UKGCVA
71-75 Shelton Street,
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23rd February 2018

Dear Sirs,

Voucher Consultation- response to questions 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 cause any difficulty to your business or organisation?

We note the following:

- Some taxpayers and intermediaries will offer vouchers that entitle end purchasers/users to obtain a variety of goods and services that may include transport and admission tickets. Therefore the exclusion of these has raised some questions amongst our members in regards the VAT treatment of vouchers which are redeemable against the services noted in Q1.
- If the above items are excluded from the voucher consultation, this creates uncertainty in relation to the definition and VAT treatment of an instrument which an end-user could purchase and then use as consideration for transport or, admission to an event etc. Would such an instrument constitute a pre-payment or something else? If yes would this fall outside the scope of VAT? What is the difference between buying an instrument which for example can be used to gain entry to an event and an SPV?

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

The line between an electronic voucher (both MPV and SPV) and an on-line credit (or similar) is not clear. We would welcome guidance from HMRC to clarify how a taxpayer may differentiate between online credits and electronic vouchers.

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.

We do not consider that the new definition of a voucher, i.e. the change from a 'right' to an 'instrument', will materially impact the cost and administrative burdens for most businesses. However, the new rules governing the VAT treatment of SPV's and MPV's together with the grandfathering of vouchers issued prior to 1 January 2019 will result in significant administrative burdens and increased costs (both one off and ongoing). We cover this in more detail below.

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

Currently the UK definition of a SPV is narrow and as a result there are very few SPVs in the market. From 1 January 2019, the wider definition will result in more vouchers qualifying as SPVs, which could present a material change for some businesses – for example:

- **Grandfathering**
  A voucher issued on or before 31 December 2018 may constitute a MPV and fall under the current rules for either credit or, retailer vouchers. However, the same voucher issued on 1 January 2019 may now constitute a SPV. Therefore, issuers and redeemers will need to have processes in place to 1) change the VAT treatment at the point of issue and 2) track 'old' and 'new' vouchers through to redemption to ensure VAT is brought to account appropriately. This presents a number of issues and concerns for both issuers and redeemers to address.

  Issuers will be required to have processes in place to change their systems to ensure the VAT treatment of vouchers is updated on 1 January 2019. The timing of this is problematic as it falls during the busiest retail period of the year, in particular we note that the majority of retailers place a moratorium on IT system changes in December and January

  In relation to redeemers, we would like to emphasize just how difficult it is to track a voucher from the point of issue through to redemption. For the vast majority of businesses it is extremely difficult (and for some it is simply not possible) and will require significant internal resources and/or technology implementation in order to track vouchers through their lifespan. Therefore, we ask HMRC to consider practical solutions to this issue – e.g. guidance on acceptable methods of estimation for tackling this problem. It is worth noting that many vouchers have a minimum life span of at least a 2 years and thus, this issue will remain for a prolonged period.

- **Compliance requirements and VAT treatment**
  The wider definition will bring more vouchers within the scope of a SPV and when this is combined with harmonisation across the EU it presents a number compliance issues to consider.

  Specifically, the new SPV rules could inadvertently result in increased compliance obligations across the EU – e.g. the buying and selling of a SPV that relates to goods located in Germany constitutes, for VAT purposes, the sale of goods in Germany. If this was undertaken by a UK supplier it could result in a local VAT registration obligation in Germany. The reverse would be true of overseas taxpayers buying and selling SPVs in respect of goods in the UK.

  Has HMRC considered these implications and will guidance be produced to assist and/or simplify the position in the UK?

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

In addition to the points raised in Q4, we note that the wider definition of a SPV presents an immediate monetary impact for issuers of vouchers – specifically, VAT must be accounted for at the point of issue rather than redemption, this results in a negative cashflow impact and results in breakage (i.e. unredeemed vouchers) being taxed. In essence, HMRC will receive output VAT payments in relation to supplies of goods and services which are not provided to the end user.

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.

The new SPV rules will result in additional costs (both one off and ongoing). Please see the answers to questions 4 and 5 above.

There will be substantial human resource (in terms of time spent) and monetary costs (technology solutions etc) in respect of tracking vouchers under the 'old' and 'new' rules.

Moreover, some businesses will suffer additional compliance requirements (e.g. EU registration requirements) that will result in additional, recurring management/consulting costs.

The taxing of more vouchers at the point of issue will result in cashflow and, where breakage occurs, permanent monetary costs.

There will be other potential one off costs (e.g. legal and marketing) associated with the changes – for example, some issuers may seek to renegotiate contracts to take into account the increased breakage cost in the supply chain.

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?

In circumstances where the redeemer has not sold the voucher directly to the end purchaser/user it will not, in the majority of cases, be possible to identify the amount paid by the end purchaser. In light of this, redeemers will be required to account for VAT based on the face value of the voucher.

In many cases vouchers will be sold at a discount to end purchasers and thus, if a redeemer accounts for VAT based on the face value of the voucher HMRC will receive more VAT than would be due in relation to the consideration paid by the end purchaser.

