THE CHARTERED INSTITUTE OF TAXATION

The Chartered Tax Adviser Examination

May 2009

VAT on UK Domestic Transactions (including SDLT)

Advisory Paper

TIME ALLOWED – 3 HOURS

- You should answer all of the questions.
- Start each answer on a new sheet of paper and write on one side only. Do not write in the left-hand margin.
- 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 the law elements in this paper in accordance with Scots law or Northern Ireland law should tick the appropriate box on the front of the answer folder.

1. Mr Brian Candybar of Various Enterprises Ltd has telephoned you following a VAT inspection of his business records. The officer has queried the treatment of a building acquired by Various Enterprises Ltd 18 months ago from a company called Caveat Emptor Ltd. The cost of the building was £15 million excluding VAT but although the vendor had opted to tax, no VAT was actually charged because Various Enterprises Ltd had acquired it by way of a transfer of a going concern.

When Various Enterprises Ltd acquired the building it was wholly occupied by a fully taxable sub-tenant, whose 10 year lease came to an end six months later and was not renewed. Fortunately, a new tenant was found to take occupation immediately thereafter. The new tenant is a charity which is using the building for a relevant charitable purpose.

Mr Candybar tells you that the officer has correctly established that although Caveat Emptor Ltd had not incurred any VAT on the original acquisition of the building it appears that it had carried out a major refurbishment of the building five years ago costing £5 million excluding VAT which doubled the floor area. The officer is now saying that Various Enterprises Ltd must make an adjustment under the Capital Goods Scheme on a current VAT return and pay back some of the VAT deducted on the refurbishment because the building is now being put to exempt use.

Mr Candybar is very alarmed because significant sums of money appear to be involved and there was no mention of Capital Goods Scheme adjustments in the contract with Caveat Emptor Ltd which might have provided some protection. He has asked you to confirm that if any money is due it should be collected by HM Revenue & Customs from Caveat Emptor Ltd.

You are required to write a letter to Mr Candybar explaining whether an adjustment is due and, if so, the amount of the adjustment and who it is to be collected from. (10)

2. Mr and Mrs Jones, who are personal tax clients of your firm, are well known media personalities. They are not registered for VAT but involve themselves with a household name wildlife charity, and have asked you for advice on their latest fund-raising venture on behalf of the charity. They will host a celebrity dinner in aid of the charity. Tickets will cost £500 each, including a £450 donation. The tickets (and a printed invitation) say that the proceeds will be "donated to a charity of our [i.e. Mr and Mrs Jones] choosing".

During the evening guests will be invited to bid for lots in an auction to raise further money for charity. The lots have all been donated, and include an expensive wrist-watch, a dinner for two at a famous restaurant, a plasma TV, and an all-expenses-paid trip to Barbados. It is hoped to raise over £100,000 at the auction, and a further £100,000 through ticket sales and donations.

Their plans are still quite fluid and they want to know if there is any significant difference in the VAT result if (a) the charity runs the event (with Mr and Mrs Jones acting as hosts for the evening), or (b) they run it themselves and donate the proceeds to a charity afterwards.

You are required to write a letter to Mr and Mrs Jones explaining the VAT implications. (10)

3. You have a client, a university, which is constructing a new hall of residence for its students. The project will be undertaken by a university-owned development company which, on completion of the project, will grant the university a long lease that will be zero-rated for VAT in return for a premium of £7.5 million.

The bursar has written to you with the proposal that the university should extend the contract with the development company to include the provision of cyclical maintenance and repair costs over the first 20 years of the life of the building, and to increase the consideration for the building on that account by a further £2.5 million. He has received advice from the promoter of the arrangements that the whole of the consideration of £10 million to be paid by the university on the grant of the lease will benefit from zero-rating.

You are required to write a letter to the bursar giving him a reasoned explanation as to whether these arrangements need to be formally disclosed to HM Revenue & Customs by the university. (10)

4. You have received a letter from the finance director at one of your clients, which is a construction company with a turnover of approximately £9 million. Previously it has provided building services for new house builders and received monthly repayments of VAT as a result. However as a result of the slowdown in demand in the residential market, it has now expanded its operations to commercial work.

