

Minutes of the 104th JVCC meeting held on 9 January 2018

14:00

Room 2.39, 100 Parliament Street, London. SW1A 2BQ

Room 2.39, 100 Parliament Street, London. SW1A 2BQ

| | | |
|--|---|--------------------|
| | Agenda Item 1: Welcome and introductions | Sally Beggs |
|--|---|--------------------|

Sally Beggs (SB) apologised that Ruth Stanier was unable to attend and chair the meeting. Introductions were made and SB (chairing the meeting) welcomed Gaynor Whittaker as the new secretariat.

| | | |
|--|---|--------------------|
| | Agenda Item 2: Minutes of Last Meeting | Sally Beggs |
|--|---|--------------------|

The minutes of the meeting held on 18 September 2017 were agreed.

The action points from the previous meeting were reviewed and closed as they were on the agenda for discussion at this meeting.

| | | |
|--|-------------------------------------|------------------------------|
| | Agenda Item 3: Brexit Update | Mike Cunningham (HMT) |
|--|-------------------------------------|------------------------------|

Mike Cunningham (MC) gave an update on EU Exit developments since the last meeting. The White Paper: 'Customs Bill: legislating for the UK's future customs, VAT and excise regimes' was published on 9 October 2017. This built on the Future Partnership Paper and set out the government's plans to legislate for the standalone customs, VAT and excise regimes the UK will need once it leaves the EU. The focus of the White paper was on Customs issues as the rules governing Customs are mostly in EU law, with domestic customs legislation being largely unnecessary while the UK has been in the EU. The White Paper set out the government's approach to legislating for a range of possible outcomes.

The Taxation (Cross-border Trade) Bill 2017-19 had its first reading on 20 November, its second reading on 8 January and will proceed to committee stage on 21 January. MC drew attention to clauses 41-43 on VAT, and some parts of Schedule 8. The Bill enables certain changes to be made by secondary legislation.

The subject of import VAT after EU exit had attracted a lot of media attention as the Bill provides that acquisition tax will not be acquisition tax after EU Exit. Press coverage had drawn attention to a potential cash-flow impact for businesses. MC reminded the committee that ministers were aware of this issue and had signalled in

the Autumn Budget that the government would be looking to mitigate against these potential impacts.

There was a discussion about the Implementation Period (and the Commission's statement on this) and the next phase of negotiations.

On acquisition tax, members were interested in whether there could be a unilateral solution, and MC pointed out that reciprocal arrangements would be best and wherever we ended up would need to comply with WTO rules. Concerns were expressed about double taxation and MC reassured members that HM Treasury were alive to double and no taxation concerns. Most likely he thought this would be addressed through OECD work now.

Options for the practical/administrative arrangements of a VAT system once the UK has exited the EU, and the significance of financial services rules were discussed at a high level.

| | | |
|--|---|-----------------------|
| | Agenda Item 4: EU/International Update | Ian Broadhurst |
|--|---|-----------------------|

Ian Broadhurst (IB) gave a brief run through of the most significant VAT dossiers, explaining that it is very much business as usual so far as VAT in the EU is concerned.

IB reported political agreement on the VAT Digital Single Market proposal at the 5 December ECOFIN; this will deliver most of the simplifications that the UK had been seeking in respect of digital services (introduction of a €10,000 threshold; home country invoicing rules; and simplified evidence requirements), and brings further changes from 2021 (including the extension of the mini one stop shop to B2C goods and other services and withdrawal of low value consignment relief). Further detailed work, including consultation with business, was needed on the proposal to make online marketplaces directly liable for sales of B2C goods made by non-EU sellers.

December ECOFIN also saw agreement to extend Administrative Cooperation arrangements to Norway.

Proposals on VAT rates and on SMEs are expected shortly. The VAT rates proposal should not affect the UK's zero rates and the UK is, broadly speaking, supportive of more flexibility for Member States in setting their VAT rates.

A proposal on the 'Definitive System' was published towards the end of 2017 and IB talked through some of the key elements of that. The UK will consider the proposals carefully and will be especially mindful of potential burdens on business.

Authorised Economic Operator (AEO) and Certified Taxable Person (CTP) issues were raised. These will be discussed at the HMT VAT Forum and a JVCC sub-group can be formed to explore these issues if there is the appetite for doing so.

| | | |
|--|--|------------------------|
| | Agenda Item 5: Making Tax Digital for VAT | Michael Cameron |
|--|--|------------------------|

Michael Cameron (MCa) (HMRC Transformation) explained that the next Making Tax Digital (MTD) JVCC sub-group meeting will take place on 19 January and will be chaired by Heather Elliott (unable to make today's meeting). The sub-group meeting will focus on the draft regulations. MCa explained how the pilots were running, with the technical phase from October and the public version starting with a 'controlled go live' from April 2018 involving initially 400-600 businesses and agents. Ruth Corkin raised some specific questions about the draft regulations. These will be discussed at the sub-group meeting. The need to take account of overseas businesses required to register for UK VAT was noted by MCa. Members were invited to seek participant businesses and agents for the pilot.

