HM Revenue
& Customs

VAT and Vouchers

Summary of Responses
6 July 2018

Contents

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1. Introduction

1.1. On 1 December 2017 the government published a consultation document 'VAT and Vouchers'. The consultation sought views about proposed new rules for the VAT treatment of vouchers and gift cards. This followed informal discussions with a representative body which took place during 2014 to 2017.

1.2. The consultation focussed on how an EU directive, providing for the VAT treatment of vouchers, should be transposed into UK law. The EU Vouchers Directive (Council Directive (EU) 2016/1065) ('the Directive') was agreed on 27 June 2017. It amended 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. On 23 June 2017, the EU referendum took place and the people of the United Kingdom voted to leave the European Union. Until exit negotiations are concluded, 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.

1.4. The UK has had specific VAT legislation for vouchers for many years but it needs to be brought up to date. We engaged in the EU discussions about the Vouchers Directive. The new 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.

1.5. The new rules mean the tax treatment of vouchers will be consistent, especially where they can be used either in the UK or more widely in the EU. This prevents either non-taxation or double taxation of the goods or services relating to the vouchers. From the consumer's perspective, there should not be any noticeable change. A £50 voucher will still buy £50 worth of identifiable goods or services from one or more identifiable supplier.

1.6. The consultation set out how the government planned to transpose the legislation into UK law. It explained the new rules and the future VAT treatment for vouchers in circulation which were issued before the new rules start. The consultation invited comment in certain areas in order to identify issues that businesses could foresee and aimed to provide enough detail in order for businesses engaged in the buying, selling or redemption of vouchers to plan for the changes.

1.7. The consultation closed on 23 February 2018. A copy of the consultation is available at: https://www.gov.uk/government/consultations/vat-and-vouchers

1.8. This document summarises the government's response to the observations received. The government has not sought to respond to the small number of observations that were technically incorrect.

1.9. The government is grateful to all of those who responded and gave their time to provide views and ideas both in writing and at meetings.

2. Responses

Overview of responses

2.1. The questions asked in the consultation and an overview of the responses received are set out below. These follow the order of the consultation document. Some responses were not specifically attributed to any particular question so this document attempts to group the responses under the most relevant question.

2.2. Twelve written responses were received in total, of which; four were from representative bodies; four from businesses; three from tax advisors and; one jointly from telecommunications businesses.

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?

2.3. The majority of responses expressed the need for guidance, particularly around areas where confusion may occur. Those identified included:

- how a Single Purpose Voucher (‘SPV’) may be distinguished from a deposit for a future supply
- how ‘hybrid’ instruments may be treated (ie an instrument which represents a combination of voucher and ticket)
- how online vouchers and online payment systems may be distinguished from each other

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

2.4. Most of the respondents to this question raised concerns about confusion over the language commonly used. Those expressed included:

- how traditional mobile phone ‘top up’ vouchers, commonly known as Pay As You Go ‘PAYG’ arrangements may be distinguished from online ‘top up’ PAYG arrangements. In particular top ups made via ATM or supplied with a SIM card
- how an online voucher may be distinguished from credit in an online account
- it was suggested that HMRC’s guidance could describe the typical attributes of a voucher
- there should be no requirement for vouchers to be transferrable

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.

2.5. The majority of respondents highlighted increased administrative burdens, most of which concerned one-off costs. These commonly related to changing agreements, invoicing and accounting arrangements, updating bespoke retail schemes and seeking professional advice.

Government response

2.6. HMRC is engaging with a representative body to understand the administrative burdens and costs in greater detail.

2.7. The government intends to exclude transport and admission tickets, postage stamps, and the electronic products and payment mechanisms referred to in the consultation.

2.8. It's clear that respondents are keen to understand the distinction between tickets, payment systems and postage stamps compared with vouchers. HMRC will engage with respondents to ensure that guidance is clear.

