



HM Revenue
& Customs

VAT and Vouchers

Consultation document

Publication date: 1 December 2017

Closing date for comments: 23 February 2018

Subject of this consultation:	Transposing a recent EU VAT Directive into UK law.
Scope of this consultation:	Although the new rules have been decided in principle, businesses can assist in how these can be written into UK law and draw attention to any issues the new rules present and whether greater clarity is required in some areas.
Who should read this:	Businesses, mostly in the retail sector, that buy, sell and redeem vouchers and gift cards.
Duration:	1 December 2017 to 23 February 2018.
Lead official:	David Ogilvie HM Revenue & Customs
How to respond or enquire about this consultation:	<p>Email responses to:</p> <p>alan.mckay@hmrc.gsi.gov.uk</p> <p>Postal responses to:</p> <p>Alan Mckay HM Revenue & Customs VAT Principles Policy Team 3C 09 100 Parliament Street Westminster LONDON SW1A 2BQ</p> <p>Phone enquiries:</p> <p>Alan Mckay: 03000 586046</p>
Additional ways to be involved:	As this is a mainly technical issue with specialist interests, meetings will be organised through the principal representative body, The UK Gift Card and Vouchers Association.
After the consultation:	We will consider and expect to publish a summary of consultation responses during Spring 2018. Draft legislation will be published in Summer 2018 and introduced in the Finance Bill 2018/19.
Getting to this stage:	The UK has had specific VAT legislation for vouchers for many years but it needs to be brought up to date. We engaged in EU discussions on a new VAT Directive which brings in new rules. These rules ensure the correct amount of VAT is charged on what the customer pays, irrespective of whether payment is with a voucher or other means of payment.

**Previous
engagement:**

During the course of the negotiations we held regular meetings with the UK Gift Card and Vouchers Association and participated in seminars with its members. We also updated members on progress via email. This gave them opportunities to feedback on various ideas being considered. The issue was debated in parliament on 2nd November 2015 as part of the EU scrutiny process. The new VAT Directive was agreed at EU level on 27th June 2016.

Contents

Section	Title	Page
1	Introduction	5
2	When VAT is due on vouchers	6
	Key concepts	6
	Definition of a voucher	6
	Single Purpose Vouchers - SPVs	8
	Multi-Purpose Vouchers - MPVs	10
	Treatment of intermediaries	10
	Part payments and part use	12
	Vouchers and retail schemes	13
	Summary of changes	14
3	Changes to UK legislation	15
4	Assessments of impacts	16
5	Summary of Consultation Questions	17
6	The Consultation Process	19
Annex A	Current UK Legislation and the EU Vouchers Directive (Council Directive (EU) 2016/1065)	22

On request this document can be produced in Welsh and alternate formats including large print, audio and Braille format

1. Introduction

- 1.1. On 23 June 2016, the EU referendum took place and the people of the United Kingdom voted to leave the European Union. Until exit negotiations conclude, the UK remains a full member of the European Union and all the rights and obligations of EU membership remain in force. During this period the government will continue to negotiate, implement and apply EU legislation. The outcome of these negotiations will determine what arrangements apply in relation to EU legislation in future once the UK has left the EU.
- 1.2. On 27 June 2016, the EU Vouchers Directive (Council Directive (EU) 2016/1065) (“the Directive”) was agreed. It amends the Principal VAT Directive (2006/112) (“PVD”) and legislates for a common VAT treatment of vouchers across the EU. It applies to any vouchers issued on, or after, 1 January 2019.
- 1.3. This legislation only affects vouchers for which a payment has been made and which will be used to buy something. The changes do not extend to discount vouchers or money-off tokens.
- 1.4. “Vouchers”, in this context, are gift cards and vouchers, with examples including simple book tokens, gift vouchers and electronic vouchers purchased from specialist businesses. The UK retail market for vouchers is now worth around £5 billion a year. The growth in this market is due to new electronic technology and to the increased use of vouchers in business promotion.
- 1.5. The government supports the improvements in the Directive, which makes the VAT treatment of vouchers simpler and more consistent with key VAT principles. It reduces uncertainty and aligns the rules in member states, better facilitating cross-EU border transactions.
- 1.6. This document sets out how the government plans to transpose this legislation into UK law. It explains the new rules and, the future VAT treatment for vouchers in circulation which were issued before the new rules start. It invites comment in certain areas in order to identify any issues that businesses can foresee and aims to provide enough detail in order for businesses engaged in the buying, selling or redemption of vouchers to plan for the changes.

2. When VAT is due on vouchers

Key Concepts

- 2.1 There are several key VAT concepts, which must be kept in mind when considering vouchers. These are reflected in the Directive and outlined below:
- The use of vouchers should not interfere with the basic concept that VAT should be charged on the price of consumption. Therefore, there should be no difference to the amount of VAT paid if someone pays with a voucher or some other means of payment, such as cash or a credit card.
 - A fundamental aspect of VAT is that a payment triggers a tax point, which establishes a date on which VAT is due. VAT specific legislation for vouchers is required because, with certain vouchers, it is not possible to identify the correct amount of VAT due at this date.
- 2.2 The new legislation is not concerned with the scope of VAT and whether VAT is due, but only the question of when VAT is due.
- Previously under UK VAT legislation, the customer was deemed to be receiving two supplies - a voucher and an underlying supply of goods or services. The Directive makes it clear that for VAT purposes there is no longer a separate supply of a voucher. Instead there is only the supply of the underlying goods or services, which will be handed over, or provided, at a later date.
 - The Directive distinguishes vouchers from simple payment systems because intrinsically, a voucher carries an *entitlement* to be accepted as consideration for *identifiable* goods or services, which a payment system does not.
- 2.3 Many tickets and other products, which are not vouchers, may be covered under different VAT legislation. This could have a similar effect to the VAT treatment of certain vouchers under the Directive.
- 2.4 The Directive and current legislation referred to below are annexed to this consultation document.

