

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

European Committee B

COMMON SYSTEM OF VAT (VOUCHERS)

Monday 2 November 2015

PUBLISHED BY AUTHORITY OF THE HOUSE OF COMMONS
LONDON – THE STATIONERY OFFICE LIMITED

£3.00

No proofs can be supplied. Corrigenda slips may be published with Bound Volume editions. Corrigenda that Members suggest should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor's Room, House of Commons,

not later than

Friday 6 November 2015

STRICT ADHERENCE TO THIS ARRANGEMENT WILL GREATLY
FACILITATE THE PROMPT PUBLICATION OF
THE BOUND VOLUMES OF PROCEEDINGS
IN GENERAL COMMITTEES

© Parliamentary Copyright House of Commons 2015

*This publication may be reproduced under the terms of the Open Parliament licence,
which is published at www.parliament.uk/site-information/copyright/.*

The Committee consisted of the following Members:

Chair: MR JAMES GRAY

† Davies, Geraint (*Swansea West*) (Lab/Co-op)

† Foster, Kevin (*Torbay*) (Con)

† Gauke, Mr David (*Financial Secretary to the Treasury*)

Grant, Peter (*Glenrothes*) (SNP)

† Howlett, Ben (*Bath*) (Con)

† Mackinlay, Craig (*South Thanet*) (Con)

† Marris, Rob (*Wolverhampton South West*) (Lab)

† Rees-Mogg, Mr Jacob (*North East Somerset*) (Con)

Sheerman, Mr Barry (*Huddersfield*) (Lab/Co-op)

† Skidmore, Chris (*Kingswood*) (Con)

† Smith, Jeff (*Manchester, Withington*) (Lab)

† Streeting, Wes (*Ilford North*) (Lab)

† Stride, Mel (*Lord Commissioner of Her Majesty's Treasury*)

Fergus Reid, Joanna Welham, *Committee Clerks*

† **attended the Committee**

European Committee B

Monday 2 November 2015

[MR JAMES GRAY *in the Chair*]

Common System of VAT (Vouchers)

4.30 pm

The Chair: It may be helpful to the Committee if I briefly explain how we intend to run this afternoon's proceedings. The whole thing must last no longer than two and a half hours. Therefore, we will conclude at 7 pm at the latest. First, a member of the Committee who is also a member of the European Scrutiny Committee may, if he wishes, make a five-minute statement explaining why the European Scrutiny Committee has decided to refer the documents for debate. I understand that Mr Mackinlay intends to do that.

There will then be up to an hour of questions to the Minister who may, if he wishes, start with a brief introductory statement, during which time he may not be intervened upon, rather like a statement to the main Chamber. There is then an hour of questions, which, if I wish, I can extend by a further half hour to make it a total of an hour and a half—as long, it says on my note, as it remains edifying. I hope it will be thoroughly edifying. Finally, the remainder of the two and a half hours that the entire procedure takes up is available for a formal debate of the documents on the basis of the motion that the Minister will, by then, have moved.

The Financial Secretary to the Treasury (Mr David Gauke): On a point of order, Mr Gray, it was my understanding that the Minister was permitted a 10-minute statement, but I will obviously take your guidance. I am keen to anticipate as many of the questions that the Committee no doubt has as fully as I can in my opening remarks, therefore saving the Committee any trouble. I will be guided by you.

The Chair: Knowing the charm and eloquence in which you habitually engage, I am sure that the Committee would be delighted for you to provide a 10-minute statement. If you ask for it, we could, no doubt, agree to 15 minutes, although I think 10 minutes will do. First, does a member of the European Scrutiny Committee wish to make a brief explanatory statement about why it has referred the documents to this Committee?

4.32 pm

Craig Mackinlay (South Thanet) (Con): It may help the Committee if I take a few moments to explain the background to the document and the reason that the European Scrutiny Committee in the previous Parliament recommended it for debate—it has been some time coming. The 2006 principal VAT directive consolidates the legislation governing VAT in the European Union to ensure smooth operation of the single market and equal treatment for all businesses trading across the EU.