The company has a good reputation and has already won some commercial contracts. Some of these are single payment contracts with payment due 30 days following completion and others are larger contracts which have stage payments as the architect/surveyor signs off satisfactory completion of each phase of the work. Both types of contract include provision for retention payments. It is expected that this year the amount of commercial work will exceed the amount of new house build work. One of the stage payment contracts is for the refurbishment of a residential care home, which is owned by the directors of the company.

The company uses a number of small suppliers to provide it with materials for installation, e.g. windows, doors etc. The company keeps detailed records of materials received and under the terms of its supplier contracts, pays its suppliers one month after delivery of the goods in satisfactory condition. Its suppliers are VAT registered but the company spends a lot of time chasing proper VAT invoices from suppliers. The finance director would like to make this process more efficient.

You are required to write to the company's finance director:

1) **Explaining to him the time when VAT will be due on the company's provision of commercial construction services.** (9)

2) **Advising him of any steps he can take to minimise the cash flow disadvantages of moving from residential to commercial work in relation to the company's VAT payments.** (2)

3) **Suggesting any ways in which the company might introduce a more VAT efficient method of dealing with VAT in relation to its suppliers.** (4)

Total (15)

5. Your firm acts for a company which is an electrical contractor with a turnover of around £10 million. The company is registered for VAT and its VAT returns and payments are up to date with its next return due for period ending April 2009. VAT has been properly accounted for in respect of all invoices issued.

It has an agreement with HM Revenue & Customs to invoice at the end of each month and its normal payment terms are 30 days from invoice date. The company has insurance against bad debts up to £20,000 per customer.

Your Business Services Department is preparing accounts for the company for its year ended 30 April 2009 and the tax manager in the department has sent you a memo containing the following information.

Customer A

Customer A's account is in arrears. The account history is as follows:

Date	Invoice amount £	Payment
31 July 2008	2,500 plus 437.50 VAT	Unpaid
31 August 2008	1,500 plus 262.50 VAT	Unpaid
30 September 2008	2,000 plus 350.00 VAT	Paid
31 October 2008	1,750 plus 306.25 VAT	Unpaid
30 November 2008	1,500 plus 262.50 VAT	Unpaid
31 December 2008	2,000 plus 300.00 VAT	Paid
31 January 2009	1,500 plus 225.00 VAT	Unpaid
28 February 2009	1,200 plus 180.00 VAT	Unpaid
31 March 2009	1,000 plus 150.00 VAT	Unpaid
30 April 2009	750 plus 112.50 VAT	Unpaid

Customer A made payments specifically in relation to the September and December 2008 invoices. He also made a round sum payment of £1,500 in March 2009.

No provision will be made in the financial accounts in respect of these debts.

Customer B

In 2008 Customer B went into administration and subsequently liquidation. He owes £10,000 plus VAT on work done in 2007 and invoiced in January 2008. The liquidator made a payment to creditors of 30 pence in the pound in February 2009. VAT bad debt relief in respect of the original supply was claimed on the October 2008 VAT return.

Customer C

The company did work for a customer who is a supplier of electrical products. It was agreed that in return the customer would supply electrical goods to the value of the work done. The company issued an invoice for £5,000 + VAT in August 2008. The customer has delivered no goods.

Customer D

An invoice was issued in September 2008 to Customer D for £1,000 + VAT. The customer has paid the net amount of the invoice but has refused to pay the VAT since he contends the price he was originally quoted was £1,000 inclusive of VAT. The company is considering whether to accept the lower payment in full settlement as a goodwill gesture.

The client has recently appointed a new finance director who does not have a good knowledge of VAT procedures. He has asked the manager for guidance on any VAT account entries, which should be made on the April 2009 VAT return in relation to the above customer accounts.

Continued

5. *Continuation*

You are required to write an internal memo to your business services manager advising him of any VAT adjustments required on the April VAT return in relation to the accounts of each of these customers. (For Customer D you should comment on the position if the company continues to pursue the full amount and also if it accepts the lower amount in full settlement.)

