Chartered Institute of Taxation
Excellence in Taxation

The Chartered Tax Adviser Examination

May 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 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 Simone Jackson, a VAT Director at H&D LLP, a large accounting firm. You have received a letter from Daniel White, who is the Finance Director at Betoak Ltd, a financial services client.

Simone Jackson
Hobson & Dwyer LLP
Coronation Building
Manchester
M1 7ZZ

Betoak Ltd
1 Oakey Street
Manchester
M3 1XY

25 April 2019

Dear Simone

Project Pecunia

As per our telephone call last week, please find below more information relating to Project Pecunia.

Overview of Project Pecunia

As you may know, Project Pecunia is a new on-line trading platform which Betoak Ltd is planning to launch early next year. We are already in the process of designing the website, which will provide a widely accessible platform for businesses and private individuals to enter into currency exchange transactions. The customers will be able to either purchase currencies or to offer currencies for sale. Customers selling currencies specify the quantities and prices they want to sell at and an automatic transaction will take place as soon as a buyer is found who specified a matching quantity and price. As an alternative option, the buyers will be able to select a specific currency seller, if they are flexible about the quantity they seek to purchase or if the automatic match is not successful.

Details of operations and financial projections

It will be free for buyers and sellers to register on the new on-line trading platform. Once registered, buyers and sellers will only be able to trade once they have been credit checked and their identity has been verified. Betoak Ltd will charge currency sellers a commission of 1% of the value of the transaction but no fee will be charged to the buyers. We will not be buying or selling currencies ourselves, only processing the payments. As there will be a low minimum transaction value we expect to attract a substantial number of small businesses and individuals from all over the world, not just large currency traders or banks. We will also sell advertising space, which will not always be specific to the currency transactions (we estimate that 25% of the advertising revenue will be from the currency sellers promoting their exchange rates and special sale offers). We expect that only IT services and 15% of the overheads will be consumed in the provision of the advertising services.

Our US parent company, Betoak Inc is helping us with some parts of the project as it has previously successfully launched a new service portal in the US and therefore has valuable experience. It is undertaking the overall project coordination and it is also engaging DMZ Inc, experts in market research and advertising within the financial services markets.

The cost of the internally generated services provided by Betoak Inc (£30 million) will be allocated to Betoak Inc's branch in the UK together with charges made by DMZ Inc to Betoak Inc (£50 million). The Betoak Inc branch will then make an intragroup recharge of all charges to Betoak Ltd on a cost plus 10% basis. The Betoak Inc UK branch is part of our UK operations and it is a member of our VAT group. We operate a sectoral partial exemption method and the new on-line trading platform will be reported as a new sector.

Continued

1. Continuation

Below are our financial projections for the first year:

Budgeted Income	UK clients	EU clients	Rest of World clients	Total
	£	£	£	£
Commission	8,700,000	57,000,000	49,000,000	114,700,000
Advertising	2,500,000	15,000,000	13,500,000	31,000,000
				145,700,000

Budgeted Costs	Net	VAT
	£	£
Project management from Betoak Inc (includes 10% mark-up)	33,000,000	nil
DMZ Inc market research and advertising (includes 10% mark-up)	55,000,000	nil
IT services obtained from suppliers in the UK and Ireland (reverse charge VAT)	528,000	105,600
Legal and statutory services obtained from UK suppliers	450,000	90,000
Overheads	21,360,000	4,272,000
Total	110,338,000	4,467,600

Please can you advise on Project Pecunia and the VAT impacts for Betoak Ltd?

Yours sincerely

Daniel White

UK Finance Director

Requirement:

Write a letter to Daniel White advising on the VAT implications of the new on-line trading platform. (20)

2. You are a VAT manager at VAT EC LLP, a firm of Chartered Tax Advisers. You have received the following email from Nicole Adler, Finance Manager at Grunewald GmbH, which is a client of your firm's office in Germany.

From: Nicole.Adler@Grunewald.de
To: Laura.Booth@VATEC.co.uk
Date: 5 May 2019
Subject: UK VAT queries

Dear Laura

Your email address was given to me by Hans Siebert in your Hamburg office. We manufacture components for large gearboxes and we also undertake the restoration of second-hand gearboxes. So far, all sales to customers in the UK have been on a cross border basis as intracommunity dispatches but I have just become aware of new ventures that our commercial team have agreed to. I would like to understand the impact these transactions will have for us in the UK. We are already registered for VAT in Germany, Sweden and Ireland.

An 18-month contract has been signed with a VAT registered gearbox manufacturer based in England, Top Gears plc, for us to design and supply bespoke components to Top Gears plc's specification. This contract is worth €1.5 million a year. Top Gears plc does not want to fund stock, so we need to be ready to supply the required components at short notice.

