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VAT TREATMENT OF PRIVATE HIRE VEHICLES

Response by Association of Taxation Technicians

1 Introduction

- 1.1 The Association of Taxation Technicians (ATT) is pleased to have the opportunity to respond to the HMRC, HM Treasury and Department for Transport consultation *VAT Treatment of Private Hire Vehicles*¹ (the 'Consultation')
- 1.2 The primary charitable objective of the ATT is to promote the education and study of tax administration and practice. We place a strong emphasis on the practicalities of the tax system. Our work in this area draws heavily on the experience of our members who assist thousands of businesses and individuals to comply with their taxation obligations. This response is written with that background.
- 1.3 Given our focus on taxation, we have confined our responses to those questions in the Consultation pertaining directly to VAT and have not addressed those relating to the private hire sector and its regulation.
- 1.4 Overall we believe that the changes to the VAT system proposed would have an unreasonably high cost to the Exchequer and introduce additional complexity into the VAT regime. Targeted interventions to help vulnerable customers deal with any increase in private hire fares as result of VAT being charged would be a more cost-effective approach.

2 Chapter 3 – About You

Question 1: In what capacity are you responding (e.g. a PHVO, a driver, a consumer, a representative body etc.)?

- 2.1 As noted above, the ATT is a professional body and educational charity with a focus on tax administration and practice. We have therefore restricted our response to those elements of the Consultation directly relating to the tax system. Further information on the ATT can be found in Section 7 below.

¹ <https://www.gov.uk/government/consultations/consultation-on-the-vat-treatment-of-private-hire-vehicles>

3 Chapter 5 – Objectives of Government Intervention

Question 7: Do you agree that these are the right objectives for the government to be assessing options against? Are there any other objectives you think the government should be considering?

- 3.1 We believe the objectives listed are appropriate. In particular, there is a need to balance supporting vulnerable customers with Exchequer cost and additional complexity.

4 Chapter 6 – Changing Legislation

Question 13: Who do you think would benefit from amending the VAT Act to allow PHVOs to account for VAT as though they were agents for tax purposes, but act as principal for services to passengers?

- 4.1 The main beneficiaries are likely to be those Private Hire Vehicle Operators (PHVOs) who currently account for VAT as principal, who would no longer be required to charge VAT on fares. There is no guarantee that this VAT cut would be passed on to passengers in the form of lower fares, and the benefit may simply be retained by the PHVO and/or Private Hire Vehicle (PHV) driver.
- 4.2 One wider benefit of amending the VAT Act in this way would be to address the potential competition issues which could otherwise arise between PHVs and 'taxis' (which can be hailed on the street or pick up passengers at ranks).
- 4.3 For VAT purposes, taxis are deemed to act as principals. Therefore, provided the individual taxi driver does not exceed the VAT threshold, no VAT will be charged on taxi fares. This position is unaffected by the court judgements underlying the Consultation, which only apply to the PHV sector.
- 4.4 Currently many PHVs also claim to act as principals, and therefore do not charge VAT if they are below the VAT threshold. However, the court judgements instead deem the PHVO to be acting as principal. As PHVOs are more likely to exceed the VAT threshold than individual PHVs, this could lead to VAT being charged on many PHV fares but not on taxi fares.
- 4.5 Given that taxis are most commonly found in London, and not generally found at all in rural areas, this competition could also lead to regional inequalities. Amending the VAT Act to allow PHVOs to account for VAT as agents would remove these competition issues, and create a level playing field when it comes to VAT treatment of PHVs and taxis.

Question 14: Are there any other potential unintended consequences of this approach that are not outlined above? Please provide details.

- 4.6 We are not aware of any unintended consequences, other than the likelihood noted above at 4.1 that any VAT cuts for PHVOs currently acting as principals will not be passed on to passengers in the form of lower fares.

Question 15: Do you think this option meets the objectives outlined in Chapter 5? Please provide details.

- 4.7 We do not believe that this option meets the objectives outlined in Chapter 5. In particular, we do not believe that the likely Exchequer cost represents good value for taxpayers' money. We also believe that introducing a 'legal fiction' of the sort described introduces unnecessary complexity into the VAT rules.

