

Minutes of the 94th JVCC meeting held on Tuesday 10 February 2015

14:30-16:30 in The Auditorium,
1 Horse Guards Road, London SW1A 2HQ

1	Agenda Item 1 - introductions and apologies	Ian Stewart
----------	--	--------------------

1.1 IS welcomed attendees, among them Colin Scates, Chartered Institute of Public Finance & Accountancy; Nick McChesney, Institute of Chartered Accountants in England and Wales; and Jo Ford, Association of British Insurers, all of whom were attending their first JVCC meeting for their respective representative bodies, and Fiona Heron, attending for the first time as representative of the Confederation of British Industry.

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
----------	--	----------------------------------

2.1 Minutes of the meeting of Thursday 6 November had been agreed via correspondence and a copy would shortly be available on GOV.UK.

2.2 JR gave an update on the open action point from 6 November 2014. Details are at appendix B.

2.3 MS asked for an update on the publication of a revised version of VAT Public Notice 741A Place of supply of services. This followed circulation to JVCC members for comments of a draft copy of the revised Notice in November. JR said he would check with the relevant policy team and provide members with a progress update. [Post meeting note: an update was provided to Members on 22 April. A further revision of Notice 741A will be circulated in June, incorporating comments received, ahead of publication in the summer.]

3	Agenda item 3 – Update on EU and other international VAT issues	Ian Broadhurst, Mike Cunningham
----------	--	--

EU Standard VAT Return

3.1 Like many Member States the UK was continuing to press for a Standard VAT Return (SVR) that would allow us to maintain our existing national approach. However, IB explained that for the majority of Member States this meant a more complex return with numerous boxes to reflect current national versions. Towards the end of the Italian Presidency requests for the inclusion of additional information had been accommodated which could take the form of 50-60 optional boxes on a mandatory common template. Agreement on a mandatory common SVR that simplifies obligations for business was therefore looking increasingly unlikely, but the UK will continue to press for an outcome that offers real benefits for UK businesses trading across Member States.

3.2 There had been one meeting to date on the SVR under the Latvian Presidency. Member States had been asked by the Presidency to consider a SVR on the basis of optional implementation. IB said that such an approach could have merits for UK businesses and might be an acceptable outcome if supported by an EU web portal. The next SVR meeting was scheduled for 27 February and we will provide an update in due course. Asked about section 33 VAT refund claims, IB advised that the UK was continuing to push for an outcome that would maintain the process currently in place.

VAT 2015 changes & Mini One Stop Shop

3.3 In November and December there had been a flurry of media activity on Twitter plus press interest about the changes that came into force on 1 January 2015 and the impact on micro businesses. IB explained that HMRC was aware of the concerns of small and micro businesses and was doing everything possible to provide practical support.

3.4 In addition to applying a light touch to compliance, we had been providing guidance via social media channels and additional help on some key issues raised by smaller UK businesses. Micro businesses will not lose the benefit of the UK VAT registration threshold if they want to use the MOSS. These businesses may also, until 30 June 2015, base their 'customer location' decisions solely on information provided to them by their payment service provider. IB advised that assurances had been received that the main payment providers will supply businesses with the necessary information to facilitate this.

3.5 To date just over 1500 UK businesses had registered for the MOSS and HMRC was processing on average 50 new registrations a day. The number of non-

EU businesses currently registered for the MOSS was in the hundreds. At the request of the UK, the Commission had agreed to prioritise a discussion of 2015 issues at the next VAT Committee on 30 March.

Cross-Border Thresholds

3.6 MC said that some UK micro businesses had been lobbying for some form of cross-border VAT threshold to relieve them of the burdens associated with the 2015 changes. During negotiations on the VAT package the UK had argued strongly for the inclusion of a cross-border threshold but there had been no support from other Member States. As recently as December, the UK had asked the Commission and other Member States if they had received similar representations. At that time they reported they had not and so saw no case for a threshold.

3.7 On 14 January, the Prime Minister wrote to the EU attaching a UK digital paper [<http://engage.number10.gov.uk/digital-single-market/>]. One of the paper's recommendations was that consideration should be given to a single cross-border VAT threshold below which businesses should not have to pay VAT or file a VAT return in other Member States. The UK would be seeking a review under the Latvian Presidency to push the case for a threshold, but MC stressed that any proposal from the Commission would need the agreement of all 28 Member States.

3.8 PJ asked about progress on the Commission consultation on Review of Existing VAT Legislation on Public Bodies and Tax Exemptions in the Public Interest. MC said that this was not on the current work programme but was likely to feature again as the new Commission's plans develop.