The buying team have been considering using Turbler Ltd based in Ireland to manufacture the components. Turbler Ltd has previously manufactured components for us and already holds some of our tooling, which is used to make the components. Some minor modification of the tooling would be required by Turbler Ltd, for which they will charge us a fee. The components will be produced in batches and sold to Grunewald GmbH but, for this option to work, we would need to have the components stored in the UK near to Top Gears plc to be able to access at short notice.

As an alternative to using Turbler Ltd, the buying team have found Shaftsland Ltd, an unrelated UK company based only a couple of miles away from Top Gears plc, that can manufacture such components for us to fulfil the contract with Top Gears plc once we complete the design work. We will deliver our own tooling to Shaftsland Ltd from Germany and at the end of the contract, the tooling will either be retained by Shaftsland Ltd for future production (should the contract with Top Gears be extended) or it will be scrapped. The finished components will be stored by Shaftsland Ltd in its warehouse until Top Gears plc collects them.

On occasions, Top Gears plc will request that some components are shipped directly to Top Gears plc's subsidiary in Denmark and we will organise the transport, for which we will not make a charge to Top Gears plc.

We are also buying two reconditioned turbine gearboxes from Zieleniec Sp zoo, our subsidiary in Poland, which we will supply to Top Gears plc. These gearboxes will be transported by Zieleniec Sp zoo directly to Top Gears plc.

I would be grateful if you could explain the UK VAT implications of the above transactions.

If you have any questions, please do not hesitate to contact me.

Kind regards

Nicole Adler

Requirement:

Draft an email response to Nicole explaining the VAT implications of the proposed transactions. (20)

3. You are an indirect tax adviser in a firm of Chartered Tax Advisers. You have just come back from a meeting with Alex Smith, a tax manager at Swiftpost Ltd, where you discussed a new business venture that Alex needs your help with.

Swiftpost Ltd is a VAT registered company which currently operates a courier network within the UK. It has an opportunity to expand its business by acquiring part of the business of Loper BV, a Dutch based freight forwarder, which specialises in the provision of global transportation services to government agencies and charitable organisations. The government agency side of the business has been booming and Loper BV wants to concentrate its attention there by disposing of the charitable organisations side of its business.

The acquisition will consist of the transfer of two existing service contracts, which have been in place between Loper BV and two charities for about two years. The contracts have another three years to run and are for logistics and transportation for the charities. One charity is based in the Netherlands and one is based in the UK. In addition to the contracts, there will be a purchase of software developed by Loper BV to support collections of goods donated by individuals to the charities. Swiftpost Ltd can absorb the contracts without the need for any additional resources, staff or without needing to increase its vehicle fleet due to a recent business re-organisation, which resulted in additional capacity.

The contracts will be novated to replace Loper BV with Swiftpost Ltd and to transfer the rights and obligations from Loper BV to Swiftpost Ltd and a one-off fee of €280,000 (€250,000 for contract novation and €30,000 for software transfer) will be payable by Swiftpost Ltd to Loper BV. In addition to this, Swiftpost Ltd will be required to make an annual royalty payment of 2% of the revenue it generates from the contracts for the use of the “Loper Caritas” brand. This brand is well established, recognisable in the charitable sector and it is valuable for Swiftpost Ltd to acquire an exclusive right to use it to help expand its charity client base in the future.

Swiftpost Ltd will also act as an agent for the charities in relation to any importation of goods from outside of the EU arriving in the UK. As part of the contract, Swiftpost Ltd will be required to indemnify the clients against losses or damages for each shipment it undertakes. Currently Loper BV provides insurance as an agent of a Dutch insurer, who is willing to continue this arrangement with Swiftpost Ltd. Alex’s preference is to use a UK insurer and he wanted to understand the implications and consider alternative ways of providing cover against losses and damages to clients.

Requirement:

Draft an email to Alex explaining:

1) The VAT implications of the acquisition of part of the business of Loper BV. (11)

2) The VAT implications for Swiftpost Ltd of providing insurance as an agent or including indemnity for loss within the terms of a transportation contract. (4)

Total (15)

4. You are a Chartered Tax Adviser in the VAT practice of a large accountancy firm. You have just received a phone call from your client, John Sweetman, who is the Financial Controller at Uchoc plc, a chocolate manufacturer. Uchoc plc is a large business with turnover of £6 million a month and it files monthly VAT returns. John called to discuss some transactions he recently came across as he is not sure how they should be accounted for.

The transactions described by John are as follows:

1) The accounting records of Uchoc plc showed that on 14 December 2018 Uchoc plc exported £55,000 worth of chocolate truffles to BCE Ltd, a subsidiary company in Canada. During an internal audit last month, it was discovered that no evidence of export was retained for this sale and after contacting BCE Ltd it appears that the chocolates were never exported to Canada. Instead, after collecting the chocolates from Uchoc plc's warehouse, the freight forwarder transported them directly to BCE Ltd's customer in Croatia. BCE Ltd's records show that the chocolates were sold to the customer in Croatia by its UK branch on 14 December 2018. BCE Ltd is registered for VAT in the UK as a non-established trader and it recorded an intracommunity dispatch and it holds third party evidence of the removal from the UK.