Definition of a voucher

- 2.5 A new Article 30a (1) to the PVD, defines a voucher for these purposes and Recital 5 clarifies what the legislation does not cover.

2.6 A voucher will be defined in UK VAT law as an instrument where:

- There is an obligation to accept it as consideration, or part consideration, for a supply of goods or services and;
- Where the goods or services to be supplied, or the identities of their potential suppliers, are either indicated on (including within) the instrument itself or in related documentation, including the terms and conditions of use of such instrument.

2.7 The purchase of a voucher therefore indicates that a given value of supplies has been identified but they are not to be handed over immediately. The legislation recognises that the voucher might be transferred between different parties between the initial issue and actual delivery and provides for different VAT treatment depending on whether the VAT rate can be properly identified at the stages of issue and transfer.

2.8 The Directive covers vouchers where the underlying goods or services could be supplied at either standard, reduced or zero VAT rates, or VAT exempt.

2.9 The Directive makes clear in Recital 5 that these provisions do not impact on the VAT treatment of transport tickets, admission tickets to cinemas and museums, postage stamps or similar. It also makes clear in Recital 4 that discount vouchers, including money off coupons are not covered here.

2.10 Paragraph 5 of Schedule 10A of the UK VAT Act 1994 states that the consideration for the supply of a valid UK or Isle of Man postage stamp is disregarded for VAT purposes, except to the extent that it exceeds the face value of the stamp. To avoid any possible confusion, this reference to postage stamps will be carried forward to the new UK legislation.

2.11 Vouchers provided free at issue and transfer are outside these new rules. However a voucher will be covered by these new rules if

- a person receives a voucher as a reward, or as part of a remuneration package, and
- the person providing the voucher has previously purchased it from another party.

Example 1: If Hotel A provides a voucher to departing guests for a free night to be used in conjunction with another future stay, that voucher is effectively a 100% discount voucher. That is not covered by these new rules. However, if Bank B buys vouchers from Shop C that Bank B gives away free to attract future customers, then that is a voucher within these new rules.

- 2.12 The use of any electronic money, for example prepaid currency cards, credit cards or on-line payment systems, to pay for actual or digital goods or services does not fall within the description of a voucher in the Directive. We propose to make this clear in UK VAT legislation and accompanying guidance so that there is a clear dividing line between VAT exempt financial services and vouchers.
- 2.13 Similarly, on-line credits and telephone SIM cards are not considered to be vouchers because they are not instruments described in the Directive.
- 2.14 The legislation concerns products where it is merely a question of when the VAT should be accounted for because the rate is not clear at the time the voucher is issued or transferred.

Example 2: An online voucher transaction entitling the supply of goods or services with different VAT liabilities, to be provided at a later stage, at a spa treatment centre in the UK - which can be commonly purchased with alternative means such as cash, credit card etc - would be a multi-purpose voucher and VAT would be due when the voucher is redeemed.

However, a prepayment to a spa centre that results in an online account that can be used to purchase a series of units that can be spent only on a spa treatment, on any occasion, would not be a voucher.

For comment

Q1. These new rules do not include transport and admission tickets, postage stamps, or the electronic products and payment mechanisms referred to above. Does this raise any concerns for your business or organisation?

Q2. These new rules do not include on-line credits and telephone SIM cards. Does this raise any concerns for your business or organisation?

Q3. Will applying the new definition of a voucher increase the administrative burdens or cost for your business? Please provide details of both one-off and ongoing costs.

Single Purpose Vouchers - SPVs

- 2.15 In a new Article 30a (2), the Directive defines a **single purpose voucher (“SPV”)** as being one where the place of supply of the goods and services to which the voucher relates, and the VAT due on those goods or services, are known at the time of issue.
- 2.16 This means that the definition of an SPV in the Directive is wider than that in current UK legislation. (In Schedule 10A of the VAT Act 1994, an SPV is a face value voucher that represents a right to receive goods or services of one type which are subject to a single rate of VAT.)

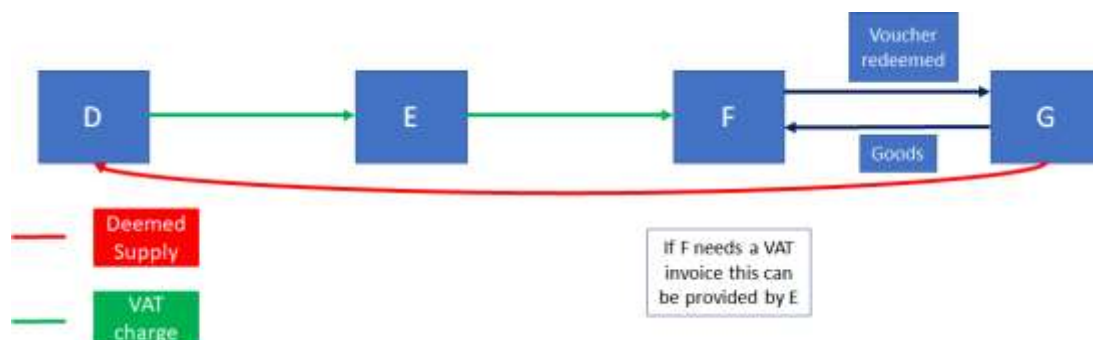
Example 3: A UK retailer issuing a voucher which can only be exchanged for CDs, DVDs, computer games and computer accessories would not, under current UK law, be issuing an SPV because these are not the same type of goods. However, under the new law, this voucher would be an SPV because the place of supply is known and the goods are all standard rated for VAT.