The directive lays down rules to ensure a consistent approach to the questions about how much VAT is charged, when it should be declared and to which tax

jurisdiction the tax should be paid. However, vouchers can present difficulties in relation to all those questions. The increase in cross-border use and distribution of vouchers, and the differences in treatment between member states, are some of the main causes of double or, indeed, non-taxation.

In May 2012, the Commission issued the proposal for a directive to amend the principal VAT directive to clarify and harmonise the rules on the VAT treatment of vouchers. The entitlements of the holder of a voucher are typically for goods or services or to receive a discount or a rebate in relation to a sale or a supplier. The issuer assumes an obligation to supply goods or services, to give the discount or to pay the rebate. In defining a voucher that way, the draft directive identifies it as an object in itself that can itself be supplied, meaning that the extensive distribution services in place for vouchers would be subject to VAT.

At the same time, a system for vouchers needs to recognise that, although VAT on any distribution service is captured, there is only one payment for the underlying goods or services for which the voucher acts as evidence of the right to receive. Thus, the draft directive would define supplying of the right to receive as a supply and would have subsequent supply viewed as a single transaction.

Negotiations in the Council of this complex—I think the Committee has gathered that so far—and somewhat technical proposal has been long drawn out. It has not been clear what the final shape of the amending directive might be. Accordingly, the previous European Scrutiny Committee recommended this debate to enable Members to explore the details of the proposed solutions to a complex problem, and the possible consequences for UK businesses. The current Committee endorses that recommendation.

4.34 pm

Mr Gauke: It is a great pleasure to serve under your chairmanship, Mr Gray. I thank my hon. Friend the Member for South Thanet for his opening remarks. I am pleased to have the opportunity to discuss the Government's views on the EU Commission proposal on the VAT treatment of vouchers.

Vouchers in that context are the various types of token, paper and electronic card that we are all familiar with. Examples are book tokens, gift vouchers, luncheon vouchers, electronic in-store cards, mobile phone top-ups and internet-based purchase codes. Some vouchers are issued by the business that will redeem them, whereas others are issued by one business and redeemed by another, with reimbursement made behind the scenes.

The vouchers in question are those where a payment has been made and the voucher represents an entitlement to collect goods or receive services. Sometimes, the payment is made by someone else—a friend or relative, or a business—so the beneficiary may not have made a payment. We often call such vouchers “face value” vouchers, although nowadays the voucher's value may not be physically written on them, particularly electronic vouchers. Neither discount vouchers nor traditional payment systems are affected by the Commission's work in this area.

The interaction between “face value” vouchers and VAT systems is complex. EU law has failed to keep up with developments in the sector and developments in

technology in particular. As a result, rules in member states differ considerably, which has led to many instances of double and non-taxation, and businesses find it difficult to trade vouchers across borders.

The key problem with vouchers is knowing how much VAT to charge. Generally we expect VAT to be charged when a payment is made. That works fine for CD tokens, for example, but for some gift vouchers no one knows how much VAT to charge until they are used to buy something, because almost all retailers sell goods subject to a variety of VAT rates.

The simple answer might be to apply VAT when the voucher is redeemed but, when a voucher is sold through a distributor, the retailer will sell it at a price below its face value to enable the distributor to take a cut. Therefore, the amount the customer pays is often different from what the redeemer receives. As a result, it can be difficult to identify the correct tax base. If we tax all distribution and redemption at the VAT standard rate, we end up collecting too much VAT.

Last year, the UK retail voucher market was worth about £5 billion. UK business leads the EU in developing such opportunities to facilitate business promotion. In the single market, we need harmonised VAT rules to permit effective cross-border voucher distribution. To trade effectively, businesses need rules that are consistent and easy to understand. The current rules for vouchers do not provide that. Each member state seems to have a different set of complex rules that businesses have to learn. Such differences also lead to double or non-taxation. The Government therefore support the initiative to identify some common VAT rules for vouchers.

