



Association of Taxation Technicians

Examination

November 2007

PAPER 5

VAT

ANSWERS (without marks)

1. The amount of VAT to be shown on the invoice is £1,706.25. Even if the customer does not take up the prompt payment discount, only the discounted amount is required to be accounted for to HMRC i.e. £1,706.25.
2. The £1,750 VAT incurred on the purchase of the car for use in the car rental business will be fully recoverable.

Only 50% of the £175 VAT incurred on the monthly rental cost will be recoverable by the business.

Fuel purchased for use in the business is fully recoverable.

Fuel purchased and used for private purposes is not recoverable . However, if the fuel scale charge is applied by the business then VAT incurred on the purchase of the fuel may be recovered.

3. You can request that a local reconsideration is undertaken
You can appeal to the VAT & Duties Tribunal – however in order to do this you must make payment of the amount of VAT at stake.
4. Copyright is a schedule 5 service.
 - For customers outside the EC, Schedule 5 services are supplied where the customer belongs, so the place of supply of copyright to a customer in the USA is the USA
 - For customers based in the EC, the place of supply is where the customer belongs if they are using the supply for business purposes, but reverts to the normal rule of being supplied where the supplier belongs if not for business purposes. The supply to France is not for business purposes so the supply is made in the UK
 - The supply to Italy is for business purposes so is made in Italy.
5. The group has to nominate one company as the representative member to submit returns.
Invoices between group members do not attract VAT.
All members of a group have joint and several liability.
6. Output tax due = £15,000 x 8% = £1,200
Input tax due (only allowed on capital item) = £1,000
Net tax due = £200
7.
 - Sale of a house by the present owner is an exempt supply.
 - Hire of a hotel conference room for a meeting is an exempt supply.
 - A two year old commercial building is considered to be still a new building therefore its sale is a standard rate supply.
 - The grant of an eight year lease in a commercial building is an exempt supply.

An option to tax could be exercised only on the hire of a hotel conference room and the eight year lease of a commercial building . It would change the VAT liability of these supplies to standard rate .

8. In the first year/interval input tax deductible = (£400k * 17.5%)* 50% = £35k
In the second interval = £70k/10 * (50-40%) = £700 input tax repayable to HMRC
In the third & all remaining 7 intervals = £70k/10 * (70-50%) = £1,400 additional input tax to be claimed from HMRC.

9.

- The assets should be used to carry out the same kind of business.
- Alan must either be VAT registered or immediately become so at the date of transfer.
- There should be no significant break in the normal trading pattern before or immediately after the transfer.
- Alan must have elected to opt to tax the building and land through a written notification to HMRC by the date of transfer.
- Alan must also have notified the vendor that his option to tax will not be disappplied

(max 4 marks)

10. An error on a VAT return understating the amount of VAT due to HMRC is subject to the misdeclaration rules of S63 VAT Act 1994 if it equals or exceeds the lesser of 30% of the Gross Amount of Tax or £1million.

In this case $(£91,000 / (£91,000 + £84,000 + £67,000)) * 100 = 37.6\%$.

Therefore a misdeclaration penalty of 15% of the amount of tax that would have been otherwise lost is payable = $15\% * £91,000 = £13,650$

Default interest will also be payable under S 74 VATA 1994.

11. Tax avoidance is legal and is to be distinguished from tax evasion which is illegal . All taxpayers have the right to arrange their affairs under the law to minimise their liability to tax.

12. Any four of:

- Is the activity an occupation or function which is actively pursued with reasonable or recognisable continuity?
- Does the activity have a certain measure of substance in terms of the quarterly or annual value of supplies made?
- Is the activity a serious undertaking earnestly pursued?
- Is the activity predominantly concerned with making taxable supplies?
- Is the activity something others commonly do by way of business?