2.9. HMRC will engage with respondents that have raised issues around hybrid instruments to better understand the nature of this type of transaction and provide appropriate guidance.

2.10. The government intends also for the UK voucher legislation to make clear that a voucher is something that can be transferred and, furthermore, can be redeemed by a person who is not the final buyer, i.e. it can be gifted.

2.11. The government does not agree with the view of one respondent that an SPV will exist only in situations where the place of supply, VAT liability and the cost of the goods or services for which the SPV is to be redeemed, is known at issue. The government intends to make clear that an SPV exists where the place of supply and VAT liability are known at issue. It is not necessary to know at issue, the cost of the goods or services for which the SPV is to be redeemed.

Single Purpose Vouchers - SPVs

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

2.12. Most of the comments expressed centred on the potential wider scope of SPVs and that vouchers that would currently be treated as credit or retailer vouchers would fall to be SPVs under the new rules. Comments included:

- SPVs require VAT to be accounted for even where there is uncertainty that the SPV will ever be redeemed
- the new SPV rules could result in increased compliance costs for supplies made across the EU due to registration obligations in other member states
- whether it's possible to reclaim VAT over declared in situations where SPVs expire unredeemed

- whether gift cards for computer software would be considered SPVs

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

2.13. One respondent to this question asserted that there would be a monetary impact (value unspecified) where the SPV definition captures vouchers that, under the current rules, would be classified as credit or retailer vouchers - because VAT would be due on issue and transfer and not redemption.

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.

2.14. The responses received have very little detail about the value of administrative burdens. A minority of responses cited cash flow impacts due to the new definition of SPVs. Other burdens which were identified and values were not given included:

- administrative burden of registering for VAT in other member states
- human resource and technology solutions costs in respect of tracking vouchers under the current and new rules
- legal and marketing costs in having to renegotiate contracts

Government response

2.15. The government considers that the new rules regarding SPVs will not affect any of the existing obligations to register for VAT in other jurisdictions, when goods and services are supplied. Businesses will follow the same procedures as they do now.

2.16. The government also considers the current market for SPVs to be small and even with the changes on 1 January, this will continue to be the case. HMRC is engaging with representatives on this point to identify and understand the impacts on all businesses involved in the buying and selling of vouchers.

2.17. In terms of unredeemed SPVs, the directive does not provide any relief from VAT because the SPV represents the supply of the underlying goods or services. The government acknowledges the industry difficulties of tracking vouchers under the current and new rules and will take a pragmatic approach to this issue, while businesses become used to the change.

2.18. In response to comments by one respondent, the government considers that, where there is uncertainty about the VAT liability of a supply for which a voucher may be redeemed, a voucher is an MPV and not an SPV.

2.19. HMRC will engage with one respondent who raised issues around the VAT treatment of SPVs in respect of valuation and timing and the Tour Operators Margin Scheme (‘TOMS’).

2.20. HMRC will engage with one respondent who raised issues around the VAT treatment of a gift card for computer software.

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?

2.21. Many of the responses highlighted that the requirement to account for VAT on the face value of an MPV, where the consideration paid by the end buyer isn't known, would result in more VAT being collected than was properly due. Some of the suggestions around this included:

- HMRC should not seek to tax unredeemed MPVs
- issuers and redeemers of MPVs should suffer no input tax restriction on their supply of MPVs
- the amount paid by the end buyer of an MPV should remain the value subject to VAT even if it is lower than amounts paid in previous transfers
- HMRC should take a pragmatic and reasonable approach to evidence it will accept in cases where vouchers are given away free to customers

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

2.22. As with the responses for SPVs, the responses for MPVs gave little detail about the value of administrative burdens. Burdens identified for which values were not given mostly concerned the administrative costs of developing accounting systems to track MPVs and distinguish between those issued under the current rules and the new rules.