On the specific details, the Commission's proposal puts "face value" vouchers into two distinct groups: single-purpose vouchers and multi-purpose vouchers. SPVs are vouchers for which the information needed to apply tax is known when the voucher is issued, such as a CD token. MPVs are the more complex type of vouchers, such as a gift voucher, where the tax cannot be applied at the outset because it is not known what goods or services will be supplied until the voucher is used.

There is general agreement among member states that VAT on SPVs should be charged as if the sale of the voucher is the sale of the underlying goods and services that will be supplied when the voucher is used in the shop. VAT is therefore collected at each stage of distribution. That is how we currently treat SPVs and we fully support the work achieved in respect of them.

It has proved much harder, however, to determine the correct VAT treatment for MPVs. The Commission's initial scheme was rejected by member states because it was too confusing and unpopular with businesses, who would have had to have shown their margins. Instead, member states examined alternatives. The solution on the table would require the shop to account for VAT on the face value as a default, but would allow the use of the actual payment details where they are known.

The Government are inclined to support that approach because, in the majority of cases, it would ensure that the correct amount of VAT was paid. It is also the approach taken in the UK with many MPVs. Although we think the issue is manageable, there would be an impact on some high street retailers where vouchers are issued and redeemed by the same party, particularly where the distribution is undertaken by intermediaries acting in their own names. We think that that will

impact on about 6% of vouchers sold, but the businesses mostly affected will be the half dozen or so large high street chains.

Those few large high street retailers would probably want to adapt their systems. They already account for VAT using a special scheme. They might wish to renegotiate their arrangements with distributors so that they share the burden of collecting VAT more equally. The new scheme allows for businesses to make adjustments where the correct amount of VAT is known. It is also possible for the adversely affected retailers to change their arrangements with intermediary businesses to make it easier for them to identify the correct amount of VAT. We do not think that private consumers would pay any more VAT under the revised approach.

As I have explained in my letter to the Committee, we hope to make some changes before final agreement. Although the Government are minded to agree the revised approach to collecting VAT on sales involving vouchers, there is one aspect that we are keen to discuss with other member states: the VAT incurred by intermediaries that buy and sell vouchers in their own name and that will not, under the current text, be entitled to deduct the VAT on their costs. However, those charging a commission will be able to deduct the VAT incurred on costs, and one can imagine the practical impact of that as one person being able to deduct the VAT on the costs of his van while another could not. We believe that the intermediaries that sell vouchers should be treated as a special case so that their tax position is the same as other intermediaries, and we are continuing to press for those changes to the text.

Finally, having examined many possibilities for changes to the VAT rules, the majority of EU member states agree that the text on the table offers the best compromise against a background of it being impossible to please all businesses if we seek a common rule to avoid double and non-taxation. At the same time, most member states will have to accept at least some changes to their existing rules. Eleven member states agree with us on VAT deductions for certain distributors, as does the Commission. The only exception to that general common position is Germany, which has recently argued the need to distinguish tickets from vouchers for reasons of absolute clarity. We see that as an unnecessary level of detail and note that no other member state has supported Germany on that point. Tickets are outside this area of work, but are treated under VAT rules in the same way as SPVs. We hope that, if all member states can agree the text, Germany will be persuaded that the advantages of agreement outweigh its concerns.

I have set out the broad state of play on the Commission's proposal on vouchers. Working groups are continuing in Brussels, and we expect that the matter may come to ECOFIN next year. With those remarks, I look forward to any questions from the Committee.

The Chair: With the Minister having explained the matter so clearly, we have an hour for questions. I remind Members that they should be brief and, crucially, include a question. At my discretion, they can ask supplementaries, if they wish.

Rob Marris (Wolverhampton South West) (Lab): It is a pleasure to serve under your chairmanship, Mr Gray. In past years, you and I have spent many years working constructively, I think, together in this room.

