Treasury Committee Inquiry into VAT

Indirect Tax

01 July 2018

The CIOT and ATT have responded to the Treasury Committee's wide-ranging Inquiry into VAT. Our written responses are published on our websites and we may also be called to provide oral evidence to the Committee in due course.

The Inquiry focused on many areas of VAT, such as the tax gap (its causes, how to reduce it, and advisers' role in avoidance), Brexit (opportunities and challenges), experiences of business (for example around problems for businesses and resolution of disputes), and how VAT compares with the Committee's principles of good tax policy.

CIOT response

The CIOT's response addressed each of these areas. In relation to the tax gap, it was noted that HMRC suggest that £3.5bn of VAT was lost in 2015/16 due to mistakes in VAT returns. In order to reduce that figure (assuming it is correct) we stated that HMRC should increase the support it provides to businesses, to help them avoid making these mistakes. This support should come both from clearer, up to date guidance upon which businesses can rely, and an improved system of rulings when a business needs clarity over the correct VAT treatment of a transaction. We also said that we had seen no evidence of a systemic problem with VAT registered businesses making errors in their VAT accounting, and we have no confidence that Making Tax Digital (MTD) is sufficient, on its own, to reduce errors.

We also suggested that HMRC require further resources, both to provide the additional support to businesses outlined above, and in their VAT compliance functions – although VAT inspections are often a cause of concern for businesses, they help provide a level of assurance, and identify errors sooner rather than later. We also warned against the hasty introduction of widespread changes, which are disruptive to the majority of compliant businesses, to close loopholes exploited by a

small minority. Indeed, we suggested it would be worthwhile sharing more detailed VAT gap figures with professional and trade bodies, with a view to identifying effective, targeted measures to reduce the VAT gap.

We set out how the tax profession, in particular the seven ‘PCRT bodies’, has strengthened its disciplinary code to address issues around aggressive tax planning. VAT avoidance now appears to be at an all-time low, although we pointed out that this did not prevent the introduction of a new disclosure regime for indirect taxes.

Brexit is undoubtedly causing significant concerns for businesses, particularly those who trade or have links with the EU. We highlighted the current period of uncertainty around what the VAT regime will look like, when, and how any changes will impact their business. This is making it difficult for businesses to plan ahead and invest with confidence. Post Brexit, issues likely to be faced by businesses include the time and cost consequences of differing import / export processes, a loss of simplification mechanisms, and the likely divergence of the UK VAT system from the EU VAT system.

Whilst Brexit will offer some opportunities, particularly around simplification, many complicating factors do not arise as a result of the EU VAT system, but are ‘home grown’ (such around zero rating for foodstuffs etc.). We explained that much can already be done to eliminate some of these complexities.
We highlighted the difficulties faced by SMEs, particularly those large enough to be involved in complex / high-value transactions, but too small to have an allocated Customer Compliance Manager and so do not have that ‘direct route’ into HMRC for help and guidance. We also reported problems in resolving disputes, with the perception that the internal review process is akin to a ‘rubber stamping’ exercise, and the time and cost of resolving disputes through the appeals process (see also the CIOT submission on the Inquiry into Conduct of tax enquiries and the resolution of tax disputes reported below).

ATT response

The ATT focused on discrete questions raised by the Committee. It highlighted the many complexities with the VAT system; the differing rates of VAT, the various exemptions (and the impact on businesses becoming ‘partially exempt’), and because VAT applies only to goods and services supplied in the course or furtherance of a business. The ATT highlighted simpler regimes implemented by

other countries, and that many of the UK's VAT complexities can be traced back to governments using the tax system to support social policies, or the ways in which publicly funded services are delivered which, whilst being laudable, creates complexity.

The ATT also highlighted the difficulties for businesses who simply want to 'get it right'. The opportunities for businesses to obtain binding clearances from HMRC are very limited, especially considering HMRC's refusal to simply say 'yes, you're right', when they receive an enquiry which sets out the full facts and reaches the correct VAT outcome. This results in unnecessary uncertainty for businesses. The fact that VAT (unlike other self-assessed taxes) does not have a dedicated agent's helpline often means that it is difficult to resolve technical queries.

The ATT also believes that it is not possible to conclude that MTD will reduce VAT errors without better information about the common errors found by HMRC. They referenced the recent CIOT/ATT member survey which evidenced that MTD is another reason for businesses not wanting to register for VAT.

The ATT also highlighted some of the difficulties in dealing with disputes with HMRC. Small businesses are less likely to appeal to the Tax Tribunals because of the increased formalities and costs. This can be overcome to some extent by increased access to Alternative Dispute Resolution, particularly where there is room for compromise, but knowledge of the existence and process of ADR needs to be improved.

The CIOT response can be found on the CIOT website and ATT's on the ATT website.