13. Either;

- £1 million for each and every claim

Or

- For firms with a gross fee income of less than £400,000, the required annual minimum limit of indemnity for each and every claim is the greater of :

And

- a. 2.5 x the gross fee income;
- b. £100,000

Long Form Answer 1

Address

Dear Tony

Thank you for your letter.

I should firstly state that from a VAT perspective there is no difference between a company and a self employed person. The registration thresholds apply to both equally. .

HMRC will look from a historic perspective at the turnover in any given 12 month period to consider whether it has exceeded the relevant registration threshold. . This is completed on a rolling basis. Your turnover for the 12 month periods are as follows:

Year end 31 October 2006	£48,000
Year end 30 November 2006	£55,000
Year end 31 December 2006	£63,000

(½ mark each)

You exceeded the VAT threshold of £61,000 on 31 December 2006. Consequently you should have notified HMRC of your liability to register for VAT within 30 days of the end of the relevant month i.e. by 30 January 2007 and HMRC should then register you with effect from the end of the month following the relevant month i.e. from 1 February 2007 .

From 1 February 2007 you should have accounted for VAT on all income received, therefore HMRC will deem that all income received from that date will be VAT inclusive . The VAT amount outstanding is therefore:

$$(9 \text{ months} \times £8,000) \div 7/47 = £10,723$$

As you have not notified HMRC of your liability to register for VAT, a late registration penalty may be applied .

The late registration penalty is calculated as follows:

- 5% of the relevant VAT where HMRC are notified not more than 9 months late;
- 10% of the relevant VAT where notification is over 9 months but not more than 18 months;
- 15% of the relevant VAT where over 18 months late.

The “relevant” amount of VAT is the amount of VAT due to HMRC less any VAT which may be recovered (in accordance with normal rules).

Consequently HMRC could levy a penalty at the rate of 10%.

HMRC can mitigate such a penalty, but in doing so they will not take into account the following:

- Insufficiency of funds to pay;
- The fact that there has been no significant loss of VAT;
- The fact that the person acted in good faith

In deciding how much mitigation to allow, HMRC will take into account;

- Compassionate grounds, e.g. unforeseen serious illness;
- Degree of co-operation;
- Other factors such as unclear HMRC guidance, compliance history etc.

Long Form Answer 1b

1. Should HMRC discover the error, there may be no defence against a misdeclaration penalty.
2. Having knowledge of the irregularity without acting upon it may be construed as a criminal offence or civil fraud.
3. Interest may accrue up to the time that the VAT is paid – the policy of HMRC not charging interest in “no loss to the revenue cases” may not apply
4. It would be improper to allow HMRC to agree a settlement without putting them in possession of all the facts.

Long Form Answer 1c

The member should confirm the earlier advice in writing and should consider whether it is appropriate to carry on acting .

Long Form Answer 2

Input tax calculation quarter ended 30 June 2006

Directly attributable to taxable supplies = £16,718

£179,543

Non Attributable = £1,186 x $\left(\frac{£179,543}{£179,543 + £36,000}\right)$ = (83.29% rounded to 84%)
= £ 996

Input tax recoverable in this quarter = £17,714
£1705 (directly attributable exempt input tax) + (1186 – 996) = £1895 > de minimis of £625 per month)

Input tax calculation for quarter ended 30 Sept 2006

Directly attributable to taxable supplies = £13,675

154,928

Non Attributable = £1,443 x $\left(\frac{154,928}{190,928}\right)$ = (81.14% i.e. 82%) = £1,183

However £1,142 + (£1,443 - £1,183) = £1,402 < de minimis of £625 a month on average and 50% of the total input tax for the period. Therefore all the exempt input tax is recoverable.