Show relevant statutory and case law references in your memo to the tax manager. (15)

6. Bill Brown is an established client of your firm and operates a restaurant in the town centre. His son, Stewart Brown, has also recently set up business near to his father running a retail outlet selling a variety of goods, but principally electronic goods, CDs, DVDs, books etc. He is registered for VAT and uses the Point of Sale retail scheme. He purchases discounted goods, which have recently been replaced by a later version or where the manufacturer or wholesaler has surplus stock. In order to sell these on quickly, he uses a number of sales promotion schemes.

   Bill Brown has introduced Stewart to your firm and Stewart has requested a meeting with a VAT specialist in your office to discuss the VAT implications of his various promotion schemes. He has asked for advice on the following arrangements in particular.

   1) Buy three items; get the lowest priced item free. This applies across the whole range of goods in the shop.

   2) Part-exchange. Stewart accepts customer's goods in part-exchange provided the part-exchanged item is saleable. He reduces the retail price by the agreed value of the part exchanged item and subsequently sells the item in the shop.

   3) If a customer spends £100, he receives a voucher with a face value of £10 to spend in the shop.

   4) Stewart recently bought a quantity of cameras from a wholesaler who had excess stock. The camera manufacturer is running a money-off promotion in a national newspaper and customers who present a voucher in the shop receive a £20 discount, which is subsequently reimbursed by the manufacturer to Stewart together with a handling payment of 20 pence per item.

   5) Stewart also sells £25 and £50 vouchers for meals in his father's restaurant at the face value shown on the voucher. He purchases these from his father at a discount of 30% of the face value.

   6) 'No VAT week'. Stewart runs this promotion each summer and reduces the price of standard-rated goods by the VAT fraction.

   7) Stewart also sells used goods on behalf of customers. These are sold on a display in the corner of the shop at a price decided by the customer. There is a prominent notice that these goods are sold as seen on behalf of customers and no warranty or guarantee is given. Stewart charges a commission of 15% of the sales proceeds or £5 if the item cannot be sold within a month when it is withdrawn from display.

   You are required to prepare a file note in advance of your meeting setting out the advice you will give Stewart on the VAT treatment of the various promotions. In the case of the restaurant vouchers, your note should also explain any VAT implications for his father's VAT accounting. Your note should include supporting technical analysis together with relevant references to statute or case law. (20)

7. You have received an e-mail from Charles Green, finance director of Sunimet Group, property developers. He is negotiating the purchase of a former hotel in London with vacant possession for £7 million (exclusive of VAT) by Sunimet Developments Ltd, the freehold of which is then to be sold the same day to London Flats for Students Ltd. London Flats for Students Ltd will on the same day separately engage Sunimet Developments Ltd as the main building contractor to redevelop the building into flats. London Flats for Students Ltd will sell the completed flats to a Higher Education Institution which will use them for student accommodation, although Mr Green understands that there is also a possibility that London Flats for Students Ltd might instead sell the completed building to a specialist commercial provider of short-term accommodation in serviced flats. Mr Green tells you that the vendor has opted to tax the building, which is not a listed building. He also asks you to advise whether Stamp Duty Land Tax will be payable by Sunimet Developments Ltd.

Mr Red is the Honorary Treasurer for a local charity, which is also a client, and has e-mailed you the following query. The charity provides outward bound courses for disadvantaged young people. A trading subsidiary had acquired a building in 1994 (without VAT) for use by the charity and charged rent to the charity, having opted to tax. Mr Red's predecessor discovered that VAT on the rent, which the charity could not recover, was exceeding VAT recoverable by the subsidiary on repairs and maintenance of the building, and de-registered that subsidiary (which continued to own the building thereafter) on the ground that taxable supplies had fallen below the de-registration limit. No VAT was brought to account on de-registration, which took place in 2007, and Mr Red is concerned that these events might have given rise to a VAT charge that was not recognised at the time but which might need to be disclosed.

You are required to:

1) **Reply to Mr Green's e-mail advising him on the VAT and the Stamp Duty Land Tax implications relating to the hotel.** (15)

2) **Reply to Mr Red's e-mail advising him on the VAT issues relating to the charity and its subsidiary.** (5)

Total (20)