

Minutes of the 88th JVCC meeting held on Thursday 1 August 2013

13:30-15:30 in Room 2/39,

100 Parliament Street, London SW1A 2BQ

1	Agenda Item 1 - introductions and apologies	Ian Stewart
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1.1 IS welcomed attendees, among them Fiona Heron, Finance & Leasing Association, deputising for Casey Baird, and Robin Hume, Institute of Chartered Accountants of Scotland, standing in for Alex McDougall.

A list of attendees and apologies is at appendix A.

2	Agenda item 2 – minutes of the last meeting; review of action points; matters arising	Ian Stewart Jon Riley
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2.1 Minutes of the meeting of Thursday 18 April had been agreed via correspondence and the final version would soon be published on the HMRC website.

2.2 JR gave an update on the one action point from the last meeting. Details are in Appendix B along with action points from this meeting.

3	Agenda item 3 – Stakeholder Engagement: follow up to discussion at the last meeting	Ian Stewart
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3.1 Draft revised JVCC Terms of Reference (ToR) and a note of the stakeholder engagement session at the last meeting were circulated to JVCC members on 30 July. Turning to the draft ToR, IS explained that changes had been made to take account of feedback received from JVCC members. For example, where “generic” VAT issues are raised by individual members between meetings, it is proposed that the secretariat will in future copy the response and the original question to the JVCC as a whole, as opposed to replying only to the member who submitted the query. To avoid the need for excessive redaction of responses, it was suggested that any such queries should not include taxpayer confidential information. Queries about the tax affairs of individual taxpayers should continue to be referred to HMRC via the normal channels.

3.2 IS drew the attention of JVCC members to the section of the ToR on the relationship with certain VAT liaison groups. The three groups in question were each canvassing the views of their respective members about the possibility of periodically sharing reports of their meetings with JVCC. HMRC will finalise this section of the ToR once the outcome of these consultations is known.

3.3 Commenting on the revised ToR, ST asked if ten working days was a realistic target for providing members with substantive responses to any generic issues raised with the secretariat. IS pointed out that the draft revised ToR stated that the secretariat will advise members if this timescale cannot be met in any case, but that HMRC would aim to respond to the ten working day deadline wherever possible.

3.4 MS said that clarity about what was considered a “generic issue” would be useful. DC suggested that any questions relating to transactions would fall outside the remit of the JVCC. IS said HMRC would look at this again with the aim of providing a more precise definition, but emphasised that all queries about individual businesses should continue to be referred to the VAT Helpline or VAT Written Enquiries Team.

4	Agenda item 4 – Current Consultation Exercises	
	HMRC Consultation on Sharing and Publishing Data for Public Benefit	Simon Woodside James Templeton Cindy Bell
	VAT: Retail Export Scheme	Jack Fletcher
	VAT Treatment of Refunds made by Manufacturers	Michael Kelly

HMRC Consultation on Sharing and Publishing Data for Public Benefit

4.1 SW provided JVCC members with an overview of the HMRC consultation on “Sharing and publishing data for public benefit”. The consultation was published on 17 July and was intended to open a debate on HMRC’s data sharing proposals, including more flexible release of aggregated and anonymised data, and options for the release of VAT registration data. Primary legislation would be required, should Ministers wish to take forward any measures. HMRC would be happy to engage separately about the proposals with a smaller group of JVCC members if there was an appetite for such a dialogue.

4.2 The VAT registration data that HMRC was proposing to disclose were the identifying data provided at registration and kept updated on an ongoing basis. This

data set encompassed the VAT registration number, names of the business and/or its proprietors, contact details and the status of the business. Financial data was excluded from the scope of the proposals.

4.3 JT explained that the consultation document set out three options for open data release of VAT registration data. Option A proposed the core public release by HMRC of three data fields – VAT registration number; trading name; and standard industry code (SIC) classification number. Option B would permit exceptions or opt-outs from the core proposal, which could be framed as a free choice or based on the business meeting specific criteria. Option C would give businesses the choice as to whether to disclose additional VAT registration data fields beyond the core proposal. While the consultation document addressed the need to ensure appropriate safeguards were in place to mitigate any risks that may arise from publication, more detailed risk assessment would be carried out if any of the proposals were taken forward.

