

# minutes

Committee	CIPFA Value Added Tax Committee
Date	1 March 2018
Venue	CIPFA, 77 Mansell Street, London E1 8AN
Present	Mike Revis (Coventry City Council) – Chair Sarah Bagley (Leeds City Council) Stephen Bevis (Cambridge City Council) Jo Buckmaster (Warwickshire CC) Alan Carey (HMRC) Peter Gladdish (PSTAX) Ian Harris (Leicester City Council) Simon Mulliner (Lancashire CC) David Ogilvie (HMRC) Kamran Quadri (HMRC) Karen Regan (East Sussex CC) Karen Thomas (Portsmouth City Council) Jen Thompson (Deloitte) Kelly Wilson (Gateshead MBC) Jeff Worrell (HMRC)
In attendance	Mark Jenkins (CIPFA Secretary)

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- |                                                                                                                                                                                                                                          | <b>Action</b> |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|
| <b>1 Welcome, apologies for absence and membership issues</b>                                                                                                                                                                            |               |
| 1.1 Mike Revis welcomed everyone to the meeting. Apologies were received from Graham Coleman, Gwyneth Grahame, Nina Phillipidis, Paul Rogerson, and Peter Briant.                                                                        |               |
| 1.2 Jen Thompson, Deloitte, was welcomed to the Committee, as were Jeff Worrell and Kamran Quadri, who were presenting on Making Tax Digital (MTD).                                                                                      |               |
| 1.3 Mike Revis informed the Committee that Ian Moules has moved on due to a change of job role in HMRC, while Marie Campbell has been seconded on to Brexit work. It is hoped that Marie will return to the Committee later in the year. |               |
| <b>2 Minutes of the last meeting</b>                                                                                                                                                                                                     |               |
| 2.1 The minutes of the meeting held on 2 November 2017 were accepted as an accurate record.                                                                                                                                              |               |

### 3 Matters arising

The Committee considered the matters arising and items carried forward from 2 November 2017:

#### 3.1 3.3 Section 33 capping provisions

David Ogilvie informed the Committee that HMRC has now received agreement from the National Association of Local Councils and the devolved administrations to the increase in the capping period. The Committee approved HMRC's amendments to Notice 749 to reflect this change (see attached document 3.7d), although Ian Harris had some minor revisions which he will pass on to David Ogilvie for inclusion. An HMRC briefing will also be issued in due course. The Committee agreed that this item could now be discharged from the agenda.

HMRC/IH

#### 3.2 3.6 Voluntary aided schools and de minimis/Voluntary Aided Schools VAT Guidance

David Ogilvie confirmed that this guidance has now been published (see VATGPB7500). Karen Regan, however, raised one remaining issue relating to whether schools and their diocese recognised as charities by the Charity Commission are also required to register their charitable status with HMRC to continue to enjoy favourable VAT status, specifically zero rating. The Committee speculated that the Finance Act 2010 contains this requirement, but was not certain. Karen agreed to follow up with HMRC through the Land and Property Liaison Group (LPLG), with a view to establishing that this requirement exists, and if so, to seek assurance that there would be no retrospective action on those bodies that have not sought HMRC 'charitable status'.

KR/HMRC

#### 3.3 7. Better Care Fund (BCF)/8. Accountable Care (ACO)

Mike Revis outlined the submitted briefing, which argues for all staff seconded between public bodies and NHS bodies to be treated as outside the scope of VAT. David Ogilvie confirmed that this issue is being investigated, specifically by Mike Barlow at HMRC and Paul Jones at the Department of Health and Social Care (DHSC), and the Committee will be updated on progress in due course.

In the absence of any finalised guidance or agreed VAT principles, the Committee did express concern as to what procedures should be followed now within the wider context of joint working between the NHS and local authorities. David Ogilvie agreed to liaise with Mike Barlow with a view to producing a clearer interim position. In the meantime, if anyone has specific issues, they can email their allocated CRM and cc in Mike Barlow.