Government response

2.23. The government considers that in most cases the redeemer of a voucher will know what the last buyer of the voucher paid for it. As such, it will be uncommon for the redeemer to account for VAT based on a value greater than this. However, there must be an alternative where the price paid for the MPV is unknown and it is reasonable to use the 'face value' of the voucher, as the directive requires. There was a misunderstanding that VAT will have to be accounted for when an MPV is issued or transferred; this is not the case.

2.24. When taxable goods or services are supplied by a redeemer in exchange for MPVs, the redeemer will be entitled to deduct any related input tax, subject to the normal rules. The normal rules also apply to intermediaries. HMRC's guidance will make this clear.

2.25. The extent to which a distributor involved in the supply of MPVs may reclaim VAT as residual overhead costs will be subject to the normal rules. Again, HMRC's guidance will make this clear. HMRC will engage with one respondent who asserted that redeemers should be allowed to adopt a mechanism whereby the known discount on sales should be factored in when accounting for VAT.

SPV intermediaries

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

2.26. One respondent raised a concern about the ability of intermediaries to be able to establish whether they were handling a SPV or a MPV. Another respondent suggested guidance be provided about SPVs and MPVs in cross-border scenarios.

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?

2.27. A minority of respondents considered that section 47 of the VAT Act was insufficient in accommodating the new requirements.

2.28. Two respondents highlighted a potential mismatch between Section 47(3) and the EU voucher provisions in respect of agents.

Government response

2.29. The government considers that it should be straightforward to establish whether a voucher is an SPV or an MPV. An SPV exists only where the place of supply and the VAT liability are known at issue. If either of these are unknown the supply is one of an MPV.

2.30. The treatment of SPVs and MPVs in cross-border scenarios will be subject to the normal rules for place of supply. HMRC will make this clear in the guidance for vouchers.

2.31. In order to effectively transpose the EU voucher legislation, the government intends to make it clear that the voucher provisions override section 47(3) VATA in so far as there is a mismatch.

2.32. HMRC will engage with one respondent raising an issue about situations where an intermediary may be handling an SPV that may be redeemed for combined goods and services at a single VAT rate.

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?

2.33. The majority of responses asserted that distributors were likely to change their business model from a buy / sell arrangement to an agency arrangement. Observations include:

- the new rules make the buy / sell arrangement unattractive and may jeopardise the business
- moving to an agency model is not straightforward and, in addition to the legal and contractual issues, the technology involved is complex and the commercial impact is significant
- that it would be helpful for HMRC to publish some of the criteria HMRC would expect to see
- under agency arrangements there needs to be a mechanism for VAT relief in the event of non-payment by the intermediary, since the issuer / redeemer is otherwise liable to account for VAT on redemption for a voucher for which it has received no consideration

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

2.34. Some respondents expressed concerns about the position of intermediaries transferring MPVs.

2.35. In particular, two respondents expressed concerns about the entitlement to recover VAT and how this could be established where non-business and taxable activity occurred.

2.36. One respondent highlighted that the change to an agency model, together with the change in the taxation on redemption, means that contracts and commercial terms would need to be renegotiated. As an agency model would need to be disclosed to all parties it would require new contracts, T&Cs, system changes, and packaging changes.

2.37. One respondent queried whether an intermediary facilitating the underlying supply of goods would be at risk of being liable for the VAT on the total supply under new article 14a of the PVD introduced by Directive 2017/2455/EU.

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.

2.38. The majority of respondents gave no details of the value of increased administrative burdens or costs.

2.39. Three respondents highlighted the loss of VAT recovery as a concern. Two respondents highlighted the administrative costs in changing contractual arrangements and systems to operate the agency model and to reflect the change in VAT accounting on redemption.

Government response

2.40. The government acknowledges that businesses are likely to change their business model from a buy / sell arrangement to an agency arrangement. HMRC is engaging with representatives on this point to identify and understand the impacts on all businesses involved in the buying and selling of vouchers.

2.41. The government considers that recovery of input tax for intermediaries on overhead costs will be subject to the normal rules.