4.4 The consultation also proposed a controlled release to specific parties, such as credit reference agencies (CRAs), of the full VAT registration data set. This would be the most comprehensive data release and could deliver substantial benefits. Although disclosure would be subject to rigorous data-handling controls, release of the data to CRAs would not carry the same risks that might arise from a general publication. It was not a straight choice between the core and controlled release proposals, but rather the choice was whether to adopt one, both or neither of the options, subject to the responses received.

4.5 TL said that underlying commercial tensions in some businesses might mean they would not want details of the ownership of the business in the public domain. Some JVCC members questioned the value placed on VAT registration data by CRAs and whether the release of the VAT registration data set to CRAs might have an adverse affect on the credit ratings of some individual businesses. SW advised that CRAs had made a plausible case that additional data would improve credit ratings generally and result in an increase in trade credit to smaller businesses. However, it was important to find out if use of the data could reduce availability of credit to anyone. Questions were also asked about whether CRAs would be charged for the receipt of this information and if safeguards would be put in place to prevent the data being sold on. SW said that the debate about charging for the data or making it available free of charge was ongoing and feedback on this point and other aspects of the controlled release proposal would be welcomed. These could be sent direct to SW or via the JVCC secretariat.

VAT: Retail Export Scheme

4.6 The consultation inviting general comments for redesigning the VAT Retail Export Scheme runs from 1 July to 30 September. JF explained that the scheme was one of the few remaining paper-only VAT processes, with 80 per cent of the tax free shopping forms presented on departure from Heathrow Airport. One option the consultation was exploring was the potential for introducing a digital tax free shopping scheme and the extent to which commercial providers would be interested in funding a digital solution.

VAT Treatment of Refunds made by Manufacturers

4.7 The consultation, which runs from 30 May until 31 August, was seeking to establish the extent to which manufacturers make refunds direct to final consumers. MK advised that UK law currently allows a supplier in a direct relationship with a customer to adjust their output tax. However, the law does not address the position where a manufacturer makes a refund to the final consumer. The measure seeks to equalise the VAT treatment as far as possible and to ensure that UK law aligns with EU law.

4.8 IS said that HMRC would be consulting on the legislation and HF asked whether draft guidance could be made available for comments at the same time. MK replied that HMRC would consider this and welcomed offers of copies of supply chain diagrams as an aid to drafting guidance. He confirmed that the EU Commission was aware of the consultation and plans to legislate to make this change to UK law.

5	Agenda item 5 – EU Update: Quick Reaction Mechanism & Reverse Charge Mechanism	Nick Chambers
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5.1 NC explained that both the Reverse Charge Mechanism (RCM) and Quick Reaction Mechanism (QRM) were expected to become law at the end of August. The QRM will enable EU Member States to apply to the EU Commission to introduce a temporary reverse charge. On receipt of an application the Commission will have a month in which to either endorse or reject the proposal.

5.2 Like the QRM, the RCM will apply until December 2018. It will provide an option for Member States to apply a reverse charge to a number of different supplies, but should only be adopted in instances where controlling fraud would not be possible without it. The current UK reverse charge for Emissions Allowances was unaffected by the RCM, other than an extension of the vires to the end of 2018. NC

added that HMRC was currently engaging with businesses and representative groups from the gas and electricity industry to more fully understand the implications of using the RCM in this sector.

6	Agenda item 6 – VAT Clearances: including the Cross-Border VAT rulings pilot	Richard Bowyer
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6.1 The UK was one of 13 EU Member States that had volunteered to take part in a pilot scheme for issuing VAT rulings in respect of cross-border transactions. RB explained that the pilot, which will operate from 1 June to 31 December 2013, allowed a business involved in a complex cross-border transaction between two of the participating Member States to submit a request for a ruling to the tax authority in the Member State in which it was established.

