

**THE INSTITUTE OF INDIRECT TAXATION  
ASSOCIATE EXAMINATION**

**PAPER II VAT ROUTE  
VAT**

**27 JULY 2010**

**TIME ALLOWED - 15 MINUTES READING TIME  
3 HOURS WRITING TIME**

Candidates must answer **ALL 5 QUESTIONS** – (all parts of the question in Section A and the four questions in Sections B and C)

Each question carries 20 marks

Start each answer in a fresh book

All workings should be shown and (unless stated otherwise) made to the nearest month and pound.

Marks are specifically allocated for good presentation and references to relevant legislation.

## Section A

### Question 1

*This question is divided into 20 parts – **all parts should be attempted**. All parts carry equal marks – **total 20 marks – marks will be awarded for statutory reference where appropriate.***

1. Specify the three “tax-points” which can arise for services supplied by a barrister (or, in Scotland, by an advocate).
2. What is the “usual place of residence” of a body corporate?
3. Specify what constitutes “reasonable grounds for suspecting” that some or all of the VAT would go unpaid, in the circumstances of a supply of “designated goods” by traders in a supply chain.
4. For a VAT return commencing after 1 April 2009 which contains an error caused by “careless action”, what is the standard amount of penalty (expressed as a percentage of the potential lost revenue)?
5. What is the VAT liability for a corporate body, established with a view to make and distribute profit, which supplies the teaching of English as a foreign language?
6. Where a group registration application is made and approved, during what period are HM Revenue and Customs empowered to make subsequent enquiries and reverse their approval?
7. Where a trader has reclaimed input-tax on the basis of an invoice received from a supplier, if the trader does not pay the supplier at what point must the reversal of the original claim take place?
8. Under the “standard” method of partial exemption, what are the monetary tests to be applied (to a longer period) to non-attributable input-tax to establish that it is “substantial” for the purposes of invoking an over-ride based upon “use”?
9. Where the grant of an interest in land is made by a person who is not the beneficial owner of the land, for VAT purposes who is treated as making the supply?
10. What is the minimum number of passengers which a road vehicle is designed to carry in order for a supplier to treat the transport of passengers as a zero-rated supply?
11. What two conditions establish the normal expectation of a car intended for “self-drive hire”?
12. What is the maximum monetary value for a “less detailed tax invoice”?

13. What are the requirements for a gift of goods made in the course or furtherance of a business to not attract a liability to account for output-tax?
14. Where an option to tax has been exercised over land, what must a housing association certify in order that the option to tax does not apply?
15. What time limits apply to the Commissioners acting to issue a notice of direction for a transaction to **not** be disregarded as a result of a grouping election?
16. Where a hotel provides accommodation to an individual, VAT no longer becomes due for the “pure” accommodation element charges after a certain period of residence. What is the length of stay after which this applies?
17. In relation to England, Wales and Northern Ireland, how is a “major interest” in land defined for VAT purposes?
18. How is the Repayment Supplement calculated and what is the “relevant period” after which it becomes payable?
19. Give the relevant monetary value limits for qualification to the Capital Goods Scheme for computers and for land-based assets.
20. What two tests constitute the de minimis limit for partial exemption?

## Section B

Attempt **both questions** in this Section

### Question 2

#### Intermediary Services in Insurance & Financial Sector

As part of a company-wide cost reduction project, the Finance Director of the general insurance company, We Own You Plc, has carried out an analysis of contracts with brokers, intermediaries and outsourcers. She has noticed that there does not appear to be any consistency in whether VAT is charged by suppliers for what seem to be services of a similar type.

Swiftly realising that he is out of his depth, he has asked you, as his VAT adviser to **provide a brief summary** of how the VAT exemption applies to insurance intermediaries;

**2 marks**

**He has also asked for your view regarding the VAT liability of the following payments. You should make references to relevant legislation and case law:-**

#### Sales

We Own You sells its motor and household policies through a network of brokers, paying commission for each policy arranged. In addition, We Own You makes an annual payment to Nelson's Broking in order to be included on this broker's panel of insurers.

**2 marks**

Four weeks before their insurance is due to be renewed, potential customers are targeted using a number of lifestyle and geographical factors, and are cold-called from the All Thru the Night call centre. Operators read from a script, and can place a customer on risk there and then. All Thru the Night is paid a monthly fee calculated by the number of calls made, regardless of whether any policies are taken out.

**3 marks**

We Own You pays football clubs for the names and addresses of their Supporter's Clubs (with their permission).

**2 marks**

#### Claims

Motor claims are handled by the insurance department of a large legal firm, Brown & Partners. Claims are received by the We Own You claims department, and all but the most complex ones are processed by Brown & Co before being referred back to We Own You who will review Brown & Partner's work before settlement is paid out. A monthly fee based on the number of claims processed is paid to Brown & Partners.