For comment

Q4. Are there any concerns over the wider definition of an SPV that you wish to bring to our attention?

- 2.17 In the case of SPVs the relevant goods or services are deemed to be supplied at the time of the issue of a voucher, and also at the time of any subsequent transfer of a voucher made by a taxable person acting in his own name. Therefore, the actual handing over of goods or the provision of services is not a separate transaction. Any VAT will be therefore be due at the time of payment for the voucher - not at redemption.
- 2.18 All parties involved will be entitled to deduct any related input tax in accordance with normal rules. Where the underlying supply made in exchange for the voucher is exempt from VAT (e.g. an eye test voucher), there will not be an entitlement to deduct input tax.
- 2.19 Where the issuer of an SPV is not going to be the person handing over the goods or providing the services (for instance, a cosmetics voucher redeemable both from the issuer's outlets or from a high street department store), there is to be a deemed supply from the person handing over the goods or providing the services to the one issuing the voucher. This ensures that the correct output and input VAT are accounted for.

Example 4: D supplies E and E supplies F, who redeems the voucher buying goods from G. D charges E VAT and E charges F VAT. G charges D VAT, when D pays them. This will be when G hands D an invoice for the vouchers it has redeemed. If F needs a tax invoice, this should be provided by E.



For comment

Q5. Are there any concerns over the taxation of SPVs that you wish to bring to our attention?

Q6. Will applying the new rules for SPVs increase the administrative burdens or cost for your business? Please provide details of both one-off and ongoing costs.

Multi Purpose Vouchers - MPVs

- 2.20 In a new Article 30a (3) the Directive defines a **multi-purpose voucher (“MPV”)** as a voucher which is not a single purpose voucher. These are effectively gift vouchers, where a payment has been made but the exact nature of what is to be provided is not known at the time of payment.
- 2.21 It is only when the voucher is redeemed that the VAT situation becomes clear. At that point, the redeemer of the MPV is required to account for VAT on what has been provided for the voucher as consideration.
- 2.22 The value for VAT of the supply of the goods or services to which an MPV relates is the consideration paid for the voucher by the last purchaser or, where that is not known, the monetary value indicated on or within the voucher or in any related documentation. The consequence of this provision in the Directive is that it is no longer necessary to tax MPVs transferred by intermediaries between the point of first issue and the point of redemption.
- 2.23 We understand that in some voucher chains it is not always possible for the redeemer of the voucher to know what has been paid by the consumer for the voucher and thus VAT will become due based on the value indicated on or within it, or any related documentation.

For comment

Q7. Are there any concerns over the valuation of goods and services, provided in respect of MPVs when they are redeemed, that you wish to bring to our attention?

Q8. Will applying the new rules for SPVs increase the administrative burdens or cost for your business? Please provide details of both one-off and ongoing costs

Treatment of intermediaries

SPV intermediaries

- 2.24 A distributor buying and selling SPVs will be engaging in the supply of the underlying goods or services, and as such, should account for VAT if those underlying goods or services are taxable. In these circumstances a distributor can deduct related input tax.

- 2.25 However, any SPV transferred by an intermediary acting as an agent on behalf of another person is regarded as being supplied by that other person. VAT will be due on any agent's commission in the normal way. In this case the issuer charges the customer any appropriate VAT.
- 2.26 In the case of these agents, we consider that the existing rules in section 47 of the VAT Act 1994 are sufficient to accommodate the requirements of the Directive.
- 2.27 The value for VAT of the supply of the goods or services purchased using an SPV has to be considered at each transfer, as it is the consideration paid by the purchaser at that stage that is subject to VAT. Therefore, where an intermediary actually buys and sells the voucher in his own name, he will have to charge any appropriate VAT.

For comment

Q9. Are there any concerns over the position of intermediaries that you wish to bring to our attention?

Q10. Do you agree that the existing rules in section 47 of the VAT Act 1994 are sufficient to accommodate the requirements of the Directive?

MPV intermediaries

- 2.28 With MPVs, the Directive makes clear that it is only the actual handing over of the goods or the actual provision of the services in return for the voucher that is subject to VAT. The issue and any transfer are not subject to VAT.
- 2.29 This means that the issue and sales by distributors prior to redemption will not be subject to VAT. The issuer and distributors will not be entitled to deduct any input VAT incurred on related overheads.
- 2.30 Any distributor acting as an intermediary (i.e. not taking title to any voucher) will be making supplies of separately identifiable services and paid by a commission. These will be subject to VAT and distributors will be entitled to deduct VAT on overheads, in accordance with the normal rules.