6.2 The tax authority in receipt of the request will prepare a ruling and then send the relevant documents to the tax authority in the other participating Member State for their consideration and a ruling. The business will be notified of both views by the Member State to whom the initial request was made.

6.3 Take up so far by UK businesses had been very limited. Although it was expected that numbers participating would increase, JVCC members agreed that better publicity of the pilot scheme by HMRC would be welcome.

6.3 RB advised that the number of VAT clearances HMRC had dealt with over the last three years had increased, partly in response to a new “up-grading” process whereby routine enquiries were treated as clearances where this approach was clearly what was needed. Figures for 2013-14 to date showed the acceptance rate running at 50 per cent, as compared to 70 per cent for the previous two years. It was hoped that a new “Clearances” landing page on the HMRC website, set to go live in the next two months, and improved guidance would minimise the number of rejections. He asked JVCC members if they had any other suggestions as to how the VAT Clearance Service could be improved for both parties.

6.4 Several JVCC members mentioned recent cases where there was considered to be genuine uncertainty about the VAT treatment but which had been rejected by the VAT Clearances Team. RB said he would be happy to look again at any cases which members felt had been wrongly rejected. In this context, IS asked if there was an appetite among JVCC members to reconvene the VAT Clearances Joint Working

Group, which had met once previously in late 2011. It was agreed that this would be useful and that RB would contact JVCC members via the secretariat to set this up.

AP2/13: RB to send out a note to JVCC members inviting expressions of interest in joining the VAT Clearances Joint Working Group and to set up a meeting once membership of the Group has been finalised

7	Agenda item 7 – Issues for discussion raised by JVCC members	
	Transfers of Going Concerns (TOGCs)	Alec Tasker, David Ogilvie
	Aimia Coalition Loyalty UK Ltd (formerly LMUK)	Jack Fletcher
	GSTS Pathology LLP & Fiscale Eenheid PPG Holdings	Ian Stewart
	Non Established Taxable Persons Unit – registration performance	Ian Stewart

7.1 MS asked HMRC to provide an update on the Working Party established by HMRC in 2012 to look at issues around property TOGCs. AT said that progress on addressing the issues arising from the inaugural meeting had been slower than HMRC would have liked. The first stage of this work was to review areas of policy that were causing concern and then to improve the guidance. DO added that the Working Party was extant and the intention on the part of HMRC was to go forward with more focused discussions later in 2013.

7.2 On the Supreme Court decision in Aimia Coalition Loyalty UK Ltd (formerly LMUK), JF explained that the judgment had taken everyone by surprise. The Court had, however, made it clear that LMUK’s business model stood alone from reward schemes operated by a retailer in-house. HMRC will therefore need to look carefully at how the judgment applies to those cases stood behind as being on “all fours” with LMUK before issuing a Revenue & Customs Brief (RCB).

7.3 RCh asked if an RCB was expected following the recent High Court decision in GSTS Pathology LLP. The High Court had granted GSTS interim relief to continue to tax their supplies until 3 months after the date the First Tier Tribunal issues its decision on the liability of these supplies. JR will check with the relevant team. Turning to the ECJ decision in PPG Holdings, IS advised that an analysis of the judgment was being carried out and HMRC would be issuing an RCB in due course. In the meantime, businesses that had not previously claimed input tax in respect of these services may wish to submit a claim to HMRC.

AP3/13: JR to check whether there were plans to publish an RCB following the High Court decision in GSTS Pathology LLP

7.4 RC and RCh had separately raised concerns about delays to the processing of registration applications for non-established taxable persons. IS explained that IT problems had recently had a short-term adverse impact on performance. However, the resolution of this issue and the deployment of additional resources should see case processing times improve significantly.

8	Agenda item 8 – Any Other Business	
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8.1 RC asked whether the judgment in two joined ECJ cases - Medicom & Maison Patrice Alard - about private use by employees of business premises was likely to give rise to a change in HMRC policy. JR to refer the query to the relevant policy team and provide a response.