HMRC

#### 3.4 6. VAT Government and Public Bodies Guidance

David Ogilvie confirmed that no new guidance has been published (other than that confirmed at this meeting). This item will be kept on the agenda to allow HMRC to check with the Committee on future guidance prior to publication.

HMRC

#### 3.5 7. Car parking charges in country parks

The Committee confirmed receipt of HMRC's response, which reiterates their position that the provision of paid off-street parking does not fall within Section 41A and can therefore not be treated as non-business for VAT purposes. Jo Buckmaster did not agree with some of the points outlined, including the following:

- HMRC states that applying non-business treatment to car parking in country parks would lead to local authorities asking to extend the same treatment to other activities at country parks, namely cafés, filming rights, fishing permits etc. This is not the case, and local authorities have never attempted to do so.
- The argument that byelaws and parking orders were not a special legal regime, because commercial providers are able to pursue payment via legal means, misses the fact that local authorities are the only entities that can use byelaws and parking orders; these are not options available to external providers. That, in itself, makes them a special legal regime.
- In terms of the issues of competition, external providers are not running parks under the Countryside Act legislation. They are setting parks up to run as commercial enterprises. Some entities have leased country parks from local authorities, eg Draycote Water in Warwickshire is run by Severn Trent, but the area had been designated as a country park prior to Severn Trent taking it over. Severn Trent did not set it up as such. In other cases where the country parks are run in association with trusts/charities, it seems that the car parking income is still going to the council, who presumably had to keep that part of the park on the basis it is loss making.

Jo Buckmaster agreed to submit a formal reply via CIPFA in due course. It is not expected that this issue will be taken further by HMRC.

**JB**

### 3.6 **7. Making Tax Digital (MTD)**

Representatives of HMRC's MTD team (Jeff Worrell and Kamran Quadri) gave a presentation outlining the process for establishing MTD (see slides under item 3.6). Following the presentation, the Committee discussed a number of issues and the following was confirmed:

- a. Local authorities are not exempt from MTD. The only valid exemption applies to VAT-registered bodies with taxable turnover less than the VAT-registration threshold, which will take many (if not most) parish and town councils outside its scope. The Committee requested that HMRC confirms this in writing.
- b. HMRC accepts a spreadsheet is a digital record, therefore, it is permissible to download data from the corporate accounts into a spreadsheet for consolidation/manipulation/adjustment and then rely on the spreadsheet to compile the VAT return and supplementary information specified. These can then be electronically submitted to HMRC.
- c. The spreadsheet outlined in 'b' above must be API (Application Programming Interface) enabled. API is owned by HMRC and issued on request to software developers to build software that meets the API requirements. Any local authority using in-house bespoke accounting software ought to register with HMRC as a software developer to obtain the API format and judge what is required. In addition, HMRC anticipates bridging software to meet the API requirements will be developed by most software suppliers, including for spreadsheets such as Excel.
- d. Supplementary data, including aggregated sub-totals of respectively standard-rated, lower-rated, zero-rated, VAT-exempt and (possibly) outside the scope of VAT outputs (ie income) must be maintained under MTD, even if not submitted to HMRC. However, similar sub-totals for