[Rob Marris]

The area is particularly complex. I hope the Minister will confirm whether I have understood the proposal correctly—it is quite possible that I have not—but when we boil it down, it is that single-purpose vouchers would be subject to VAT when they are issued and multi-purpose vouchers would be subject to VAT when they are redeemed. That is what I pick up from the papers. Incidentally, the papers are one of the few places outside church where one hears the word “redeemer” used.

Mr Gauke: Yes. The hon. Gentleman has essentially summarised the matter very effectively, so I am happy to confirm that.

Rob Marris: I understand that the Commission considered four options. One, perhaps unusually for the Commission, was to do nothing. One was what it is pleased to call—I confess that this is a new one on me—the “soft law” approach, which most people would call guidelines. Another was to legislate, and the fourth option was a ban. Which of those four—to do nothing, the guidelines, to legislate or a ban—was the preferred option of Her Majesty’s Government?

Mr Gauke: The first of the UK Government’s objectives was to address a level of inconsistency and confusion that exists under the status quo, so we were not in favour of the do-nothing approach. Equally, we see vouchers as having a role to play. Within the UK, we have one of the bigger markets, as one might expect—although it is perhaps bigger than one would expect based on the proportion of our economy. We would not therefore favour banning vouchers; that would be a very draconian approach.

To get the type of clarity that we think we need, we concluded that guidelines would not be sufficiently strong. Therefore, of the four options, we favour legislating and hope that we can reach agreement among all member states so that the Commission’s proposals can go forward in a legislative form, although, as I said, we have highlighted a couple of areas where we think they can be improved on.

Geraint Davies (Swansea West) (Lab/Co-op): In the case of multi-purpose vouchers that are issued, for example, in Britain but redeemed in Germany, what account is the Exchequer taking of changes in exchange rates, in terms of the tax take?

Mr Gauke: The hon. Gentleman raises an important point. The reason why we think we need to make progress in this area is that, in itself, this area is complex. When one takes into account the potential cross-border nature of transactions, the need for greater clarity becomes all the more important.

If we want to facilitate cross-border trade—as the Government do, and there is cross-party consensus on that—addressing the VAT treatment of vouchers is an important factor. I have set out the principles of how the Government think that this should work; if we are looking at MPVs, the measure should apply at the end of the transaction as such. That principle would apply, notwithstanding any changes in the exchange rate.

Geraint Davies: In the case of a voucher worth €1 when it was originally issued, but €1.20 or €0.80 when it was redeemed, would there be any bearing on the tax situation? Presumably if the voucher is redeemed in Germany, the tax is paid in Germany, is it not?

Mr Gauke: In terms of the principle, if the supply is in Germany, the voucher is subject to German VAT, for example. The exchange rate is essentially not an issue here; the issue is the VAT payable at the point of the transaction, which, in the case of MPVs, is at the end of the process, as it were—at the final point in the shop. That is the rate of VAT that has to be paid.

Geraint Davies: To put it simply, let us say that somebody had a pack of 240 PG tips with a 50p voucher on it and they redeemed that in Germany. Although perhaps it would not be accepted at all, if it was, the amount would be translated into euros and the tax would be paid on it, so it would have a different value than anticipated. I am asking whether that poses any problems.

Mr Gauke: No, the exchange rate does not cause problems in those particular circumstances. I hope that provides some clarity for the hon. Gentleman.

The Chair: Mr Marris, do you have a further question?

Rob Marris: I have two further questions, if I may. As the Minister is aware, article 30a—I think it is a draft—defines “voucher”. It defines “single-purpose vouchers”, “multi-purpose vouchers” and “discount vouchers”. Are Her Majesty’s Government satisfied with those definitions?

Mr Gauke: In essence, we are satisfied with the definitions set out in article 30a. Ultimately, this is not about discount vouchers such as money-off coupons, so I hope that those are not at the heart of the proposals before us. We are satisfied with the definitions.