Example 5: A retailer issues a multi-purpose voucher for £30 and sells it to a customer via an intermediary which acts as the retailer's agent. The customer pays the £30 to the intermediary, which passes the money back to the retailer after having deducted its £5 agent's commission. The intermediary also gives an invoice for its commission to the retailer. Finally, the customer redeems the voucher in one of the retailer's shops in return for goods taxed at the standard rate. The VAT accounting will be as follows:

~ The intermediary will charge the retailer VAT on the £5 commission which is consideration for its intermediary services. The intermediary will also be able to deduct any input VAT on its expenditure in providing the intermediary service;

~ The retailer will account for VAT on the £30 when the voucher is redeemed in its shop. It will also deduct the input tax on the intermediary's commission charge.

For comment

Q11. Some distributors may wish to change from a buy/sell arrangement to an agency arrangement. This would allow them to charge commission and deduct VAT under normal rules. It would also allow the price paid by the final buyer to be identified. Do you think that the new rules for the treatment of intermediaries will lead to you changing your business model in the way described above?

Q12. Are there any concerns over the position of intermediaries transferring MPVs that you wish to bring to our attention?

Q13. Will applying the new rules for the treatment of intermediaries increase the administrative burdens or cost for your business? Please provide details of both one-off and ongoing costs.

Part payments and part use

2.31 Where either an SPV or MPV only covers part of the consideration - that is to say that the price of the goods or services exceeds the value of the voucher - then VAT will be due on the total amount that is the value of the voucher plus the additional payment.

2.32 In these circumstances where additional payment is required, then a further supply will take place which will be between the provider of the goods or services and the person receiving them.

Example 6: A single purpose voucher is issued by a restaurant and purchased for £30 by a customer. The issuer of the voucher accounts for VAT on £30 when the voucher is purchased. The customer goes to the restaurant and spends £50 in total so pays an additional £20 on top of exchanging the voucher when he settles the bill. The additional £20 consideration is taxed at the time of payment as further consideration for the supply.

Example 7: A multi-purpose voucher, with a face value of £25 is issued by a department store and bought by a customer. No VAT is accounted for by the department store at this stage. The customer purchases clothes to the value of £40 and, at the till, hands over the voucher and £15 in cash. The department store now accounts for VAT on the total consideration of the £25 voucher plus the £15 cash.

2.33 In circumstances where an SPV is partly used, then value including VAT will remain on the voucher for future use according to the terms and conditions of that voucher.

2.34 In circumstances where an MPV is partly used, then the taxable amount will be the relevant proportion of the payment made by the buyer of the voucher. If this value is unknown, then the value of the goods/services supplied can be used. This is consistent with the principle that the fall-back value for VAT is the face value of the voucher.

For comment

Q14. Will applying these rules for part payments increase the administrative burdens or cost for your business? Please provide details of both one-off and ongoing costs.

Vouchers and Retail Schemes

2.35 In terms of the issue and transfer of SPVs, we consider the current guidance in relation to retail schemes – which has the force of law - will continue to apply.

Those using ...	Should ...
the Point of Sale scheme	include sales of vouchers in their daily gross takings at the appropriate rate of VAT
an Apportionment scheme	account for output tax on the sale of vouchers outside the retail scheme
a Direct Calculation scheme	check the position in Notice 727/5, 'Retail schemes: How to work the Direct Calculation schemes' as the position depends on the minority goods they mark up
a bespoke scheme	contact us to agree a fair and reasonable method of accounting for vouchers

2.36 Since SPVs are not taxed at the point of redemption, when goods or services are supplied to the person holding the voucher, they should be excluded from daily gross takings. This includes the situation where the person supplying the goods or services also makes a deemed supply of these goods or services to

the person who provided the SPV. VAT must be accounted for, but outside of the retail scheme calculation.

- 2.37 MPVs should be excluded from daily gross takings when initially issued or sold by distributors. They are subsequently included in daily gross takings when accepted as payment or part payment for supplies of goods or services.

For comment

Q 15. Will applying the rules for vouchers to your retail scheme increase the administrative burdens or cost for your business? Please provide details of both one-off and ongoing costs.

Summary of changes

- 2.38 The Directive introduces the new concepts of SPVs and MPVs to the PVD. This distinction is important because SPVs and MPVs are to be treated differently for VAT purposes. The Directive does not refer to credit vouchers or retailer vouchers in the same way that UK VAT legislation currently does.
- 2.39 The Directive only provides new rules where strictly necessary. Thus, VAT will be accounted for on any payment for an SPV. It is only with MPVs, where the true amount of VAT may not be known, that a delay to accounting for VAT is to be permitted.
- 2.40 To ensure that the right amount of VAT is accounted for when vouchers are transferred via distributors, SPVs are within the VAT system but the buying and selling of MPVs are excluded. Distributors who act as commission based agents, and who do not actually buy and sell the vouchers, are unaffected by these new rules.
- 2.41 These are new rules to which existing case-law will not apply since the nature of a voucher for VAT purposes is now very different. The government believes the new rules will aid clarity of treatment and make existing attempts to use the rules to obtain unwarranted tax advantages even less likely to succeed.

3. Changes to UK legislation

VAT treatment of Vouchers issued before 1 January 2019

The current VAT rules for vouchers as set out in Schedule 10A of the VAT Act 1994 (“Schedule 10A”) will continue to apply to vouchers issued before 1 January 2019.