**2 marks**

Household claims are divided by the We Own You claims department into "standard" and "complex". Standard claims are handled by the Swift Claims Ltd claims handling company, which processes and pays the claims from a fund provided by We Own You, charging a fee per claim handled.

Complex claims are handled by loss adjusters, Green & Co, who have been granted a delegated authority to settle claims up to a value of £5,000, and are paid on an individual claims basis. **4 marks**

The Finance Director also explains that he wants your advice regarding an internet sales facility, through an on-line company called BewarethePolecat.com. This is a comparator website, where persons seeking motor insurance can enter their details and requirements, and the site will provide a “Best” and “Next Best” policy based on this information. If the customer is interested, he clicks through his details to the insurer’s own site. BewarethePolecat is paid a fixed amount for each policy taken up. **3 marks**

The FD also informs you that We Own You has entered into an agreement with a second internet provider who will sell only We Own You’s policies for a payment for each policy taken up. We Own You has paid £500,000 plus VAT towards the construction of a platform linked to its own quotation engine, and has asked you whether this is correct. **2 marks**

### Question 3

#### Harrison Jones Insurance Group

Harrison Jones (“HJ”) is the representative member of a VAT group. The VAT group consists of four members (including HJ), all of whom are leading specialist insurance and reinsurance brokers authorised and regulated by the Financial Services Authority. The group specialises in providing bespoke solutions to businesses. Areas covered include healthcare, executive and professional liability, property and construction, energy, political and marine. The group has an annual turnover of around £65 million and operates from nine offices around the UK. Premiums handled by the group for 2009/10 were circa £1.2bn and claims paid by the group in the year were circa £275 million.

The VAT group recovers around 60% of its input tax as its premiums are predominantly from the USA.

The group is intending to acquire part of the insurance and reinsurance business of a rival UK insurance group, the Hurricane Group (“HG”). HJ will be acquiring the part of HG’s business that specialises in catastrophe, natural disaster and high risk lines. This will include the transfer of staff, contracts and client lists currently held by HG relating to this part of its business.

Unfortunately HG has been badly affected with the downturn in the US economy. As a result, it has run into financial difficulties and is no longer financially viable. HG is currently trading under an administrative receiver, who is hoping for the intended acquisition by HJ to be as ‘quick as possible’.

HG is also registered for VAT with 95% of all premiums received relating to the part of the business to be transferred to HJ coming from customers who are based in the US (predominantly in and around Tornado Alley).

The sale and purchase agreement lists the following assets that will be transferred as part of the deal:

|                   |                 |
|-------------------|-----------------|
| Leasehold office  | £385,000        |
| Goodwill          | £185,000        |
| Equipment         | £225,000        |
|                   | <hr/>           |
| <b>Sale price</b> | <b>£795,000</b> |

HJ will be incurring significant legal and professional fees in relation to this acquisition.

**You are a VAT Manager with a firm of accountants and you have been asked by Mr Peter Jones (HJ's Finance Director) to write a letter to him to include the following:**

1. What is a "transfer of a going concern" and how is it treated for VAT purposes?  
**2 marks**
2. Outline the conditions that need to be met in order for a transaction to qualify as a TOGC for VAT purposes.  
**6 marks**
3. Outline any additional conditions that may need to be met in order for the transfer of land or property to fall within the TOGC provisions.  
**3 marks**
4. Advise whether the intended acquisition by HJ will qualify as a TOGC  
**2 marks**
5. Outline any considerations that HJ will need to be aware of once it has acquired part of HG's business and included it within its own VAT group.  
**3 marks**
6. Advise whether HJ will be able to reclaim the input tax it will incur on the legal and professional costs associated with this acquisition.  
**3 marks**
7. Briefly comment on whether HG will be required to transfer business records to HJ once the acquisition takes place?  
**1 mark**

Mr Jones likes to understand the background to any VAT advice given and has requested that your letter includes appropriate legal references and relevant case law.

## Section C

Attempt **both questions** in this Section

### Question 4

#### Property & Construction Services

1. Mr & Mrs James have purchased a derelict Georgian terraced house in a quaint old town, the house having been empty for years and becoming the target of occasional vandalism. The local council are pleased that the house has now been purchased and hope it is set for refurbishment. But Mr & Mrs James have other ideas and would like to demolish the house to ground level (retaining the cellar and party walls) to build an infill ultra-modern glass house, and have submitted plans to that effect.

Whilst the property is not listed, the council feel that this type of development would not be in keeping with the rest of the terrace. Wanting to work with Mr & Mrs James, the council make a suggestion. As long as the façade of the existing building is retained, and the front facing part of the roof is reconstructed so that it appears the same as the rest in the terrace, then they are minded to let Mr & Mrs James go ahead with their proposed radical development for the rear and inside of the property. The council makes the retention of the façade an explicit condition when granting planning permission.

