



THE ADVANCED DIPLOMA IN INTERNATIONAL TAXATION

June 2016

PAPER 3.02 – EU VAT OPTION

ADVANCED INTERNATIONAL TAXATION (THEMATIC)

TIME ALLOWED – 3¼ HOURS

You should answer **FIVE** out of the seven questions: **BOTH** questions from Part A; the **ONE** question in Part B; and **TWO** questions from Part C.

Part A questions are worth 25 marks each. The Part B question is worth 20 marks. Part C questions are worth 15 marks each.

You should aim to spend approximately half of your exam time answering Part A, and the remaining half answering Parts B and C. The amount of time you spend answering each question should correspond broadly to the number of marks available for that question.

Start each answer on a new page. If you are using the on-screen method to complete your exam, you must provide appropriate line breaks between each question, and clearly indicate the start of each new question using the formatting tools available.

All workings should be made to the nearest month and appropriate monetary currency, unless the question requires otherwise.

Marks are specifically allocated for presentation.

PART A

You are required to answer BOTH questions from this Part.

1. Bonzer is an Australian manufacturing group with a head office in Melbourne, and a range of companies and branches established in EU member states which distribute the group's products to customers in each country. The group's main product line consists of animal tracking equipment, which is widely used in commercial farming. Two of the group's EU-established companies also sell downloadable software which can be loaded onto the group's products or used separately on competitors' products.

Some EU group companies have recently made changes to their operations, and the Head of Tax has asked you to advise on the key VAT aspects of each of the changes below:

- 1) Handel GmbH formerly dispatched goods from its German factory to meet orders placed by customers in Austria and Poland. Two of its largest customers have now asked for a stock of goods to be despatched from Germany to be held on their premises in their own member state, and for title to pass when the goods are collected by them using their own lorries.
- 2) Subsidiaries Joyce Ltd and Gaudi SpA sell software downloads to customers, in northern and southern EU member states respectively. Previously, customer orders for the whole of the EU were supplied solely by Joyce Ltd from its establishment in Dublin. However, from 1 August 2016, software sales will be made by both entities. Most customers are businesses, but both companies will also make sales to non-taxable persons in other member states.
- 3) The Australian head office has never previously charged its branches for use of the group's accountancy software; however, it has now begun to do so and raises an internal charge every two weeks. One of the group's branches is registered as a member of a VAT group in Sweden, while the others are separately registered in other member states.
- 4) Advertising services are provided by a Channel Islands company under a contract entered into by the Australian head office. All EU subsidiaries and branches make use of these services to promote their products, except for 10% which relates to use by the head office for staff events.
- 5) Elgar Ltd, a UK-established group subsidiary, offers insurance policies to the group's business customers across the EU. In the event of an insured product requiring repair, a third party repairer will invoice Elgar for the necessary work. This is set to change, and in future another UK group subsidiary, Britten Ltd, which is VAT grouped with Elgar, will perform the repairs and charge Elgar for them.
- 6) How would the VAT analysis of 4) differ if supplies of advertising services were made directly to Britten Ltd?

You are required to describe the likely VAT treatment applying to each of the above aspects, and comment, where relevant, on the position before and after each change. (25)

2. You are the tax adviser to a UK-established partnership of architects and civil engineers which has a range of international and domestic clients. The partnership also controls a wholly-owned UK-established company in which it has 100% shareholding; the subsidiary undertakes property development in two other EU member states. You have been asked to advise on the place of supply for the transactions below:
- 1) Architectural services involving the design of a proposed commercial office block in Lisbon, Portugal, made on behalf of a Dutch business client.
 - 2) Design services provided to an educational establishment for a new library extension to an existing building in Bonn, Germany.
 - 3) Proposals and plans for a Hungarian client, of standardised bathroom units suitable for integration into hotels during construction. None of the hotel locations have yet been determined, although it is possible they will be situated in the Maldives.
 - 4) Acting for a private German individual in a planning appeal, in relation to a new build house situated in Greece.
 - 5) Market research and consultancy services performed for the wholly-owned subsidiary company to enable it to develop a retail shopping centre in Austria.
 - 6) The partnership intends to raise finance for its subsidiary by listing 50% of its shares on an EU stock exchange. Purchasers of the shares are expected to include EU and non-EU investors. Will there be a supply and, if so, where is it made?

You are required to provide an analysis and reasoning on the place of supply and who is responsible for accounting for VAT, for each of the supplies described, and to advise the partnership regarding the possibility of forming a VAT group with its subsidiary. In each case, you should state the reasons for your advice, and any alternative analysis which might be considered. (25)

PART B

You are required to answer THIS question.

3. Missing trader (MTIC) fraud involving goods and services is subject to several measures intended to limit the VAT losses suffered by the EU and member states.

You are required to:

- 1) **Describe what MTIC fraud is, and briefly outline two types of MTIC fraud.** (5)
- 2) **Provide an overview of the measures and powers available to member states seeking to limit VAT losses caused by MTIC fraud involving goods and services.** (15)

Total (20)

PART C

You are required to answer TWO questions from this Part.

4. You are required to explain, in a letter to the Director of the Hillhelm Institute in Dusseldorf, Germany, the features which determine where an individual (non-taxable natural person) belongs for EU VAT purposes, and provide a brief description of three different aspects of EU VAT law in which this feature is important. You should include references to relevant legislation and case law. (15)

5. You are required to describe the purpose and significance of VAT derogations in EU law, and provide a brief overview of the legal framework and procedures required for their implementation. (15)

6. On 9 December 2015, the Court of Justice of the European Union (CJEU) released its decision in a case concerning, among other things, the liability of management services made to a “special investment fund”.

You are required to provide an overview of the decision, and recent CJEU judgments concerning aspects of the legislation which includes this term. (15)

7. You are required to provide an overview of the status, composition and roles performed by the VAT Committee and the VAT Expert Group (VEG). (15)