Action Point: Secretariat to email members the flyer enlisting sign-up for the VAT MTD pilots.

Peter Dylewski asked about progress on a digital disclosure project that CIOT had been made aware of in the past. After the meeting it was established that Peter was referring to the HMRC online disclosure service; launched in September 2016.

<https://www.gov.uk/government/publications/hm-revenue-and-customs-disclosure-service>

HMRC were asked to clarify the position of EC Sales Lists and MTD. The position (established after the meeting) is that as there is already an online portal and upload facility for EC Sales Lists they will not be included in the initial MTD roll-out to VAT.

| | | |
|--|------------------------------------|--------------------------------------|
| | Agenda Item 6: VAT Grouping | John Quayle & Kevin Coyle |
|--|------------------------------------|--------------------------------------|

John Quayle and Kevin Coyle took the committee through a presentation as part of continued consultation on options for expanding VAT Grouping. This followed a consultation summary of responses document published on 1 December 2017. The three options under consideration (none of which should impact on those currently grouped) are to:

- I. allow a non-corporate entity (eg partnership or individual to join VAT group with its body corporate subsidiaries if it controls all of the members of the VAT group
- II. allow a partnership to join a VAT group where all of the partners are bodies corporate and all of the bodies corporate are already in the VAT group
- III. allow a limited partnership to join a VAT group where the sole general partner is a body corporate and manages the limited partnership.

Comments are invited to (itpt.vatregistration&accountingpolicy@hmrc.gsi.gov.uk) particularly on potential avoidance/abuse, impacts on business and financial costs and savings. Following responses, there could be discussion in smaller groups.

There was a discussion about VAT grouping in the EU context and the response of other member states and the Commission to the Skandia CJEU case. MC explained that HM Treasury are encouraging the Commission to engage in a broader debate about VAT grouping.

Work would continue to improve HMRC's guidance on VAT grouping while the options for development were being considered further.

| | | |
|--|---|------------------------|
| | Agenda Item 7: Autumn Budget (17): Anti evasion measures | James Smallbone |
|--|---|------------------------|

James Smallbone (JS) took the committee through the Autumn Budget measures designed to combat VAT losses in the construction sector and through online marketplaces. He explained that the online marketplaces change would build on and strengthen the previous successful legislation. The scope was being extended to hold online marketplaces jointly and severally liable for:

Any future VAT that a UK business selling goods via the online marketplace fails to account for.

Any VAT that a non-UK business selling goods via the online marketplace fails to account for where that online marketplace knew or should have known that that business should be registered for VAT in the UK.

The construction measures include a reverse charge for the supply of labour in the construction sector to tackle missing trader fraud. Recognising the potential impact on businesses, the government is consulting on the changes and is not implementing the change until October 2019 to give time to make it effective with minimum burdens on legitimate business. Compliance activity would increase in this area in the meantime. Peter Crush asked about the potential overlap with The Criminal Finance Act and JS explained that he saw none.

| | | |
|--|---|--------------------|
| | Agenda Item 8: Office of Tax Simplification's (OTS) VAT Review | Neil Hedger |
|--|---|--------------------|

Neil Hedger (NH) introduced the OTS' VAT report, published in November, and the Chancellor's response. Since then, NH had identified HMRC owners for all of the recommendations and discussed the report's findings and underlying research in more detail with the OTS. Members asked if they could see the list of owners.

Action Point: Secretariat to email members the list of OTS recommendations and their HMRC 'owners'.

NH had also been discussing with the OTS what success looks like and what time frames should be attached to the OTS categories of short, medium and long term recommendations. Martin Scammell emphasised the need to press on with acting on

the recommendations quickly. NH explained that some work had already been done in relation to some recommendations; e.g. electronic C79s.

MC explained that the VAT registration threshold, frozen in the Autumn Budget, would be formally reviewed by HM Treasury (working with OTS) and that options after EU Exit could form part of that review. VAT rates recommendations would be considered in due course taking account of OTS work.

| | | |
|--|--|---------------------|
| | Agenda Item 9: Business Tax Operations Update | David Millar |
|--|--|---------------------|

David Millar (DM) distributed, and took the committee through, the operational performance dashboard. The focus of the discussion was on non-statutory clearances and written enquiries. The routine enquiries service is performing up to expected standards but the Clearance service is not, with response times well in excess of the 28 calendar days which HMRC generally tries to achieve for non-statutory clearances. The service has deteriorated as a result of the move of the work from Southend to Glasgow, but an additional 4 recruits are in training and in time the service will recover.