For comment

Q16. Will retaining Schedule 10A for vouchers issued before 1 January 2019 create any difficulty for your business or organisation?

VAT treatment of Vouchers issued after 1 January 2019

- 3.1 Other than for postage stamps, the existing rules in Schedule 10A will not apply to any voucher issued on or after 1 January 2019. The new rules will be legislated for separately. We propose to issue draft legislation for comment by summer 2018 with a view to legislating for the new treatment of vouchers in the Finance Bill 2018/19. The measure will apply to all vouchers issued on or after 1 January 2019.
- 3.2 Postage stamps will retain their current treatment and this will be made clear in the new legislation.

For comment

Q 17. Are there any concerns over timing that you wish to bring to our attention?

4. Assessment of Impacts

Summary of Impacts

Exchequer impact (£m)	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23
	-	Negligible	Negligible	Negligible	Negligible	Negligible
Economic impact	This measure is not expected to have any significant macroeconomic impacts.					
Impact on individuals, households and families	This proposal has no impact on individuals, households or families. There is no impact on family formation, stability or breakdown.					
Equalities impacts	This measure is not expected to have any equalities impact.					
Impact on businesses and Civil Society Organisations	This measure will have an impact on all businesses, including small and micro businesses, who issue vouchers. One-off costs include familiarisation with the new rules. On-going costs could include determining whether vouchers are SPVs or MPVs, and some additional record keeping in order to calculate the correct amount of VAT due. The number of businesses affected and the impacts on them will be explored as part of the consultation.					
Impact on HMRC or other public sector delivery organisations	This measure is only expected to have a negligible impact on HMRC or other public sector delivery organisations.					
Other impacts	Any other impacts are assessed as negligible.					

5. Summary of Consultation Questions

Definition of a voucher

Q1. These new rules do not include transport and admission tickets, postage stamps, or the electronic products and payment mechanisms referred to above. Does this cause any difficulty to your business or organisation?

Q2. These new rules do not include on-line credits and telephone SIM cards. Does this raise any concerns for your business or organisation?

Q3. Will applying the new definition of a voucher increase the administrative burdens or cost for your business? Please provide details of both one-off and ongoing costs.

Single Purpose Vouchers – SPVs

Q4. Are there any concerns over the wider definition of an SPV that you wish to bring to our attention?

Q5. Are there any concerns over the taxation of SPVs that you wish to bring to our attention?

Q6. Will applying the new rules for SPVs increase the administrative burdens or cost for your business? Please provide details of both one-off and ongoing costs.

Multi-Purpose Vouchers – MPVs

Q7. Are there any concerns over the valuation of goods and services, provided in respect of MPVs when they are redeemed, that you wish to bring to our attention?

Q8. Will applying the new rules for SPVs increase the administrative burdens or cost for your business? Please provide details of both one-off and ongoing costs

SPV intermediaries

Q9. Are there any concerns over the position of intermediaries that you wish to bring to our attention?

Q10. Do you agree that the existing rules in section 47 of the VAT Act 1994 are sufficient to accommodate the requirements of the Directive?

MPV intermediaries

Q11. Some distributors may wish to change from a buy/sell arrangement to an agency arrangement. This would allow them to charge commission and deduct VAT under normal rules. It would also allow the price paid by the final buyer to be identified. Do you think that the new rules for the treatment of intermediaries will lead to you changing your business model in the way described above?

Q12. Are there any concerns over the position of intermediaries transferring MPVs that you wish to bring to our attention?

Q13. Will applying the new rules for the treatment of intermediaries increase the administrative burdens or cost for your business? Please provide details of both one-off and ongoing costs.

Part payments

Q14. Will applying these rules for part payments increase the administrative burdens or cost for your business? Please provide details of both one-off and ongoing costs.

Retail Schemes

Q15. Will applying the rules for vouchers to your retail scheme increase the administrative burdens or cost for your business? Please provide details of both one-off and ongoing costs.

Vouchers issued before 1 January 2019

Q16. Will retaining Schedule 10A for vouchers issued before 1 January 2019 create any difficulty for your business or organisation?

Vouchers issued after 1 January 2019

Q17. Are there any concerns over timing that you wish to bring to our attention?

6. The Consultation Process

6.1 This consultation is being conducted in line with the Tax Consultation Framework. There are 5 stages to tax policy development:

Stage 1 Setting out objectives and identifying options.

Stage 2 Determining the best option and developing a framework for implementation including detailed policy design.

Stage 3 Drafting legislation to effect the proposed change.

Stage 4 Implementing and monitoring the change.

Stage 5 Reviewing and evaluating the change.

6.2 This consultation is taking place during stage 3 of the process. The purpose of the consultation is to seek views prior to drafting legislation in order to confirm, as far as possible, that it will achieve the intended policy effect with no unintended effects.

How to respond

6.3 A summary of the questions in this consultation is included in chapter 4.

6.4 Responses should be sent by 23 February 2018.

Email responses to:

alan.mckay@hmrc.gsi.gov.uk

Postal responses to:

Alan Mckay
HM Revenue & Customs
VAT Principles Policy Team
3C 09
100 Parliament Street
Westminster
LONDON
SW1A 2BQ

Phone enquiries:

Alan Mckay: 03000 586046

Please do not send consultation responses to the Consultation Coordinator.