4	Agenda item 4 – ECJ judgment in Skandia; partial exemption and the right to deduct; cost component of the price; VAT and holding companies	Bruno Giordan
----------	---	----------------------

ECJ judgment in Skandia

4.1 Members were alerted to the publication on 10 February of Revenue & Customs Brief 2 (2015) which sets out HMRC's view of the ECJ judgment in Skandia. BG explained that HMRC did not consider any changes to UK legislation were necessary as a result of the decision. However, UK VAT accounting will be affected and the Brief outlines those scenarios in which VAT may become due. Businesses have until 1 January 2016 to implement any changes and HMRC will publish further

guidance to help those affected in due course. IB advised that the Commission had recommended an early discussion at VAT Committee if there were concerns about Member States' interpretation of the judgment.

Partial exemption and the right to deduct: cost component of the price

4.2 BG explained that it was not HMRC's position that VAT could only be deducted if the VAT bearing costs were fully reflected in the output price of any particular supply. HMRC will review its guidance to improve the clarity, but we will delay any re-write until the ECJ judgment in Sveda which is expected to provide further guidance on this issue. PJ expressed the view that some visiting officers were taking an approach which went further than HMRC's stated position on the "cost component of the price". BG said he would ensure that operational colleagues are reminded about the current policy.

VAT and holding companies

4.3 Following receipt of a VAT In Industry Group (VIIG) paper "Holding Companies, VAT Grouping and Input Tax Deduction - HMRC's New Guidance" BG had attended a VIIG meeting to discuss the points raised. He explained that in the light of developments in ECJ cases policy was kept under constant review. In the mid 2000s HMRC had started to challenge input tax recovery in this area, with the result that there were now approximately 500 cases in litigation.

4.4 While the decision in BAA had relatively few wider implications, it did make clear that some businesses believed that HMRC's policy had remained unchanged since 1993, despite the numerous cases in litigation. As a result, HMRC refreshed its guidance in mid-2014, although it had become apparent that some aspects were open to different interpretations.

4.5 The ECJ judgment in Larentia + Minerva was expected by July 2015 and this should provide more certainty on the issue of input tax recovery and serve to resolve a number of other issues currently in litigation. It was recognised, however, that the decision will not address all of the outstanding issues and so HMRC had begun an ADR process with representatives for various litigation cases to identify issues that will not be resolved and to try and reach agreement on these. Both the judgment and ADR should help HMRC improve its guidance which will be shared in draft prior to publication. BG also mentioned an HMRC Oversight Board which will be responsible for ensuring that officers apply the policy in this area consistently.

5	Agenda item 5 – Issues for discussion raised by JVCC members	
	HMRC VAT resourcing	Martin Scammell (BPF)

5.1 MS raised concerns on behalf of the BPF about resourcing on VAT in HMRC. It was the view of the BPF that work on VAT was proportionately less well resourced than that on other taxes. MS cited the example of a significant reduction of staff in VAT liability policy roles and numbers of senior civil servants working on VAT policy. He added that some representative bodies were already providing help in drafting guidance and minutes of stakeholder meetings and would be willing to look at how they could offer more assistance to HMRC should this be needed.

5.2 IS welcomed the contribution currently provided by the BPF and other representative bodies. He explained that there were currently four Deputy Directors, responsible for overseeing aspects of VAT policy and process work and policy teams were organised to deal most effectively with the volume of work received. In terms of land and property issues, senior HMRC VAT policy advisers work closely with the Land & Property Liaison Group on big ticket issues. IS noted that HMRC had recently increased the number of VAT specialists working in Large Business (LB). He added that there had been recent changes to the HMRC Graduate Trainee Scheme and this would be producing more VAT specialists in the future.

5.3 MS and some other members questioned the frequency of movement of HMRC staff between taxes and the resultant loss of expertise. IS advised that it was expected that many staff would move from one tax to another during their careers though these moves were carefully managed. Customer Relationship Managers, for example, were expected to stay in the same post for at least four years.

6	Agenda item 6 – Overview of the work of Business Tax Operations	Mike Howe
----------	--	------------------

6.1 MH provided JVCC members with an overview of Business Tax Operations (BTOps). In addition to the VAT Registration Service and Option to Tax Unit, BTOps had brought together under a single command operational delivery teams from Excise, Customs and Corporation Tax. It was the initial port of call for numerous issues requiring human intervention, comprising 1400 staff with the flexibility to quickly divert resources to meet customer demand.

