Chartered Institute of Taxation
Excellence in Taxation

The Chartered Tax Adviser Examination

May 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 table information, you may assume that 2018/19 rates and allowances continue to apply for 2019/20 and future years. Candidates referring to actual or pending rates and allowances for 2019/20 and future years will not be penalised.

1. You are a VAT adviser in a firm of Chartered Tax Advisers. Gordon Smith, the Finance Director of a new client, Find-a-Deal Ltd, has called you to request written advice regarding the VAT and Insurance Premium Tax treatment of its existing and proposed income streams.

Find-a-Deal Ltd started trading two years ago and offers customers a comparison service for insurance products and utilities (domestic electricity, gas and telephone) via its website. It generates income from 'click-throughs' so that when a customer clicks through from Find-a-Deal Ltd's website to an insurer, broker or utility's website, Find-a-Deal Ltd is paid a commission by the owner of that website for the introduction, regardless of whether a contract is entered into by the end customer. All of the parties are established and operate in the UK only.

To date the client has treated all of its services as standard rated for VAT. Gordon wishes to understand if this is correct and if there are any reliefs available to avoid a standard rated charge on the various intermediary supplies (including utilities and insurance). Find-a-Deal Ltd is not registered for Insurance Premium Tax and Gordon wonders whether this is correct.

In the case of insurance products, Find-a-Deal Ltd gathers certain information from its customers in order to assess their needs; refer them to insurers or brokers offering a range of competitive products, and to direct customers effectively and efficiently to the most appropriate insurers. Find-a-Deal Ltd appraises and selects insurers/brokers according to the competitiveness of their pricing and products and their level of consumer service. Find-a-Deal Ltd has seen a rapid increase in the number of customers using its website in the last year, and this success is attributed to the discount prices which Find-a-Deal Ltd has negotiated with many of the insurers on its panel. Find-a-Deal Ltd is not involved in intermediation of the contracts themselves or in helping to set the terms of the insurance contract or any subsequent claims handling. Indeed, it does not receive information from the insurer or broker to confirm whether a contract of insurance has subsequently been entered into by the customer, as it receives its fee in any case when the click-through takes place. There will often be more than one intermediary in the chain of transactions leading to a supply of insurance to a customer, for example Find-a-Deal Ltd refers to a broker who then in turn refers the customer on to an insurer (or indeed another broker in the chain).

In the case of utilities, Find-a-Deal Ltd compares the various deals offered by utility companies that can supply the customer (based on that customer's address) and makes a recommendation taking account of the customer's likely energy or telephone use.

Find-a-Deal Ltd is also considering introducing a credit card comparison service on its website and has asked for advice on the VAT treatment of this service. Find-a-Deal Ltd will offer this service on the same basis as the comparison for insurance products, performing the same introductory services, and will be remunerated by commission from the credit card provider after a potential customer clicks through from Find-a-Deal Ltd's website.

Requirement:

Write a letter to Gordon Smith advising on the VAT and Insurance Premium Tax implications of Find-a-Deal Ltd's activities. (15)

2. You are Alison Moss, the VAT Manager at Office Master Direct UK Ltd, a fully taxable company selling office supplies to business customers. The Head of Finance, Barbara Ralph, has notified you that the business intends to offer cars to employees of Office Master Direct UK Ltd under an in-house finance plan, and that the scheme is intended to “go live” next month.

The new cars will be offered to sales team individuals by way of 24 equal monthly instalments (which in total represent 60% of the cost of the vehicle) and a further ‘option to purchase fee’ at the end of the term (which represents the remaining 40% of the cost of the vehicle plus a small profit).

Office Master Direct UK Ltd will also make a separate interest charge on top of the monthly instalments, the value of which will be disclosed to the hiring employee. The interest will be set at a level to cover Office Master Direct UK Ltd’s cost of financing the offering plus a small profit. An extract from the proposed contract for the finance plan is provided below, and the client has asked for your advice on the correct VAT treatment of the arrangements, including when VAT should be accounted for in Office Master Direct UK Ltd’s VAT return.

If the hirer pays to Office Master Direct UK Ltd the Option to Purchase Fee specified in clause 3 hereof, then the hiring shall come to an end and the vehicle shall become the property of the hirer. The hirer shall have the option of purchasing the vehicle at any time during the period of hiring by paying in one lump sum the balance of all the hire payments in addition to the Option to Purchase Fee. Until all such payments have been made, the vehicle shall remain the property of Office Master Direct UK Ltd. If the hirer does not pay the Option to Purchase Fee then the vehicle must be returned to Office Master Direct UK Ltd.