2) Uchoc plc routinely imports rum from Colombia for use in its products. On 29 December 2018, in addition to the usual bulk container of rum, the delivery also included 20,000 70cl rum bottles (37.5% pure spirit) for inclusion in its special Valentine's Day promotional packs of chocolates. The amounts paid in relation to these rum bottles were:

	£
Price paid to the supplier	190,000
Shipping costs	14,500
UK Excise Duty	150,885
Import VAT	40,900
Total	396,285

The import VAT was included as input tax in the December VAT return but there was no document to support this as the deferment account statement could not be accessed at the time.

3) Uchoc plc's events department supplies chocolate making team building activities. One of the customers for these events was an Irish company which wanted the event run for its employees. A chocolatier trainer was flown to Dublin on 14 March 2019 for the day with tools and chocolate supplies needed for the workshop. Uchoc plc invoiced £12,000 for the event on 20 March 2019, inclusive of chocolate used by the employees and the trainer's travel costs (flight ticket and taxis). The Irish company subsequently placed an order for boxes of chocolates with its corporate logo and paid a 70% deposit of £2,500 on 25 April 2019, for which an invoice was issued. The chocolates will be shipped by Uchoc plc from the UK to France, where the Irish company will use them during a conference it is sponsoring. All invoices were issued without VAT on them, but the Irish VAT registration number was received from the Irish company only a week ago and it was not shown on the invoices.

Requirement:

Write an email response to John, which:

1) Considers the errors in 1) and 2) above and corrective actions necessary. You are NOT required to consider any Customs Duties errors. (8)

2) Explains the VAT impact of transactions in 3) and describes the conditions required for zero-rating to be available for them. (7)

Total (15)

5. You are Josh Fry, the indirect tax specialist at a firm of Chartered Tax Advisers. You have received the following letter from one of your existing clients.

Everyprinter Ltd
Main Street
Bolton
BL1 1AR

Josh Fry
CTA Advisers
11 Castle Lane
Preston
Lancashire
PR1 0LD

1 May 2019

Dear Josh

Possible Duty Savings

As you are aware, we make various printers and scanners in the UK for use with personal and office computers. We sell these to customers both within the EU and outside the EU.

In order to manufacture our printers, we import some components from Japan with the remainder of the components being sourced from the EU. The components from Japan, which we import every month and have done so for several years, are charged Customs Duty on importation.

If we were to import finished printers, which we do not, they would attract a 0% Customs Duty rate.

We do not operate any Customs procedures or reliefs. It seems unfair to us that as a company that is manufacturing in the EU we are in a worse position financially through importing components than we would be if we were to import the whole finished product.

Is there anything we could do to change this? We do not want to spend money simply to improve our cash flow, we would like to make real Customs Duty savings.

We have looked at sourcing the imported components from countries that attract preference or from within the EU but have not found any suppliers in these countries that can supply the quantities we need at the level of quality we demand so changing suppliers is not an option.

I hope you can help.

Yours sincerely

Jasmine Hawks

Managing Director

Requirement:

Write a letter to Jasmine advising her on the Customs Duty issues she has raised.
(20)

6. You are Florence Oxford, the Customs specialist at a firm of Chartered Tax Advisers. You have received the following letter from Joe Brydon a new client who imports goods and then sells them in the EU.

Joe's Imports
9 High Street
Luton
LU1 1AP

Florence Oxford
CTA Advisers
23 Embankment
Bedford
MK44 3RT

1 May 2019

Dear Florence

Dispute with HMRC over Classification of Goods

HMRC recently carried out a classification audit at our business. They disagree with some of the Commodity Codes we have allocated our goods at import. We responded to the Right to be Heard (RTBH) letter re-stating our arguments for the Commodity Codes we used but HMRC rejected these and issued a C18 (Post Clearance Demand Note) for the same amount as set out in the RTBH letter.

As a result, they say we now owe them a significant amount of underpaid Customs Duty and Import VAT.

This is our first dispute of this nature with HMRC and we need advice on how we could challenge this decision further and what the pros and cons of doing so are.

We believe that we have a good understanding of how to classify our goods, the Binding Tariff Information process, and reliefs we could have used to save Duty, so we do not need advice in these areas.

I would like to meet with you to discuss this.

Yours sincerely

Joe Brydon

Requirement:

Prepare notes for a meeting with Joe Brydon setting out the options available to him and points he should consider before choosing a course of action. You should NOT discuss penalties. (10)