

minutes

Committee	CIPFA Value Added Tax Committee
Date	5 March 2020
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) Peter Briant (HMRC) Jo Buckmaster (Warwickshire CC) Sandeep Dey (Deloitte) Steven Gould (HMRC) Peter Gladdish (PSTAX) Gwyneth Graham (Caerphilly Council) Ian Harris (Leicester City Council) Simon Mulliner (Lancashire County Council) David Ogilvie (HMRC) Christopher Palmer (HMRC) Karen Regan (East Sussex CC) David Smith (HMRC) Jen Thompson (Deloitte) Kelly Wilson (Gateshead MBC)
In attendance	Jonathan Last (CIPFA Secretary)

Action

- 1 **Welcome, apologies for absence and membership issues**
- 1.1 Mike Revis welcomed everyone to the meeting. Apologies were received from Paul Rogerson and Karen Thomas.
- 2 **Minutes of the last meeting**
- 2.1 The minutes of the meeting held on 4 July 2019 were accepted as an accurate record.
- 2.2 There was no meeting in November 2019 as previously scheduled due to it falling within purdah.

3 **Matters arising**

The committee considered the matters arising and items carried forward from 6 March 2019:

3.1 **Car parking charges in country parks**

HMRC responded to Jo Buckmaster's original briefing. She will continue to pursue the matter separately, giving further examples from other members of the committee.

Ian queried HMRC's acceptance that parking at country parks is non-business where governed by RTRA84 and parking orders thereunder; HMRC agree RTRA84 is a special legal regime but non-business treatment requires there be no significant distortion of competition. Ian sought HMRC's clarification that their acceptance parking at country parks under RTRA84 is non-business means they agree such 'specialist' parking can be distinguished from 'Isle of Wight' which held 'town centre' parking is VATable due to potential distortion of competition. HMRC agreed.

Ian went on to say that, if such acceptance is due to the lack of competition for parking at country parks, that implies there is no nationwide market – which Ian felt points to such not being an economic activity. HMRC did not accept this but all noted the forthcoming 'Magherafelt'/'Midlothian'/'Chelmsford' decisions may inform the point.

The matter is now closed off for this committee.

3.2 **Making Tax Digital (MTD)**

Jo Buckmaster attended the recent JVCC MTD sub-group meeting, where HMRC shared positive statistics on the implementation, although they pointed out that there have been some issues with registering new VAT numbers, since the process is not automatic and must be done manually.

Karen Regan reported to the committee that some boroughs and district councils have said that they are moving to Phase 2 without actually becoming digital. So can local authorities, she wondered, actually still complete the spreadsheet manually, without a digital link?

Peter Gladdish answered that you can use an Equals link – which, Jen Thompson pointed out, does still create an audit trail – but not copy-and-paste which is not a digital link.

Jo also reported from the JVCC MTD sub-group meeting that HMRC say that the domestic reverse charge should be done in the system – not as an adjustment. However, not all authorities currently have the technology to be able to do this.

Another point that was clarified (and was discussed at the previous meeting of this committee) was that local authorities definitely cannot be agents.

The committee agreed that they have, in general, found MTD to be working quite well – particularly Phase 1. For one thing, it has helped stop people using journals.

There is no specific action on this matter, however it will remain on the agenda for now.

3.3 **VAT Notice 749: Local Authorities and Similar Bodies**

David Ogilvie has agreed to comments Peter Gladdish had made to him regarding there being confusing wording in the guidance on partial exemption, in terms of dates and central services recharges. These have now been addressed.

However there are still some queries that need to be addressed, in terms of their clarity or absence from the guidance altogether, which David Smith agreed to investigate:

- VAT recovery on staff and volunteers' expenses
- VAT treatment of the transfer of assets between statutory bodies
- VAT treatment of the transfer of assets to the community
- VAT treatment of entertainment, etc expenses incurred by LA chairs, mayors, etc
- VAT treatment of youth clubs and youth centres.

David O stressed to the committee to be sure to point out to HMRC any similar queries members may have with HMRC guidance.

David also informed Peter that he is waiting for Peter to reply to David's email regarding Peter's own query on partial exemption calculations. Peter agreed to come back to him.

HMRC/PG

3.4 **License to occupy v supply of service**

Karen Thomas was unable to attend today. Christopher Palmer confirmed that she has provided him with the examples he requested, and that attending to the issue is taking longer than was anticipated. But he reassured the group that a detailed response was in hand.

HMRC

3.5 **Elections**

Mike Revis informed the group that he has been working together with David Webb (not present today) on guidance for this issue, but that this has not progressed much recently. However both are keen for it to continue to progress. David W has been seconded for now but it is still an item for him.