- 6.5 Paper copies of this document or copies in Welsh and alternative formats (large print, audio and Braille) may be obtained free of charge from the above address. This document can also be accessed from [HMRC's GOV.UK pages](#). All responses will be acknowledged, but it will not be possible to give substantive replies to individual representations.
- 6.6 When responding please say if you are a business, individual or representative body. In the case of representative bodies please provide information on the number and nature of people you represent.

Confidentiality

- 6.7 Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes. These are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004.
- 6.8 If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals with, amongst other things, obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on HM Revenue and Customs (HMRC).
- 6.9 HMRC will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

Consultation Principles

- 6.10 This consultation is being run in accordance with the Government's Consultation Principles. [If you wish to explain your choice of consultation period, this is the place. Also, if you are holding additional meetings or using alternative means of engaging, please mention this here].
- 6.11 The Consultation Principles are available on the Cabinet Office website: <http://www.cabinetoffice.gov.uk/resource-library/consultation-principles-guidance>

6.12 If you have any comments or complaints about the consultation process please contact:

John Pay, Consultation Coordinator, Budget Team, HM Revenue & Customs, 100 Parliament Street, London, SW1A 2BQ.

Email: hmrc-consultation.co-ordinator@hmrc.gsi.gov.uk

Please do not send responses to the consultation to this address.

Annex A: Current UK Legislation

VAT Act 1994 section 47

47 Agents etc.

47(1) Where—

(a) goods are acquired from another member State by a person who is not a taxable person and a taxable person acts in relation to the acquisition, and then supplies the goods as agent for the person by whom they are so acquired; or

(b) goods are imported from a place outside the member states by a taxable person who supplies them as agent for a person who is not a taxable person,

then, if the taxable person acts in relation to the supply in his own name, the goods shall be treated for the purposes of this Act as acquired and supplied or, as the case may be, imported and supplied by the taxable person as principal.

47(2) For the purposes of subsection (1) above a person who is not resident in the United Kingdom and whose place or principal place of business is outside the United Kingdom may be treated as not being a taxable person if as a result he will not be required to be registered under this Act.

47(2A) Where, in the case of any supply of goods to which subsection (1) above does not apply, goods are supplied through an agent who acts in his own name, the supply shall be treated both as a supply to the agent and as a supply by the agent.

47(3) Where services, other than electronically supplied services and telecommunication services, are supplied through an agent who acts in his own name the Commissioners may, if they think fit, treat the supply both as a supply to the agent and as a supply by the agent.

47(4) Where electronically supplied services or telecommunication services are supplied through an agent, the supply is to be treated both as a supply to the agent and as a supply by the agent.

47(5) For the purposes of subsection (4) “agent” means a person (“A”) who acts in A’s own name but on behalf of another person within the meaning of Article 28 of Council Directive 2006/112/EC on the common system of value added tax.

47(6) In this section “electronically supplied services” and “telecommunication services” have the same meaning as in Schedule 4A (see paragraph 9(3) and (4) and paragraph 8(2) of that Schedule).

VAT Act 1994 Schedule 10A Face-Value Vouchers

Meaning of face value voucher

1(1) In this Schedule “face-value voucher” means a token, stamp or voucher (whether in physical or electronic form) that represents a right to receive goods or services to the value of an amount stated on it or recorded in it.

1(2) References in this Schedule to the “face value” of a voucher are to the amount referred to in sub-paragraph (1) above.

Nature of supply

2 The issue of a face-value voucher, or any subsequent supply of it, is a supply of services for the purposes of this Act.

Treatment of Credit vouchers

3(1) This paragraph applies to a face-value voucher issued by a person who –

- (a) is not a person from whom goods or services may be obtained by the use of the voucher, and
- (b) undertakes to give complete or partial reimbursement to any such person from whom goods or services are so obtained.

Such a voucher is referred to in this Schedule as a “credit voucher”.

3(2) The consideration for any supply of a credit voucher shall be disregarded for the purposes of this Act except to the extent (if any) that it exceeds the face value of the voucher.

3(3) Sub-paragraph (2) above does not apply if any of the persons from whom goods or services are obtained by the use of the voucher fails to account for any of the VAT due on the supply of those goods or services to the person using the voucher to obtain them.

3(4) The Treasury may by order specify other circumstances in which sub-paragraph (2) above does not apply.

Treatment of Retailer vouchers

4(1) This paragraph applies to a face-value voucher issued by a person who –

- (a) is a person from whom goods or services may be obtained by the use of the voucher, and
- (b) if there are other such persons, undertakes to give complete or partial reimbursement to those from whom goods or services are so obtained.

Such a voucher is referred to in this Schedule as a “retailer voucher”.

4(2) The consideration for the issue of a retailer voucher shall be disregarded for the purposes of this Act except to the extent (if any) that it exceeds the face value of the voucher.

4(3) Sub-paragraph (2) above does not apply if –

(a) the voucher is used to obtain goods or services from a person other than the issuer, and

(b) that person fails to account for any of the VAT due on the supply of those goods or services to the person using the voucher to obtain them.

4(4) Any supply of a retailer voucher subsequent to the issue of it shall be treated in the same way as the supply of a voucher to which paragraph 6 applies.

Treatment of Postage stamps

5 The consideration for the supply of a face-value voucher that is a postage stamp shall be disregarded for the purposes of this Act except to the extent (if any) that it exceeds the face value of the stamp.