2.42. The government considers that the normal, bad-debt-relief rules will apply to situations where, under agency arrangements, the issuer / redeemer of a voucher does not receive payment from an intermediary.

2.43. HMRC will engage with the respondent raising the issue about whether an intermediary facilitating the underlying supply of goods would be at risk of being liable for the VAT on the total supply under new article 14a of the PVD introduced by Directive 2017/2455/EU.

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.

2.44. No responses were received that gave a value for administrative burdens.

Government response

2.45. HMRC will ensure that the VAT and vouchers guidance will cover what should happen when vouchers are used in part payment.

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.

2.46. None of the responses gave details of administrative burdens or costs. However five respondents highlighted issues around the application of the new rules for retailers and their retail schemes. Concerns expressed include:

- the need to agree a mechanism to deal with transition and valuation under the new rules
- the current retail scheme VAT notice needs to be changed because it states that sales of vouchers should be included in daily gross takings at the appropriate rate of VAT. The notice needs to take into account the differing treatment of MPVs and SPVs and should make clear that the new rules are different for issuing retailers and redeeming retailers

- it's likely that all bespoke retail schemes will need to be updated to take account of the treatment of vouchers issued after 1 January 2019 and the 'grandfathering' of vouchers issued under the current rules
- retailers with bespoke retail schemes should be invited to contact HMRC to agree a fair and reasonable method of accounting for VAT on vouchers

Government response

2.47. Businesses that have concerns about their retail scheme and the interaction with the new voucher rules are invited to contact HMRC.

2.48. HMRC will update its guidance about vouchers and retail schemes.

2.49. HMRC intends to take a pragmatic approach whilst businesses adapt their accounting practices during this time.

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?

2.50. A third of respondents highlighted issues around the difficulties of tracking vouchers issued before and after 1 January 2019. One respondent estimated the one-off administrative cost of solving the issue to be £100,000.

Government response

2.51. The government acknowledges the difficulties expressed about how to distinguish between vouchers issued before 1 January 2019 and those issued afterwards. For this reason HMRC intends to take a pragmatic approach whilst businesses adapt their accounting practices during this time.

Vouchers issued after 1 January 2019

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

2.52. Half of the respondents highlighted issues around the timing of the introduction of the new rules and many expressed the need for HMRC to adopt a pragmatic approach. Concerns expressed included:

- the changes happen during the busiest retail trading period of the year - with one respondent stating that 70% of vouchers are issued in the lead up to Christmas
- the majority of retailers place a moratorium on IT system changes in December and January
- the new rules start very close to the expected date for Brexit and Making Tax Digital. Businesses may potentially have to make two changes to their systems within three months

- businesses will have problems tracking vouchers issued before 1 January 2019 and redeemed throughout 2019-20

Government response

2.53. While the government has to bring in the new rules on 1 January 2019, it acknowledges that some businesses may experience difficulties. For this reason a pragmatic approach will be taken whilst businesses adapt their accounting practices during this time.

3. Next steps

3.1 We will publish draft legislation providing for the VAT treatment of vouchers during summer 2018, which will be introduced in the Finance Bill 2018/19.

3.2 The government is grateful for the range of views and ideas made in response to this consultation. The government will continue to work collaboratively with stakeholders as the legislation progresses.

3.3 As part of this the government will develop and publish guidance. The aim is to provide consistency and certainty for the VAT treatment of vouchers under the new rules, for the many and varied situations involving vouchers.

4. List of stakeholders consulted

- Activity Superstore
- BT
- Chartered Institute of Taxation (CIOT)
- Deloitte
- Elman Wall Bennett
- Epay Ltd
- Fieldfisher
- Institute of Chartered Accountants in England and Wales (ICAEW)
- Institute of Chartered Accountants of Scotland (ICAS)
- KPMG
- Telecoms Representation (combined: BT, Telefonica, Three, Virgin Media, Vodafone)
- UK Gift Card and Voucher Association (UKGCVA)