Barbara Ralph does not expect that many employees would pay the ‘option to purchase fee’ (as it is likely to be above the open market value of the vehicle at the time) and consequently, the majority of the cars are expected to be retained by Office Master Direct UK Ltd, and then sold to third parties. Office Master Direct UK Ltd will incur costs in undertaking a service of the car when it is returned, before making the onward sale.

The company will cover the cost of repairs during the course of the finance plan and fuel for business trips only (to be claimed by employees through the expenses system).

Requirement:

Write an internal memo to the Head of Finance explaining the VAT implications of the proposed car finance plans, referring to case law where relevant. (15)

3. You are Joan Brown, and work for Sobaka LLP, a firm of Chartered Tax Advisers. You have received the email below from Arthur Prince, the Finance Director at Weatherburn plc. Weatherburn plc produces “kit cars”, which are sold to enthusiasts who build the cars themselves using a mixture of new components (some of which are supplied by the company, either as part of the kit or separately) and parts from a donor vehicle.

To:	jbrown@sobakallp.co.uk
From:	arthur.prince@weatherburn.co.uk
Date:	28 April 2019
Subject:	Artomodini Ltd

Dear Joan

As you know, we have been looking for opportunities to make Weatherburn plc more profitable. We have an opportunity to buy the car and van dealership run by Artomodini Ltd. It sells new cars and vans and offers servicing and repairs for any make of car or light van. As well as the new car sales, the company has a second-hand car business, selling mainly “trade in” vehicles. We are being offered a choice between buying the company from its shareholders, or its trade and assets. Either way, the asking price is in the region of £10 million.

I am advised that the freehold site that the company trades from is worth about £4 million and we would also acquire the stocks of new and used cars, spares, tools and so forth as part of the deal, and most of the staff are expected to stay with the business upon transfer. Artomodini Ltd offers finance deals with the cars and vans that it sells (I understand that the actual finance is provided by a third party and Artomodini Ltd receives a commission) and offers insured warranties and arranges motor insurance as well.

Our lawyers are advising on the staff transfer position and your colleagues Jeff Singh and Lynda Plant are advising us on the direct tax and the financing aspects of the potential deal. However, I would appreciate your advice on the VAT and stamp taxes issues that the proposal may pose.

During discussions with one of the directors of Artomodini Ltd, I was told that there were VAT problems with HMRC over altering the values of trade in vehicles and those being sold) and “partial exemption”. I would welcome your views on this, and whether it might be a problem for us once we buy the business.

I shall look forward to hearing from you soon.

Kind regards

Arthur

Requirement:

Draft an email to Arthur Prince addressing the issues raised in his email. (15)

4. You are Arthur Smith, an indirect tax adviser at Anytown Accountants LLP, a firm of Chartered Accountants. You have received the following email from Charles Cooper, the Chief Financial Officer at Anytown Council.

From: ccooper@anytowndc.gov.uk
To: arthursmith@anytownaccountants.co.uk
Date: 30 April 2019
Subject: Possible VAT refund claim

Dear Arthur

Following our telephone conversation last week about the implications of the London Borough of Ealing case, I have given further thought to the matter and I would now appreciate some advice on whether we should make a claim for a refund of the VAT charged on admission to the Council's swimming pools, use of tennis courts, squash courts, football and rugby pitches and so forth.

As you know, we currently reclaim all the VAT we incur as HMRC Notice 749 confirms that local authorities can treat exempt input tax as "insignificant" (and recoverable in full) if it is less than the greater of £7,500 or 5% of the total VAT on costs. Not only does this produce very beneficial recoveries for the Council but it also means we don't have to bother with Capital Goods Scheme adjustments.

As requested when we spoke about this, I have set out below some summary information about the Council's income and costs over the last four years. We can probably produce a more detailed analysis but this may be a time consuming exercise.

Year Ended	Income from admission to and use of sports facilities	Costs attributed to sports facilities	Costs attributed to exempt business activities (property letting, etc.)	Total VAT reclaimed
	£	£	£	£
31 March 2019	350,000	250,000	190,000	1,500,000
31 March 2018	325,000	200,000	180,000	1,280,000
31 March 2017	325,000	245,000	200,000	1,550,000
31 March 2016	275,000	1,500,000	210,000	2,000,000

The income figures include charges for spectators as well as those swimming or playing other sports at the various sites and are inclusive of VAT.