Treatment of other kinds of face-value voucher

6(1) This paragraph applies to a face-value voucher that is not a credit voucher, a retailer voucher or a postage stamp.

6(2) A supply of such a voucher is chargeable at the rate in force under [section 2\(1\)](#) (standard rate) except where sub-paragraph (3), (4) or (5) below applies.

6(3) Where the voucher is one that can only be used to obtain goods or services in one particular non-standard rate category, the supply of the voucher falls in that category.

6(4) Where the voucher is used to obtain goods or services all of which fall in one particular non-standard rate category, the supply of the voucher falls in that category.

6(5) Where the voucher is used to obtain goods or services in a number of different rate categories—

(a) the supply of the voucher shall be treated as that many different supplies, each falling in the category in question, and

(b) the value of each of those supplies shall be determined on a just and reasonable basis.

Vouchers supplied free with other goods or services

7 Where —

(a) a face-value voucher (other than a postage stamp) and other goods or services are supplied to the same person in a composite transaction, and

(b) the total consideration for the supplies is no different, or not significantly different, from what it would be if the voucher were not supplied,

the supply of the voucher shall be treated as being made for no consideration.

Exclusion of Single purpose vouchers

7A Paragraphs 2 to 4, 6 and 7 do not apply in relation to the issue, or any subsequent supply, of a face-value voucher that represents a right to receive goods or services of one type which are subject to a single rate of VAT.

Interpretation

8(1) In this Schedule—

- “credit voucher” has the meaning given by paragraph 3(1) above;
- “face value” has the meaning given by paragraph 1(2) above;
- “face value voucher” has the meaning given by paragraph 1(1) above;
- “retailer voucher” has the meaning given by paragraph 4(1) above.

8(2) For the purposes of this Schedule—

(a) the “rate categories” of supplies are –

- (i) supplies chargeable at the rate in force under section 2(1) (standard rate),
- (ii) supplies chargeable at the rate in force under section 29A (reduced rate),
- (iii) zero-rated supplies, and
- (iv) exempt supplies and other supplies that are not taxable supplies;

(b) the “non-standard rate categories” of supplies are those in sub-paragraphs (ii), (iii) and (iv) of paragraph (a) above;

(c) goods or services are in a particular rate category if a supply of those goods or services falls in that category.

8(3) A reference in this Schedule to a voucher being used to obtain goods or services includes a reference to the case where it is used as part-payment for those goods or services.

EU Vouchers Directive- Council Directive (EU) 2016/1065

COUNCIL DIRECTIVE (EU) 2016/1065
of 27 June 2016

amending Directive 2006/112/EC as regards the treatment of vouchers

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 113 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Parliament (1),

Having regard to the opinion of the European Economic and Social Committee (2),

Acting in accordance with a special legislative procedure,

Whereas:

(1) Council Directive 2006/112/EC (3) sets out rules on the time and place of supply of goods and services, the taxable amount, the chargeability of value added tax (VAT) and the entitlement to deduction. Those rules are, however, not sufficiently clear or comprehensive to ensure consistency in the tax treatment of transactions involving vouchers, to an extent which has undesirable consequences for the proper functioning of the internal market.

(2) To ensure certain and uniform treatment, to be consistent with the principles of a general tax on consumption exactly proportional to the price of goods and services, to avoid inconsistencies, distortion of competition, double or non-taxation and to reduce the risk of tax avoidance, there is a need for specific rules applying to the VAT treatment of vouchers.

(3) In view of the new rules on the place of supply for telecommunications, broadcasting and electronically supplied services which are applicable since 1 January 2015, a common solution for vouchers is necessary in order to ensure that mismatches do not occur in respect of vouchers supplied between Member States. To this end, it is vital to put in place rules to clarify the VAT treatment of vouchers.

(4) Only vouchers which can be used for redemption against goods or services should be targeted by these rules. However, instruments entitling the holder to a discount upon purchase of goods or services but carrying no right to receive such goods or services should not be targeted by these rules.

(5) The provisions regarding vouchers should not trigger any change in the VAT treatment of transport tickets, admission tickets to cinemas and museums, postage stamps or similar.

(6) So as to identify clearly what constitutes a voucher for the purposes of VAT and to distinguish vouchers from payment instruments, it is necessary to define vouchers, which can have physical or electronic forms, recognising their essential attributes, in particular the nature of the entitlement attached to a voucher and the obligation to accept it as consideration for the supply of goods or services.

(7) The VAT treatment of the transactions associated with vouchers is dependent upon the specific characteristics of the voucher. It is therefore necessary to distinguish between various types of vouchers and the distinctions need to be set out in Union legislation.

(8) Where the VAT treatment attributable to the underlying supply of goods or services can be determined with certainty already upon issue of a single-purpose voucher, VAT should be charged on each transfer, including on the issue of the single-purpose voucher. The actual handing over of the goods or the actual provision of the services in return for a single-purpose voucher should not be regarded as an independent transaction. For multi-purpose vouchers, it is necessary to clarify that VAT should be charged when the goods or services to which the voucher relates are supplied. Against this background, any prior transfer of multi-purpose vouchers should not be subject to VAT.

(9) For single-purpose vouchers susceptible to being taxed upon transfer, including on the issue of the single-purpose voucher, by a taxable person who acts in his own name, each transfer, including on the issue of that voucher, is regarded as being the supply of the goods or services to which the single-purpose voucher relates. Such a taxable person would in that case need to account for VAT on the consideration received for the single-purpose voucher according to Article 73 of Directive 2006/112/EC. Where, on the other hand, single-purpose vouchers are issued or distributed by a taxable person acting in the name of another person, that taxable person would not be regarded as taking part in the underlying supply.