6.2 In response to concerns from some members about the transfer from Aberdeen to Wolverhampton of the processing of VAT registration applications from Non Established Taxable Persons, MH explained that this would mean much shorter lead in times. He added that the high quality of customer service previously provided by the Non Established Taxable Persons Unit would be maintained and gave an assurance that no expertise had been lost with specialist resource retained in Aberdeen.

6.3 RC suggested that the time taken to process VAT registration applications for which HMRC had requested further information might be significantly shortened if correspondence was sent direct to the agent or, better still, by a telephone call to the agent if there was a 64-8 on file. MH said he would take this away and look into it.

7	Agenda item 7 – HMRC’s Small Business Customer Strategy	Rebecca Hall Lorn Morrison
----------	--	---------------------------------------

7.1 HMRC was developing a cross-regime Small Business Customer Strategy which will follow on from its SME Strategy 2010-15. RH briefly talked Members through a slidepack which set out the drivers for change. The key was to make tax work for everyone and to reduce the burden of administration through the most effective use of digital tools. RH asked Members for early views on HMRC's strategic approach to small businesses.

7.2 Members put forward some suggested areas for improvement including a reduction in the volume of superfluous documents sent out to customers, such as EC Sales Lists to businesses not trading with other Member States, and making it easier to resolve outstanding issues with HMRC by telephone. It was also suggested that HMRC could remove taxpayer uncertainty and improve compliance by providing definitive responses to a greater number of clearance requests rather than referring customers and agents to guidance for the answer. IS explained that where guidance on the tax treatment of a particular supply was clear HMRC’s approach was to encourage self-service. RH thanked Members for their responses and said that she would welcome details of any further ideas to feed into this work which could be sent to JR.

8	Agenda item 8 – Any Other Business	
----------	---	--

8.1 RC and TJ raised issues about pre-registration input tax and the implications of the First-tier Tribunal decision in Muster Inns respectively. It was agreed that both

would provide JR with further information to pass on to the relevant VAT policy teams.

8.2 JR confirmed that the next meeting was scheduled for Thursday 14 May and would start at the usual time of 1.30pm.

Appendix A

JOINT VAT CONSULTATIVE COMMITTEE (JVCC)

(Meeting no 94)

Tuesday 10 February 2015

14:30-16:30, Auditorium

1 Horse Guards Road, London SW1A 2HQ

External Attendees

Casey Baird (CB)	Finance and Leasing Association
Ruth Corkin (RC)	VAT Practitioners Group
Helene Dinsdale (HD)	One Hundred Group
Jo Ford (JF)	Association of British Insurers
Leigh Francis (LF)	London & International Insurance Brokers Association
Fiona Heron (FH)	The Confederation of British Industry
Tony Jackson (TJ)	The Chartered Institute of Taxation
Peter Jenkins (PJ)	Charity Tax Group
Nick McChesney (NM)	Institute of Chartered Accountants in England and Wales
Alex McDougall (AMc)	The Institute of Chartered Accountants of Scotland
Alex Millar (AM)	Association of Accounting Technicians
Julian Ogden (JO)	VAT in Industry Group
Colin Scates (CS)	Chartered Institute of Public Finance & Accountancy
Martin Scammell (MS)	British Property Federation
Martin Shah (MSh)	The Law Society of England & Wales
Richard Sharp (RS)	The Chartered Institute of Management Accountants
Stephen Taylor (ST)	Association of Taxation Technicians

Apologies

Dean Carey	Association of Chartered Certified Accountants
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

Ian Broadhurst (IB)	Indirect Tax Directorate
Mike Cunningham (MC)	HM Treasury
Bruno Giordan (BG)	Indirect Tax Directorate
Mike Howe (MH)	Director, BT Operations
Rebecca Hall (RH)	Business, Customer & Strategy
Lorn Morrison (LM)	Indirect Tax Directorate

Appendix B

Current position on JVCC action points

AP ref	Detail	Current position
<p>Action points from the meeting on 6 November 2014</p>		
<p>AP5/14</p>	<p>PR to look into possible changes to the additional evidence requirements HMRC imposes on customers without a National Insurance Number (NINo) applying to register for VAT</p>	<p>HMRC were still examining whether it might be possible to change the new identity authentication requirements for VAT registration applicants who don't have a NINo. However, these requirements must be viewed in the context of the significant organised criminal attacks HMRC has faced since introducing VRT. We have significantly and successfully strengthened the authentication procedure for applicants with a UK NINo and need to guard against creating a loophole for applicants without a NINo and therefore a fraud displacement threat. We also need to ensure that the identity authentication arrangements are equally secure for represented and unrepresented applicants.</p>