In view of the councils planning conditions, Mr & Mrs James are now unsure of the VAT liability of the works and the impact this may have on their budget for the development. They have come to you for advice.

**You are required to explain in a letter to Mr & Mrs James what you consider to be the VAT liability of the above infill development, how you see the above planning conditions affecting the VAT liability of the construction, and what paperwork to support this, if any, they may be required to give to their developer.**

**5 marks**

2. Bob the Builder Ltd bought a freehold plot of land in England 4 years ago - and built 5 new houses for resale. Four of the houses have been sold freehold, but he is still left with one which is currently empty and has been since it was completed some 12 months ago, despite reducing the price to £325,000. A friend's daughter has asked if she can rent the house for a period of a year. Bob has recovered all of the VAT on the construction costs (amounting to £21,875) , and whilst the rental income would be a bonus to his business in these recessionary times, he's worried about what the VAT implications are and what VAT, if any, he may have to repay to HMRC. He approaches you for VAT advice as to what the implications are should he agree to the letting.

**You are required to write him a letter detailing the implications of the potential letting.**

**5 marks**

3. Welburn Village Hall (a Charity) Committee is seeking to add to their village hall to provide extra space comprising of a furniture store, extra toilet facilities and a games hall to allow the villagers and local community to participate in sporting activities such as badminton. The main part of the village hall is not suitable for sporting activities so this addition will allow the committee to offer extra facilities to the local community. Money is tight for the committee and all funds have to be raised from events and grants, so has to be spent wisely. The village hall committee is not registered for VAT.

The committee has not yet engaged an architect to draw the plans - but are seeking some VAT advice which may perhaps influence how any addition is designed.

Provide advice to the Village Hall committee, **in the form of a letter**, detailing the VAT implications of the proposed addition, and what, if any, conditions must be met, and paperwork issued (and what information any potential paperwork should contain) to potential builders/developers. **5 Marks**

4. Bob the Builder Ltd generally buys land and builds houses for resale, but since the recession he has not felt confident in buying land, wanting to wait until the housing market picks up. He has been approached by a prospective customer (Mr Joiner) asking him to be the main contractor on a large renovation/redevelopment project. As he is unfamiliar with the VAT rules applicable to the works he has been asked to do, he comes to you for guidance.

His client has bought a barn that has never been lived in, sitting in 2 acres of land and wants Bob to convert it into a house for him to live in, plus landscaping the grounds, to Mr Joiner's design.

**You are required to write a letter to Bob** giving him details of the VAT liability of the works he is about to undertake. **5 Marks**

## Question 5

### Blundell Lighting Company Ltd

Blundell Lighting Company Ltd ("BLC") is a UK company and manufactures components for florescent lights. BLC is one of two subsidiaries of a German company (the other is in France) and commenced trading ten months ago.

Mr Woods, the Finance Director wishes to ensure that VAT is being operated and applied correctly and has conducted an internal review of VAT accounting. He is satisfied that VAT is being operated correctly on sales to UK customers but is unsure of the VAT implications of international transactions. The following is an extract of a letter from Mr Woods concerning the international activities of BLC:-

“BLC has a warehouse in the Republic of Ireland and sends components (value to date £300,000 ) to be stored in the warehouse pending orders from customers in the Republic of Ireland. The components are delivered from the warehouse to customers and the invoice is sent from the UK. The invoices are issued on the same day as the goods leave the warehouse. BLC maintains a list of the VAT registration numbers of its Irish customers and does not charge VAT.”

BLC’s parent company in Germany (German Co) occasionally obtains orders from customers in Austria for specialised components which are only manufactured by BLC in the UK. German Co requires BLC to deliver the components to its (German Co’s) customers in Austria. German Co wishes to maintain control of invoicing to all its customers and has requested BLC to invoice German Co who will in turn invoice its (German Co’s) customers in Austria.

BLC is undertaking research into, and development of, a new component. As the result of the research and development will benefit the European “group”, BLC invoices on a monthly basis its parent company in Germany for staff time and costs. VAT is not added to the invoices.

BLC supplies management services to its associated company in France and on the first and only invoice so far, issued in November 2009, VAT was charged. The second invoice will be issued in August 2010”

**You are required to write a letter to Mr Woods and:**

1. **Outline** the VAT implications of BLC’s supplies of components to customers in the – Republic of Ireland **7 marks**
2. **Explain** the VAT and reporting requirements involved in the delivery of components to Austria **4 marks**
3. **Advise** on the VAT treatment and liability of the monthly invoice to the parent company in Germany, **4 marks**  
and the invoice for management charges to its associated company in France **5 marks**