(10) Only the intermediary services or separate supply of services such as distribution or promotion services would be subject to VAT. Therefore, where a taxable person who is not acting in his own name receives any separate consideration on the transfer of a voucher, that consideration should be taxable according to the normal VAT arrangements.

(11) In the case of multi-purpose vouchers, to ensure that the amount of VAT paid in respect of multi-purpose vouchers where VAT on the underlying supply of goods or services is charged only upon redemption is accurate, without prejudice to Article 73 of Directive 2006/112/EC, the supplier of the goods or services should account for the VAT based on the consideration paid for the multi-purpose voucher. In the absence of such information the taxable amount should be equal to the monetary value indicated on the multi-purpose voucher itself or in the related documentation, less the amount of VAT relating to the goods or services supplied. Where a multi-purpose voucher is used partially in respect of the supply of goods or services, the taxable amount should be equal to the corresponding part of the consideration or the monetary value, less the amount of VAT relating to the goods or services supplied.

(12) This Directive does not target the situations where a multi-purpose voucher is not redeemed by the final consumer during its validity period, and the consideration received for such voucher is kept by the seller.

(13) Since the objectives of this Directive, namely the simplification, modernisation and harmonisation of the VAT rules applying to vouchers, cannot be sufficiently achieved by the Member States and can therefore be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that

Article, this Directive does not go beyond what is necessary in order to achieve those objectives.

(14) In accordance with the Joint Political Declaration of Member States and the Commission of 28 September 2011 on explanatory documents, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified.

(15) The provisions regarding the VAT treatment of vouchers should apply only to vouchers issued after 31 December 2018 and are without prejudice to the validity of the legislation and interpretation previously adopted by the Member States.

(16) Directive 2006/112/EC should therefore be amended accordingly,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 2006/112/EC is amended as follows:

(1) in Title IV, the following Chapter is inserted:

'CHAPTER 5

Provisions common to Chapters 1 and 3

Article 30a

For the purposes of this Directive, the following definitions shall apply:

- (1) 'voucher' means an instrument where there is an obligation to accept it as consideration or part consideration for a supply of goods or services and where the goods or services to be supplied or the identities of their potential suppliers are either indicated on the instrument itself or in related documentation, including the terms and conditions of use of such instrument;
- (2) 'single-purpose voucher' means a voucher where the place of supply of the goods or services to which the voucher relates, and the VAT due on those goods or services, are known at the time of issue of the voucher;
- (3) 'multi-purpose voucher' means a voucher, other than a single-purpose voucher.

Article 30b

1. Each transfer of a single-purpose voucher made by a taxable person acting in his own name shall be regarded as a supply of the goods or services to which the voucher relates. The actual handing over of the goods or the actual provision of the services in return for a

single-purpose voucher accepted as consideration or part consideration by the supplier shall not be regarded as an independent transaction.

Where a transfer of a single-purpose voucher is made by a taxable person acting in the name of another taxable person, that transfer shall be regarded as a supply of the goods or services to which the voucher relates made by the other taxable person in whose name the taxable person is acting.

Where the supplier of goods or services is not the taxable person who, acting in his own name, issued the single-purpose voucher, that supplier shall however be deemed to have made the supply of the goods or services related to that voucher to that taxable person.

2. The actual handing over of the goods or the actual provision of the services in return for a multi-purpose voucher accepted as consideration or part consideration by the supplier shall be subject to VAT pursuant to Article 2, whereas each preceding transfer of that multi-purpose voucher shall not be subject to VAT.

Where a transfer of a multi-purpose voucher is made by a taxable person other than the taxable person carrying out the transaction subject to VAT pursuant to the first subparagraph, any supply of services that can be identified, such as distribution or promotion services, shall be subject to VAT.’;

(2) the following Article is inserted:

‘Article 73a

Without prejudice to Article 73, the taxable amount of the supply of goods or services provided in respect of a multi-purpose voucher shall be equal to the consideration paid for the voucher or, in the absence of information on that consideration, the monetary value indicated on the multi-purpose voucher itself or in the related documentation, less the amount of VAT relating to the goods or services supplied.’;

(3) in Title XV, the following Chapter is inserted:

‘CHAPTER 2a

Transitional measures for the application of new legislation

Article 410a

Articles 30a, 30b and 73a shall apply only to vouchers issued after 31 December 2018.

Article 410b

By 31 December 2022 at the latest, the Commission shall, on the basis of information obtained from the Member States, present to the European Parliament and to the Council an assessment report on the application of the provisions of this Directive as regards the VAT treatment of vouchers, with particular regard to the definition of vouchers, the VAT rules relating to taxation of vouchers in the distribution chain and to non-redeemed vouchers, accompanied where necessary by an appropriate proposal to amend the relevant rules.’.

Article 2

1. Member States shall adopt and publish, by 31 December 2018 at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

They shall apply those provisions from 1 January 2019.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 3

This Directive shall enter into force on the day following that of its publication in the Official Journal of the European Union.

Article 4

This Directive is addressed to the Member States.

Done at Luxembourg, 27 June 2016.

For the Council

The President

M.H.P. VAN DAM