Even where the end user in a chain pays face value for the voucher the issuer/redeemer will be required to account for VAT on more consideration than it received when it issued the voucher on the basis the initial issue have been at a discount to face value.

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

We assume that the question is referring to MPV rather than SPV as noted in the consultation.

Similarly to SPV above the new MPV rules will result in an increased administrative burden and one-off and ongoing costs.

- Redeemers will, in general, account for VAT on the face value of the voucher rather than the amount received by them for it. This presents an immediate cost and reduction in their sales margin, particularly in relation to sales via intermediaries.
- Grandfathering is a concern. It will be necessary to identify whether the voucher was issued before or after 1 January 2019. Issuers and intermediaries must be able to differentiate between vouchers to ensure that sales through the supply chain are taxed accordingly and that VAT is brought to account appropriately upon redemption e.g. output VAT would due on the amount received by the redeemer in respect of current retailer vouchers whereas, VAT would be (most likely) due on the face value of 'new' MPVs.
- We stress the difficulties involved in tracking vouchers – it will require significant resources and technology implementation in order to track and differentiate between the vouchers.

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

In relation to SPV, please refer to the comments in relation to SPV's in Q 1 - 6.

Our main concerns relate to grandfathering and the difficulties which an intermediary will face in trying to differentiate between 'old' and 'new' vouchers in the supply chain (i.e. mainly those which constituted MPV's prior to 1 January 2019) and, the potential increase in the compliance burden in relation to cross border sales – e.g. local VAT registration requirements etc.

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?

Section 47 provides the fundamental principles for agency supplies however, we would welcome additional guidance to understand how this may apply in practice in a retail context – see question 11 below.

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?

A number of intermediaries and retailers are considering moving from a buy/sell to an agency model. However, this is not straightforward, in addition to the legal and contractual issues, the technology involved is complex and the commercial impact is significant.

From a commercial perspective, under a standard agency model the commission represents your turnover/revenue and as such, if a business moves from a buy/sell to agency model, its revenue will drop significantly (i.e. from value of vouchers sold to just the commission element). Whilst in principle the profit of the business is unchanged, it does have fundamental commercial implications – e.g. the ability to borrow and refinance, market perception etc. This could have a significant impact for some businesses.

Many supply chains will involve more than one intermediary and thus, it will not be easy to achieve a direct sale from the issuer through to the end purchaser. Moreover, practically it will be difficult to meet the conditions for agency, for example:

- Third party vouchers sold at a till in a retail store, it will be difficult to hold them out as being sold by the third party issuer of the voucher rather than the retailer;
- Where multiple intermediaries are involved it may not be possible to show through the length supply chain that the voucher is being sold by the original issuer (e.g. sales documents, website T&C's/design etc).

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As such, the industry would appreciate guidance, in particular about how to disclose an agency arrangement, and a pragmatic approach from HMRC as businesses seek to implement agency arrangements.

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

We note above the technology and commercial issues associated with the transfer of MPVs – see Q11.

The treatment of input VAT incurred by intermediaries on their costs is a significant concern for businesses. The EU legislation states that the buying and selling of vouchers would not give taxpayers an entitlement to recover input VAT incurred on related costs – therefore, prima facie businesses/intermediaries in this position will suffer a significant VAT cost from 1 January 2019.

Moreover, it is unclear how the input VAT restriction would be calculated – e.g. how would an intermediary calculate its input VAT entitlement where it makes both taxable supplies (e.g. service fees) and outside the scope sales of vouchers? Clarity on this matter would be appreciated and is important in order to mitigate potential VAT costs.

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.

See questions 4, 11 and 12 above.

There will be significant costs in relation to moving from a buy/sell to an agency model –in terms of technology, legal and internal resources.

The potential input VAT cost (see Q12) represents a significant concern and ongoing cost for intermediaries. Moreover, is not clear how an input VAT deduction will be calculated. This uncertainty will lead to additional costs, e.g. from legal costs to renegotiate contracts through to significant costs associated with implementing a completely new business model (i.e. agency arrangement).

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.

Part payment is unlikely to create additional costs over and above the issues noted in the answers above.

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.

It is likely that all bespoke retail schemes will need to be updated to confirm the treatment of vouchers issued after 1 January 2019 and the grandfathering of ‘old’ vouchers.

Please refer to answers above in relation to the costs that this will create – in particular the impact on the redeemer’s margin where the price paid by the end user/purchaser is more than the amount the redeemer receives.

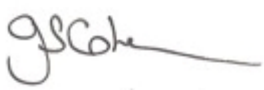
Q16 Will retaining Schedule 10A for vouchers issued before 1 January 2019 create any difficulty for your business or organisation?

The most prominent issue that will arise is the ability to track vouchers. This is not a simple issue and will be extremely difficult for many businesses to achieve. Consequently we would welcome guidance from HMRC in relation to this matter and a pragmatic approach to the issue.

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

The introduction of the new rules comes during the busiest retail trading period of the year – this presents significant challenges to all businesses in the supply chain.

Yours faithfully,



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