VAT Practitioners Response to the Consultation on the "Alternative method of VAT collection – split payment paper

The VAT Practitioners' Group (VPG) would like to thank HM Revenue & Customs for having been given the opportunity to respond to the above consultation. We are delighted to hereby summarise our comments.

<u>Question 1</u>

Whether the MA is the best person to determine the VAT treatment and thus deduct the correct amount of VAT to pass on to HMRC, will depend upon its knowledge of the supplier's activities. If the seller only transacts in standard rated supplies, this would be easy to determine. However, where one payment is received for a mixture of standard and zero-rated supplies (E.g. for the purchase of a DVD and a paperback book), the MA would not immediately be able to determine the split of the supply without more detail from the seller.

<u>Question 2</u>

Whilst we can, in some ways, understand the government's desire to collect the tax at source in order to safeguard the revenue, VAT has not traditionally been a tax that as had a withheld element and paying it directly to the government is likely to involve significant investment on the part of the person who will need to make the deduction and also for HMRC to be able to receive it.

The use of approved MA would mean that those sellers that are deliberately evading VAT will not use them and the card issuer will then be liable to effect the split payment. Being further removed from the transaction, the card issuer will definitely not be able to determine the correct VAT treatment and the option to deduct 1/6 of the consideration would be the only way a card issuer could make any payment. The assumption that this could be an automated process is valid, but it would need investment by all parties to make it work.

We do not believe that the card schemes should be the ones responsible for the compliance of PSPs and Mas. Compliance is a role that should be undertaken by the government and the card schemes should not be forced to act as an unpaid government enforcement agency.

Whilst in theory, crediting the seller's VAT account with the VAT deducted during the payment process is a good idea, the reality of a seller being able to identify the VAT credited is limited. Many businesses currently do not understand the operation of their account with HMRC and struggle to identify payments as it is. In addition, it is our understanding that payments and credits under HMRC's Making Tax Digital ("MTD") strategy are even harder to identify in the new business tax accounts. This would lead to queries by telephone or letter and we have doubts as to whether HMRC could resource these.

<u>Question 3</u>

HMRC has taken the view that only deducting a small proportion of the tax would not force the overseas seller to comply. However, any deduction would mean that HMRC has visibility over those sellers that are not compliant.

HMRC has stated that using current messaging standards could be used for the seller to provide the PSP or MA with details of the liability. This would involve significant infrastructure for merchants and would, in our view encourage the smaller sellers to be less compliant as a result. The recent experience with MTD has suggested that a number of small businesses are contemplating whether they can deregister in order to avoid the onerous compliance for MTD.

Question 4

Marketplaces already have significant compliance burdens with the sanctions for joint and several liability with non-registered sellers. Adding the split payment to their compliance would seem to be unnecessary.

Question 5

Option 1 comment

Input tax credits for the overseas seller should be allowed. However, until HMRC provides electronic repayments to overseas businesses, it is unlikely that they will be able to make any claims. HMRC's insistence on issuing payable orders for repayments of VAT to overseas businesses already means that many such businesses are not able to receive the repayment that they are entitled to.

Option 2 comments

If overseas sellers are mandated to use the Flat Rate Scheme ("FRS"), our concern is how MAs, PSPs and card schemes would determine the correct flat rate percentage to use.

In addition, the FRS currently has an upper threshold determined in EU law. What does HMRC intend to do for those businesses that exceed the threshold and how will the MAs and PSPs know whether the seller has exceed the threshold?

Option 3 comment

Allowing a business to calculate its own bespoke flat rate could be open to abuse. If a business has to go to all of this trouble, it would be simpler to register and account for VAT normally. We have concerns as to how MAs will be able to track any changes in the percentage split without a mandation for the seller to notify them.

Question 6

Other governments have implemented blockchain technology (e.g. for the purchase and sale of diamonds and for some land transactions.) By the time the UK has considered the split payment based on today's technology, other possibilities would overtake it and the technology would be out of date before it can start to be used. Therefore, we would recommend that HMRC looks beyond the immediate horizon to harness more futuristic technology.

Question 7

We do not believe that the split payment should be restricted to overseas sellers. Those sellers are already identifiable where they sell via online platforms and this has now been extended to UK businesses. Therefore, to create a level playing field, the split payment should also apply.

Question 9

The role of MAs and PSPs post PSD2 is uncertain as not enough is known about the effects of this legislation. If they do disappear from the chain, it will fall to the card scheme to effect the split payment or for some form of secure transaction (such as blockchain) between the seller and HMRC. However, given the resource constraints due to the UK's exit from the EU, it is unlikely that HMRC will have the resources to develop a blockchain system.

Question 10

We believe that, as the seller has never collected the VAT in the first place under the split payment, it would be difficult to correct errors, other than notifying the person who made the original deduction and allowing any adjustment to be done as part of the normal settlement process.

Question 11

We understand that Real Time Information for PAYE took nearly 9 years to be achieved. This would appear to be the same sort of sized project and there are other issues for businesses to deal with including the retail banking reform, MTD and the UK's exit from the EU. The full effect of these events will not be known for some time and businesses will need time to adjust.

The only other alternative would be to cancel this proposal. We believe that most sellers would be online in this digital age and HMRC already has significant sanctions to be able to collect the VAT.

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