The possible inclusion of Partial Exemption Special Method (PESM) timeliness statistics in the operational dashboard was raised.

Action Point: HMRC to include PESH performance stats in the operational dashboard for the next meeting, or explain why this cannot be done.

| | | |
|--|--|-----------------------|
| | Agenda Item 10: Guidance Update | Richard Bowyer |
|--|--|-----------------------|

Richard Bowyer (RB) gave a very brief update on guidance improvements and informed the committee that HMRC would be supporting a government wide initiative to improve the findability and navigability of GOV.UK. This will entail, for example, improving titles and summary text, improving the format and presentation of the content and archiving out of date content. JVCC will be kept informed about this work as it progresses – which should be from about February to August 2018.

HMRC had responded to Chartered Institute of Taxation's (CIOT's) top 3 guidance priorities, which were:

- I. Construction – Absence of recent landmark cases in guidance
- II. Partial exemption – HMRC's view on cost component not updated since Sveda case.
- III. VAT reliefs for the disabled – Removal of certain examples that were in the previous Notice causing some visiting officers to consider policy to have changed when assurance had been given to the contrary.

RB will liaise with CIOT on whether the exchange can be shared with members through the issues log.

| | | |
|--|---|-----------------------|
| | Agenda Item 11: Issues raised by JVCC members/issues log | Richard Bowyer |
|--|---|-----------------------|

There was not time to discuss this in any detail, but Dean Carey expressed his surprise and disappointment that the claiming input tax late issue (09/17) was still 'under consideration'

| | | |
|--|----------------------------|--------------------|
| | Agenda Item 12: AOB | Sally Beggs |
|--|----------------------------|--------------------|

There was no time for discussion of any other business.

Sally thanked everyone for attending and looked forward to seeing them at the next JVCC meeting.

Next meeting: 18 April 2018, 14:00, CIOT Offices.

Appendix A

JOINT VAT CONSULTATIVE COMMITTEE (JVCC)

(Meeting number 104)

9 January 2018, 14:00.

Room 2.39, 100 Parliament Street, London. SW1A 2BQ

| Attendees | |
|--------------------|---|
| Peter Dylewski | Chartered Institute of Taxation |
| Tony Jackson | Chartered Institute of Taxation |
| David Jordorson | Association of British Insurers |
| Leigh Francis | London & International Insurance Brokers Association |
| Stephen Taylor | Association of Tax Technicians |
| Graham Elliot | Charity Tax Group |
| Mark Hammond-Giles | Confederation of British Industry |
| Peter Crush | VAT in Industry Group |
| Dean Carey | The Association of Chartered Certified Accountants |
| Susan Cattell | The Institute of Chartered Accountants of Scotland |
| Martin Shah | The Law Society |
| Nic Davison | Chartered Institute of Management Accountants |
| Fiona Heron | Confederation of British Industry |
| Lee Hurst | One Hundred Group |
| George Anastasi | Finance and Leasing Association |
| Ruth Corkin | VAT Practitioner's Group |
| Martin Scammell | British Property Federation |
| Aleem Islan | Association of Accounting Technicians |
| Nick McChesney | The Institute of Chartered Accountants in England and Wales |
| Philip Ford | Association of International Accountants |

| | |
|-----------------------|---|
| <i>HMRC/HMT</i> | |
| Sally Beggs | Customs and Indirect Tax Directorate |
| David Fairbrother | Customs and Indirect Tax Directorate |
| Gaynor Whittaker | Customs and Indirect Tax Directorate |
| Richard Bowyer | Customs and Indirect Tax Directorate |
| Ian Broadhurst | Customs and Indirect Tax Directorate |
| James Smallbone | Customs and Indirect Tax Directorate |
| John Quayle | Customs and Indirect Tax Directorate |
| Kevin Coyle | Customs and Indirect Tax Directorate |
| Neil Hedger | Customs and Indirect Tax Directorate |
| Michael Cameron | Transformation |
| David Millar | Business Tax Operations |
| Mike Cunningham | HM Treasury |
| | |
| Apologies from | |
| Ruth Stanier | HMRC |
| Amy Cropper | The Investment Association |
| Ian Cass | Forum of Private Business |
| Sarah Bagley | Chartered Institute of Public Finance and Accountancy |
| | |