice from you on the correct amounts of taxes due at import so that we can compare costs against sourcing similar goods duty paid.

Here are some examples of amounts for potential imports (all numbers are in £ sterling except where stated):

Smoking Jackets

	£
Cost of goods: 20,000 smoking jackets	150,000
Freight to EU Border	3,000
Insurance to EU Border	150
Freight from EU border to our premises	300

Customs Duty Rate 8%

In addition, we would need to buy labels to brand the jackets from another supplier at a cost of £0.10 each. We would send these to the manufacturer who would sew them into the jacket. The cost of the jackets includes the charge to sew the labels in the jackets.

Pipes

	£
Cost of goods	300,000
Freight to EU Border	1,500
Freight from EU Border to our premises	150
Insurance to EU Border	30

Customs Duty Rate 2.7%

Hand-Rolling Tobacco

	£
Cost of goods: 30,000 kg hand-rolling tobacco	2,250,000
Freight to EU Border	10,000
Inland Freight	1,500
Insurance to EU Border	1,000

Customs Duty Rate 74.9%
Excise Duty Rate 221.18 per kg

Continued

6. Continuation

Cigarettes

We have been considering importing some cigarettes from the US. They are longer than normal cigarettes, being 12 cm long. Could you explain to me how the Duty calculation for cigarettes works; what in practice is the "retail price" and why are there two Excise Duty calculations?

Customs Duty Rate	57.6%
Excise Duty Rate	16.5% of the retail price plus £217.23 per 1,000 cigarettes or £280.15 per 1,000 cigarettes

Leather Tobacco Pouches

As stated above, we already import leather tobacco pouches. An import agent has handled the arrangements for these.

When we entered into this contract we agreed to buy these at £10.00 each, including freight and insurance to the EU frontier. This is the value that our agent has declared.

The contract included a provision that if we bought 2,000 in a two-year period, the price for all the pouches would drop to £8.00. We didn't take much notice of this as we did not expect them to sell well. To our surprise, they have and we have now received a rebate of £4,000 from our supplier.

What Customs Value should we declare for these pouches going forward? Does this affect the Customs Value of the pouches we have declared so far?

I look forward to your reply.

Yours sincerely

Ray Johns
Finance Director

Requirement:

Write a letter to Ray Johns answering his queries and setting out the Duties and VAT due at import. (20)