= £13,675 + £1,142 + £1,443 = £16,260

Input tax calculation for quarter ended 31 Dec 2006

Directly attributable to taxable supplies	=	£13,011
<u>(£198,418 – (£18,000 disregarded due to SI 1995/2518 reg 101)</u>		
Non Attributable	=	£1,184
$\frac{£198,418 - (£18,000)}{£198,418} = 83.4\% \text{ i.e. } 84\%$		
Not de minimis so the total input tax recoverable	=	£14,195

Input tax calculation for quarter ended 31 March 2007

Directly attributable to taxable supplies	=	£17,352
<u>140,416</u>		
Non Attributable	=	£1,021
$\frac{140,416}{£1,276} \times 176,416 = 79.6\% \text{ i.e. } 80\%$		
		(1 marks)

However $£1,612 + (£1,276 - £1,021) = £1,867 <$ de minimis of £625 a month on average (£1,875) and 50% of the total input tax for the period. Therefore all the input tax is recoverable.

$$= £17,352 + 1,612 + £1,276 = £20,240$$

Year end adjustment

Input tax directly attributable to taxable supplies	=	£60,756
<u>£673,305 - £18,000 (SI 1995/2518)</u>		
Non Attributable	=	£4,358
$\frac{£673,305 - £18,000}{£817,305} = 81.98\% \text{ i.e. } 82\%$		

However $£6,399 + (£5,315 - £4,358) = £7,250 <$ de minimis of £625 a month on average (£7,500) and 50% of the total input tax for the period. Therefore all the input tax is recoverable. (1 mark)

$$= £60,756 + £6,399 + £5,315 = £72,470$$

$$\text{Already recovered } £17,714 + £16,260 + £14,195 + £20,240 = £68,409$$

$$\text{Therefore under recovered input tax} = £4,061$$

This under claim can be recovered on the VAT return for the quarter ended 30 June 2007

Long Form Answer 3

Robert, the construction manager
{address}

Date

Dear Robert,

Further to your recent query, I am writing to explain the VAT treatment of the refurbishment of the mill site which you have just acquired.

First I will deal with the income from selling the properties on completion. The sale of the offices is exempt from VAT. It is however possible in certain circumstances to waive the exemption. This is often called opting to tax. In order to do this, you must first decide that you are going to waive the exemption/opt to tax. You should make a note of the date that you have made the decision and retain supporting evidence. You should then write to HMRC within 30 days setting out :

- ☞ The effective date of the option; and
- ☞ The land/building which is to be affected by the option.

The decision to opt to tax should be made before any input tax is incurred on expenditure for the refurbishment.

Please note that if you decide to waive the exemption/opt to tax, then that will only apply to the commercial property. It is not possible to opt to tax domestic accommodation. However, the sale of the flats will be zero rated as it is the first grant of a major interest in a building which has been converted to residential accommodation.

If you decide to opt to tax the property then you will need to charge VAT on the sale price. This will make the property more expensive for businesses who are not VAT registered or who make exempt sales, because they will not be able to reclaim the VAT charged.

For the commercial property, the treatment of the input tax will depend on whether you opt to tax the property. If you opt then as you are making a taxable sale, you will be allowed to reclaim VAT incurred on expenditure. If you do not opt, then input tax will not be reclaimable as it will relate to an exempt sale.

You will be able to reclaim the input tax incurred on developing the flats as the sale of these will be zero rated, which is a taxable supply.

Zero-rating of construction services only applies where a new building is being constructed. This is not the case here as the building already exists.

However, the reduced rate of VAT may apply to any construction services used in creating dwellings. The reduced rate applies where an existing building, which has not formerly been a dwelling, is converted into a dwelling or series of dwellings. The planned project meets these criteria in respect of the building to be converted to flats.

The reduced rate will include the laying of pipes and the construction of the new garages (provided they are constructed at the same time), but not architect's fees or landscaping.

The reduced rate will not apply to the carpets or the other items mentioned as these are specifically excluded from the reduced rate, even if they are bought from the sub-contractors who are performing the rest of the work. The costs of fitting these items will also be liable to VAT at 17.5%. The input tax on these items is not eligible for recovery (SI1992/3222 item 6).

I hope that this answers your questions in full, but if you require further information please do not hesitate to ask.

Yours Sincerely

A Candidate