David Ogilvie advised Mike to resend the request to him.

MR/HMRC

3.6 **Partial exemption calculations**

This is closed off as an individual agenda item but has been merged into item 3.3 – see above for details.

HMRC/PG

3.7 **Wedding room hire**

Mike Revis stressed to HMRC the committee's keenness to work together to resolve this issue.

There seem to be two 'camps', Mike pointed out: local authorities who provide a basic service with standard fees throughout, who are hence

unaffected; and others who offer the option of more in their wedding services (bigger rooms, additional services).

Jo Buckmaster expressed the confusion, shared by some other members of the committee, as to why HMRC are treating the room for a wedding as a distinct item. It is just part of the wedding package: the authority *must* offer a room, and it must be an approved one. The room is a passive factor – those getting married are paying to get married, not for a room in and of itself.

Mike added that local authorities need to know how they are going to establish the costs for wedding services. Can it be based on establishing the 'basic cost' of the registrar, plus any office overheads?

Christopher Palmer made reference to the five types of situation that he previously identified in his letter to the committee:

1. A standard ceremony at the register office, in a small room which only accommodates the two people getting married, two witnesses and the registrar(s).
2. A ceremony in a larger room at the register office, for which an overall greater fee is charged in comparison to the small room in item 1.
3. A ceremony in an approved premises run or owned by the council (which is not a register office), where all other parts of the celebrations are held elsewhere.
4. A ceremony in an approved premises run or owned by the council (which is not a register office), where other parts of the celebrations are held in the same council-run building.
5. The attendance of the registrar(s) at an approved premises not owned by the council.

Christopher stated that the liabilities of all of these have been established, except for no. 2. The crucial points are establishing what is meant by 'costs more to run' and 'reasonable costs'. He insisted that staff overheads and venue costs need to be differentiated for taxation purposes as the issue is the provision of registrars' services to perform the ceremony – which all accept are non-business – versus wedding venue hire which HMRC see as VATable.

Christopher added that there seems to have emerged a scenario that fits in between nos. 1 and 2 above: where there are other rooms that are solely available for weddings but which aren't small register offices. The committee agreed to provide examples of these to HMRC, and will do so via Mike before 27 March.

Christopher also stated that he will speak to the team at the Home Office who own the legislation about incorporating the costs and how to define 'reasonable costs'. Ian Harris in particular felt the Home Office interpretation too narrow in restricting registrars costs to just staffing costs and that these should include premises costs where the venue is used predominantly for weddings.

Ctee/MR/IH/HMRC

3.8 Eligibility of local authorities to join a VAT group

David Ogilvie agreed to remind David Webb to pursue this matter.

HMRC

3.9 **Exemption for local authorities from the proposed construction reverse charge**

Ian Harris confirmed that the simple answer to this matter is 'no', local authorities are not exempt. Local authorities are still waiting for the official guidance and will then be able to come back to HMRC with examples of potential exceptions and anomalies.

Ian had though agreed with Nick Chambers (HMRC Policy Lead) that the 'all-or-nothing' treatment of mixed use procurement must allow for a 5% de-minimis.

IH

3.10 **Adoption Support Fund**

Since the previous meeting of this committee, HMRC have sent a response that closes this matter for these meetings. The letter is available on TISonline and broadly agrees ASF monies are awarded to, belong to and are spent by the local authority who can, therefore, recover any VAT.

3.11 **Electric car charging**

This issue is still ongoing.

If an authority has a charging port in paid off-street parking, the car park and the electricity are both standard rated. But what if the car park is free or on-street? Can HMRC clarify?

David Ogilvie requested a formal briefing on this matter – seeing more specific examples will help HMRC to provide an answer. He pointed out that electric car charging is an issue that is also being discussed across Europe, and is made more complicated by issues such as whether it is a local authority arrangement, or if there is an agent involved.

Ian Harris and Peter Gladdish will together prepare the briefing note, and in its preparation will feed in examples from other members of the committee.

IH/PG/Ctee

4 **Briefing: Cultural trusts and the appointment of local authority trustees – impact on cultural exemption**

Ian had raised the question whether a cultural trust set up by a local authority, eg to run its museums, loses entitlement to cultural exemption if a councilor(s) or senior officer(s) is appointed to the trust's management board. HMRC had responded referring to VCULTURE3000ff which addresses the point.

Where appointed councilor(s)/senior officer(s) receive no more than their normal basic allowance or salary HMRC accept they have no direct or indirect financial interest in the operation of the trust so entitlement to cultural exemption is maintained (VCULTURE3200).