Costs are also VAT inclusive (all at the standard rate) and exclude wages and salaries and other "non-Vatable" costs.

The sports facility costs in the year to 31 March 2016 include £1,250,000 in the three months to 30 June 2015 relating to a new swimming pool complex. The new pool opened on 25 June 2015.

I would welcome your advice on any action we should take in relation to VAT on these charges.

Kind regards

Charles

Requirement:

Draft an email to Charles Cooper advising on VAT issues following the London Borough of Ealing case. (20)

5. You are Charlie Starke, an indirect tax adviser in a firm of Chartered Tax Advisers and your partner, Del Hurrier, has been asked to give advice to an existing client, Windtunnel Ltd, on three proposals which they have for changes to the way they run their business. Windtunnel Ltd is a UK food manufacturer which also runs a number of retail coffee and catering outlets.

The first proposal concerns a new sports drink product being launched for sale in a reusable "bottle for life" made from an innovative plastic alternative, which when eventually disposed of, will be environmentally friendly. The intention is that customers will use the bottles at gyms, festivals etc., rather than using plastic water and sports bottles. The business is keen to gain confirmation that the sports drink when sold wholesale to national UK supermarkets and sports chains will be zero rated and has asked you to comment on this. The business is uncertain about the actual lifespan of the bottles and have therefore decided to take out an insurance policy as free replacements will be provided if they need to be replaced within a two year period. If the cost of replacing bottles or refunding customers exceeds £200,000 in the first year, the policy will pay Windtunnel Ltd the excess. The premium for the insurance is expected to be £50,000 for the first year and will be paid in two instalments on 1 June 2019 and 1 December 2019.

If the “bottle for life” concept is successful, the second proposal is to extend it to the hot drinks served in their catering business, by offering customers a branded “mug” at a small charge, which they can then reuse, again it will be replaced if damaged. In conjunction with this, they are considering two options which they hope will increase the take up of the mug and help to reduce plastic waste.

The first option is to charge customers an “environmental contribution” of 15p if they want a hot drink in a disposable plastic cup, in addition to the standard charge for a hot drink. They will be passing the proceeds from the charge to an environmental charity and wish to be advised how they should treat the charge to the customer and the payment to the charity for VAT purposes. The initial thinking is that the contribution should be voluntary, but it could become compulsory if necessary/desirable.

The second option is to give customers a reward of 25p per hot drink if they bring their own suitably sized mug or cup and don't require a plastic one. The reward will be credited to a gift card which can be used against future purchases by the customer at any of the company’s outlets.

The third proposal is that the company would like to offer employees up to five free hot drinks each day they are at work and use their own mug.

Requirement:

Write a memo to your partner, Del Hurrier, discussing the indirect tax issues relating to the three proposals. (20)

6. You are the in-house indirect tax manager at a property development group and have received the following email from the Commercial Director in respect of a new development:

To: tbiggsinhousevat@pdco.uk
From: comdirpdco@pdco.uk
Date: 25 April 2019
Subject: Tax issues – Project Broadsword

Dear Teresa

Can you please advise me of the correct tax treatment of two aspects of our proposed commercial office development - "Project Broadsword"?

Firstly, the contract for the purchase of the land contains an "overage" clause which may require our group to pay an additional £5,000,000 to the seller of the land in the event that more than 20 tenants commit to taking leases before practical completion of the building, expected to be November 2020. Any "overage" consideration will be payable on 30 November 2020 and will be in addition to the £35,000,000 to be paid to acquire the land in June 2019. I am solely interested in the Stamp Duty Land Tax treatment of the additional consideration.

The second aspect concerns two options which we may offer to prospective tenants, one of which is a bank. The first option will be a cash incentive if they enter into a lease of more than 10 years. The bank will be offered a greater cash incentive on condition that we can use its name in marketing to encourage others to take leases. The second option is to make a payment towards fitting out costs for specific works which are required or wanted by the tenant (some of which would normally be incurred by the landlord).

I look forward to hearing from you.

Yours sincerely

Tim Nice-Burt

Commercial Director

Requirement:

Write an email to the Commercial Director explaining:

1) The Stamp Duty Land Tax treatment of the potential overage payment. (4)

2) The VAT and Stamp Duty Land Tax treatment of each of the options being considered for prospective tenants. (11)

Total (15)