**HMRC**

- input or expenditure do not have to be maintained, and there is also no requirement to digitally link to the source record, ie the invoice.
- e. Mike Revis will submit a briefing outlining those areas that operate outside the normal local authority accounting packages, for example schools, museums and sports centres, so that the MTD team can consider how best to address these issues. MR
- f. HMRC will be launching a pilot from April 2018. The plan is to start small, initially signing up smaller VAT registered businesses who have less complex structures. HMRC will then allow businesses with more complex features to join at various stages as the pilot progresses. Public bodies are not envisaged to be part of the first stages of the pilot, however, any interested local authorities are welcome to get involved – in the first instance they should contact: [makingtaxdigital.mailbox@hmrc.gsi.gov.uk](mailto:makingtaxdigital.mailbox@hmrc.gsi.gov.uk)
- Mark Jenkins asked whether a similar session could be arranged for the HFMA VAT Technical Sub Committee meeting scheduled for 24 May. Jeff and Kamran agreed to identify colleagues to attend. HMRC
- 3.7 **8. VAT Notice 749: Local Authorities and Similar Bodies**  
The Committee agreed that this was ready to publish, pending some minor revisions which Ian Harris will send to David Ogilvie by the end of next week (9 March 2018). IH/HMRC
- 3.8 **9. Licence to occupy v supply of services**  
The update of *VAT Notice 742: Land and Property*, due for completion in December 2017, has been delayed. Karen Regan confirmed that this is on the agenda for the next LPLG meeting in April, and will report back to the Committee on progress in due course. KR
- 3.9 **10. Upper Tier Tribunal Judgement in National Car Parks Ltd**  
David Ogilvie confirmed that this guidance has been published (see VATGPB8640) and the Committee agreed that this item could be discharged from the agenda. For information, NCP has been granted leave to appeal and the Court of Appeal hearing is scheduled for later in 2018. MJ
- 3.10 **12. Children’s services trusts**  
This relates to an issue raised at the Committee last year concerning the nature of ‘supply’ and VAT arrangements for children’s services trusts. HMRC’s position was that services should follow their normal line of supply, which could lead to irrecoverable VAT for the trust as some of the services would be exempt, while Peter Gladdish’s view was that the trust is supplying services to the local authority in discharge of the local authority’s statutory responsibility and thus VATable at the standard rate. David Ogilvie informed the Committee that he is due to meet with the Department for Education (DfE) with a view to agreeing some broad principles which can be applied. Peter Gladdish also agreed to submit a briefing outlining the key points. HMRC/PG
- 3.11 **10.2 Electric vehicles**  
The Committee approved the submitted questionnaire, which CIPFA will issue via email. Before it is sent out, Mark Jenkins will ask HMRC for an email address to which replies can be submitted. MJ/HMRC
- 3.12 **10.4 London Borough of Ealing (sports services)**  
David Ogilvie confirmed that this guidance has been published (see VAT Brief 6 (2017) and Information Sheet 8/17), and although local authorities will be considering their position in the light of HMRC’s position, it was agreed that this can be discharged from the agenda. Peter Gladdish,

however, did raise the issue as to whether the sporting services exemption would trump an option to tax in a long series of lets. The Committee did not form a consensus on this point, but hoped that the the new Notice 742 would clarify the position.

4 **Joint VAT Consultative Committee (JVCC)**

The minutes of the JVCC meeting held in September 2017 were noted.

5 **VAT briefs**

The Committee noted the HMRC VAT briefs issued since the last meeting.

6 **On-street markets**

The Committee considered the HMRC paper, which is seeking to understand the VAT treatment of local authority on-street markets compared with local authority off-street markets. Ian Harris agreed to submit a letter via CIPFA outlining current custom and practice, on the basis that this would not prejudice other market related issues that may be ongoing.

IH

7 **Brexit**

The Committee did not note any new relevant issues.

8 **Local authority VAT liability index**

Mark Jenkins will liaise with David Ogilvie to ensure that the VAT Liability Index reflects recent HMRC updates.

MJ/DO

9 **TISonline VAT information stream, discussion forum and Section 33 VAT Network**

Mark Jenkins and Jen Thompson are due to meet to discuss updating requirements for the TISonline VAT information stream. Mark Jenkins also confirmed that a new TISonline website will be launched in March, along with 'new-look' discussion forums with enhanced functionality.

MJ/JT

10 **Any other business**

10.1 **Elections/returning officers in guidance Notice 749**

The Committee raised with HMRC the issue that the current guidance in Notice 749 does not cover all types of elections, for example PCCs and mayoral elections. Marie Campbell (HMRC) has drafted some revised guidance which will be sent to the Committee for comment.

HMRC

11 **Date of next meetings**

The next meetings are scheduled as follows:

- 5 July 2018
- 1 November 2018