This is also the case where the appointee councilor(s)/senior officer(s) receive an attendance allowance when attending board meetings or nominal honorarium (VCULTURE3300).

But if appointee councilor(s)/senior officer(s) receive a special responsibility allowance or salary increment to reflect their time and commitment to the trust,

HMRC see that as a financial interest that breaches eligibility to cultural exemption (VCULTURE3400)

5 **Changes to business risk reviews for public bodies group customers from 1 October 2019**

Ian expressed his regret that HMRC did not discuss these changes with this committee ahead of making them. Peter Briant explained that this was a situation that moved extremely fast and so, regrettably, there was no time to do so.

Peter added that there are several other matters currently developing at HMRC that the committee may be able to assist with, and that he will be sure to give them a 'heads-up', via Mike Revis.

Peter also mentioned that there is a new way for local authorities to contact HMRC, via a dedicated mailbox. They should contact lasector.mailbox@hmrc.gov.uk

HMRC/JL

6 **Clarification of the VAT liability of Planning Performance Agreements**

Peter Gladdish and David Ogilvie agreed to correspond on this issue outside of the meeting.

PG/HMRC

7 **Joint working with the NHS**

This matter will be discussed at the next committee meeting.

8 **Joint VAT Consultative Committee**

There is no update at this time, and the minutes are not yet available.

9 **Land and Property Liaison Group**

Karen Regan attended, and pointed out that only the following was relevant for this committee's attention:

"3. VAT on remedial works to cladding: Referring to discussion at the last LPLG meeting, HMRC confirmed that 'person constructing' status is transferred in the context of statutory transfers of assets between local authorities. HMRC referred to RCB 27/14."

Ian noted that this does leave a mismatch in the guidance between what HMRC told LPLG, per RCB 27/14, and the extant version of VCONT03570.

The next Land and Property Liaison Group meeting is on 19 May and Karen asked committee members to let her know before then if there is anything that they would like her to raise.

Ctee

10 **VAT briefs**

Of the briefs issued since the previous committee meeting (5-10, 2019) two were deemed relevant for discussion:

6(2019) closes a loophole identified in 'Cumbria CC' that a reduction in consideration permits adjustment of the VAT declared without time-limit; this no longer the case.

7(2019) extending zero-rating to 'replacement space' following bathroom alterations is relevant for local authority grant-funded works.

11 **VAT Government and Public Bodies Guidance**

There was nothing to discuss beyond what is recorded elsewhere in these minutes.

12 **EU Exit**

This was not discussed.

13 **Local authority VAT liability index**

Steven Gould will soon be returning to Jonathan Last the latest batch that the committee provided to him. Jonathan will then update the TISonline website accordingly. (He has made the last batch that Steven returned live on the website already.)

That next batch that Steven returns will still have some 'to be done' entries. He requested that the committee removes any of these that are no longer relevant to local authorities, and then that they work on what is left.

Jonathan will then be able to return a more streamlined list back to Steven for his next review.

HMRC/JL/Ctee

14 **TISonline VAT information stream, discussion forum and S33 VAT network, also TISonline LinkedIn group**

Some members of the committee reported difficulties accessing the TISonline forums via the links in forum alerts. Jonathan requested those committee members to please send him these specific examples so that he can better assist CIPFA's IT team in investigating.

Jonathan informed the committee that a new TISonline LinkedIn group is in the works. He will update the committee further soon.

Ctee/JL

15 **Any other business**

15.1 **Error corrections to HMRC taking 21 weeks to process**

Mike Revis presented an example of this from a local authority, and other committee members had their own anecdotal examples for general information.

15.2 **New address for HMRC's Option to Tax National Unit**

This has moved from Glasgow to Wolverhampton.

The full address is as follows:

HM Revenue and Customs - Option to Tax National Unit
Crown House
Birch Street
Wolverhampton

WV1 4JX

15.3 **Exempt-attributable VAT incurred on abortive costs**

Ian sought HMRC's view on whether they would be amenable to re-categorising VAT treated as exempt-attributable when incurred as recoverable under s33(1) where the intended VAT-exempt project is aborted, so mitigating the impact on the authority's 5% de-minimis.

HMRC requested Ian put this in a Briefing for consideration.

IH

16 **Date of next meeting**

The meetings arranged so far for 2020/21 are scheduled as follows:

- 2 July 2020
- 13 November 2020 (Note that this falls outside the usual 'first Thursday of the month' routine. This is due to room availability.)
- 4 March 2021