Rob Marris: As the Minister said, this is a matter of considerable complexity. Were the proposals to go ahead—with, as the Minister mentioned, some fine tuning—would complexity for business increase or decrease? Which is the likely assessment?

Mr Gauke: It would be fair to say that there is some complexity in the current system because of inconsistency. The hon. Gentleman asks whether the draft directive will disrupt businesses because they will have to deal with a new regime. I would argue that it will not cause major disruption to businesses here. The most likely to be affected would be large, high street chains. High street shops that issue vouchers through distributors to other businesses would be most affected. Those that issue vouchers direct to their customers would be least affected.

Whether a business will be affected significantly will depend on the balance between the two types of operation within the same business. Some high street retailers issue both types of voucher. Some distributors might want to change their business model from buying or selling vouchers to arranging the sale of vouchers. That is quite possible.

Officials have had wide-ranging discussions with UK businesses on the changes. Although there may be some changes and disruption, the general feedback that officials have received from businesses is that they would welcome certainty on the matter in the future. Again, I make the point that, for the first time, VAT law would have a specific provision for VAT treatment of vouchers, which would mean that EU member states would have the same rules, making cross-border trading using vouchers far easier. Businesses would no longer have to set up different systems for different countries.

To give a topical example, the provisions would also make the collection of VAT on mobile phone roaming charges far simpler. The new rules would allow the UK to make changes to our law to make it easier to collect the right amount of tax on what the customer pays when using a voucher. Yes, there will be some disruption to and impact on high street retailers but, on balance, if an agreement can be reached, this is a favourable change.

Craig Mackinlay: To try to put into context the type of transaction that might be caught, I am thinking particularly of business-to-business transactions. I am not quite sure whether there is a voucher, but there must be one somewhere along the line. A reverse charge could come into play for some voucher that represents goods that could be redeemable elsewhere.

The rules for business-to-consumer transactions are obviously different. I would have thought that the most relevant example relates to the new digital services one-stop-shop rules that have applied since 1 January. I am thinking about an Apple iTunes or Google Play voucher, which I assume could be used on a computer in Germany to get a service delivered in Germany. The string of transactions could be complicated, but I am trying to understand how that might work under the scheme. I would assume that the German supplier of an iTunes service—whatever it is—would then be deemed to come under the German one-stop-shop arrangements.

I am also thinking about unusual transactions such as a restaurant discount voucher. Many companies in the UK offer diners the opportunity to join for a certain amount a year what is almost a club that allows a discount in restaurants. That would not cause difficulties in the UK, because I would imagine that joining the club is a chargeable supply, as is actually paying the reduced amount in a restaurant. It is just VAT. However, I am struggling to get my head around how it would work across borders. I am sorry to cause difficulties, but I want to understand how things might work in transactions, which makes the issue rather more important.

Mr Gauke: In part, I would go back to the principles that I set out in my opening remarks. As for business-to-business transactions for promotion purposes, to the extent that the reverse charge applies, that would operate as normal. The one-stop shop referred to by my hon. Friend is for business-to-consumer transactions only. There are some issues relevant to the one-stop shop, but I do not think that anything in particular arises as consequence of VAT on vouchers; the two things stand by themselves. To clarify an earlier remark, discount vouchers, to which the hon. Member for Wolverhampton South West referred, were removed from the proposal by member states, so the measure applies to face-value vouchers only. I hope that that is clear.

Resolved,

That the Committee takes note of European Union Document No. 9926/12 and Addenda 1 and 2, a draft Council Directive amending Directive 2006/112/EC on the common system of value added tax, as regards the treatment of vouchers; welcomes the objective of harmonised VAT rules for vouchers to support a smooth operation of the Single Market and fewer possibilities of double and non-taxation; and further notes that the Government is keen that any solution ensures that the right amount of tax is collected on what the customer pays, in line with the principles of taxation of consumption.—(Mr David Gauke.)

4.58 pm

Committee rose.