5 Chapter 7 – Mitigation Options

Question 16: What are your views on these VAT options?

- 5.1 Applying the reduced or zero rate of VAT to PHV services could protect vulnerable users, as fares would not be expected to increase by as much as if the standard rate were to apply. However, this comes with a significant cost to the Exchequer - estimated in the Consultation to be in the region of £1bn per year for reduced rating and £1.5bn per year for zero rating. We therefore do not believe that this proposal meets the objective in Chapter 5 of being 'cost effective and ensures good value for taxpayers' money'.
- 5.2 We also note that, applying a zero or reduced rate, would effectively represent a VAT cut for those PHVOs who are already acting as principal. However, as noted above at 4.1, there is no guarantee that this VAT cut would be passed on to passengers in the form of lower fares.

Question 17: Do you think a margin scheme meets the objectives outlined in Chapter 5? Please provide details.

- 5.3 We believe that introducing a new margin scheme could meet some of the objectives outlined in Chapter 5. In particular, it is likely to limit price increases for vulnerable customers and promote fair competition.
- 5.4 Whilst the PHV sector would still have to charge VAT on fares, this is likely to be lower under a margin scheme. Paragraph 7.5 of the consultation estimates that a margin scheme would result in an estimated effective rate of VAT of 4 – 5% of the full fare, compared to 20% standard rate VAT. This should reduce additional costs to passengers.
- 5.5 The introduction of a new margin scheme specific would also partially address the concerns over competition outlined at 4.3 and 4.4 above, and contribute to a more level playing field between PHVs and taxis.
- 5.6 However, we note that that cost to the Exchequer of a new margin scheme is estimated to be £750m per year. Whilst this is less than some of the other options explored in the Consultation, it remains significant and arguably does not meet the objective of being cost effective and providing good value for taxpayer's money.

Question 18: Are there any other potential benefits of a margin scheme that are not outlined above?

- 5.7 We agree that the Tour Operators Margin Scheme (TOMS) should not apply to the PHV sector, and the introduction of a specific margin scheme might help HMRC's efforts to address this.

Question 19: Are there any other potential unintended consequences of a margin scheme that are not outlined above?

- 5.8 Creation of a new margin scheme would introduce additional complexity into the VAT regime. This additional complexity in turn introduces the potential for boundary pushing, with businesses arguing that other services should be within scope (as is currently seen with TOMS).

Question 20: What are your views on these targeted interventions for consumers? Who do you think this sort of intervention would benefit?

- 5.9 Zero rating Demand Responsive Transport (DRT) would introduce additional complexity into the VAT regime. It may be difficult to define exactly what is, and isn't, DRT in the legislation, leading to

uncertainty and boundary pushing. There is also no guarantee that any VAT cut arising would be passed onto customers. We therefore not support this option.

- 5.10 Instead, we believe targeted interventions such as broadening existing schemes (e.g. the disabled person's bus pass, bus service operators grant or community transport provision) are likely to be the most cost effective way of supporting vulnerable customers, whilst limiting the cost to the Exchequer and avoiding additional complexity being introduced into the VAT regime.

6 Contact details

- 6.1 We would be pleased to join in any discussion relating to this consultation. Should you wish to discuss any aspect of this response, please contact atttechnical@att.org.uk.

The Association of Taxation Technicians

7 Notes

- 7.1 The Association is a charity and the leading professional body for those providing UK tax compliance services. Our primary charitable objective is to promote education and the study of tax administration and practice. One of our key aims is to provide an appropriate qualification for individuals who undertake tax compliance work. Drawing on our members' practical experience and knowledge, we contribute to consultations on the development of the UK tax system and seek to ensure that, for the general public, it is workable and as fair as possible.
- 7.2 Our members are qualified by examination and practical experience. They commit to the highest standards of professional conduct and ensure that their tax knowledge is constantly kept up to date. Members may be found in private practice, commerce and industry, government, and academia.
- 7.3 The Association has more than 9,800 members and Fellows together with over 7,000 students. Members and Fellows use the practising title of 'Taxation Technician' or 'Taxation Technician (Fellow)' and the designatory letters 'ATT' and 'ATT (Fellow)' respectively.