AP4/13: JR to seek clarification as to whether the ECJ judgment in Medicom & Maison Patrice Alard will give rise to a policy change in this area

9	Agenda item 9 – Review of Meeting	
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9.1 JVCC members were generally content with the agenda and structure of the meeting. The consensus was that performance issues should not be included as standing items on the agenda.

Appendix A

JOINT VAT CONSULTATIVE COMMITTEE (JVCC)

(Meeting no 88)

Thursday 1 August 2013

13:30-15:30, Room 2/39

100 Parliament Street, London SW1A 2BQ

External Attendees

Dean Carey (DC)	Association of Chartered Certified Accountants
Rhiannon Churchill (RCh)	Institute of Chartered Accountants in England and Wales
Ruth Corkin (RC)	VAT Practitioners Group
Helene Dinsdale (HD)	One Hundred Group
Leigh Francis (LF)	London & International Insurance Brokers Association
Fiona Heron (FH)	Finance and Leasing Association
Robin Hume (RH)	The Institute of Chartered Accountants of Scotland
Tony Jackson (TJ)	The Chartered Institute of Taxation
Timothy Lloyd (TL)	Association of British Insurers
Alex Millar (AM)	Association of Accounting Technicians
Julian Ogden (JO)	VAT in Industry Group
Gary Richards (GR)	The Law Society of England & Wales
Martin Scammell (MS)	British Property Federation
Trevor Steel (TS)	Chartered Institute of Public Finance & Accountancy
Stephen Taylor (ST)	Association of Taxation Technicians

Apologies

Casey Baird	Finance and Leasing Association
Peter Jenkins	Charity Tax Group
Alex McDougall	The Institute of Chartered Accountants of Scotland
Tariq Oozeerally	Association of International Accountants
Philip Peberdy	Confederation of British Industry
Richard Sharp	The Chartered Institute of Management Accountants

HMRC/HMT Attendees

Ian Stewart (IS)	Director, Indirect Tax Directorate
Jon Riley (JR)	JVCC Secretary, Indirect Tax Directorate
Simon Woodside (SW)	Business Customer and Strategy

James Templeton (JT)	Business Customer and Strategy
Cindy Bell (CB)	Central Policy
Jack Fletcher (JF)	Indirect Tax Directorate
Michael Kelly (MK)	Indirect Tax Directorate
Nick Chambers (NC)	Indirect Tax Directorate
Richard Bowyer (RB)	Indirect Tax Directorate
Alec Tasker (AT)	Indirect Tax Directorate
David Ogilvie (DO)	Indirect Tax Directorate
Jonathan de Wilton (JdW)	HM Treasury

Appendix B

Current position on JVCC action points

AP ref	Detail	Current position
Action points from the meeting on 18 April 2013		
AP1/13	JR to refer concerns raised about the user-friendliness of some VAT registration forms to HMRC'S Digital Services Team and report back to JVCC	<p>In the light of feedback from customers, agents and HMRC staff, work is currently taking place on revisions to the interactive PDFs. We acknowledge the main criticism that it should be made clear from the outset what information is required to complete the form. A 'What You Will Need' section is therefore being added to the revised forms to clearly explain the information the customer will need to have to hand in order to complete the form.</p> <p>Revised versions of the forms are close to being finalised and HMRC will share these in draft with JVCC members and seek their feedback prior to publication.</p>
Action points from the meeting on 1 August 2013		
AP2/13	RB to send out a note to JVCC members inviting expressions of interest in joining the VAT Clearances Joint Working Group and to set up a meeting once membership of the Group has been finalised	
AP3/13	JR to check whether HMRC has plans to publish an RCB following the High Court decision in GSTS Pathology LLP	

AP4/13	JR to seek clarification as to whether the ECJ judgment in Medicom & Maison Patrice Alard will give rise to a policy change in this area	
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