



**HM Revenue
& Customs**

VAT Directorate

VAT Supply Team.
Room 3C09
3rd Floor,
100 Parliament Street
London SW1A 2BQ

Christie Smith
Head of Police and Fire Reform
Scottish Government
Safer Communities Directorate Police Division
St Andrew's House
Regent Road
Edinburgh
EH1 3BG

Tel 020 7147 0650

Fax 020 7147 0097

Email melanie.williams@hmrc.gsi.gov.uk

Date 15 August 2011

Internet www.hmrc.gov.uk

Our ref

Your ref

Dear Mr Smith

Thank you for your letter of 26 May regarding the potential future VAT status of the police and fire services in Scotland. I apologise that I have not been able to respond before now and am sorry for any inconvenience that you and your team have been caused as a result.

In your letter you have explained that the Scottish Government has recently completed a consultation exercise exploring possible options to reform the current structure of the police and fire services to better suit the need of the community. I understand that at present there are 8 police forces and 8 fire and rescue services in Scotland all of which fall within the provisions of section 33 of the VAT Act 1994.

You have asked for clarification of any impact that the potential new structures may have on the eligibility for the new police and fire and rescue body or bodies to remain within the provisions of section 33(3)k of the VAT Act 1994.

It may be helpful if I first provide some background on the issue of VAT recovery by publicly funded bodies. Under the normal rules, VAT registered businesses can recover the VAT paid on the goods and services they buy provided these items are in turn used in making taxable supplies of goods and services to their customers. In general, publicly funded bodies do not make taxable supplies and therefore have no right to recover VAT.

When VAT was introduced in 1973, it was considered undesirable that bodies providing local services should incur additional VAT costs that they would have to fund from local taxation. A special scheme was therefore introduced, now known as the section 33 scheme, under which local authorities and similar bodies would be refunded the VAT they incurred on their purchases. This meant that local taxes would continue to be spent on local services rather than on national tax bills.

Over the years, numerous different bodies have asked to be admitted to the section 33 scheme. To ensure a fair and consistent basis for decisions on admission, and to stick closely to the original

Information is available in large print, audio tape and Braille formats.

Type Talk service prefix number – 18001

Director: Jim Harra



rationale for the scheme, successive Governments have applied two strict criteria when assessing these requests. Bodies would only be admitted to section 33 if they:

- (i) were both carrying out activities ordinarily carried out by local government; and
- (ii) had the power to draw their funds directly from local taxation. I understand that in Scotland this may be referred to as requisitioning powers.

The strict enforcement of these criteria has helped the section 33 scheme to operate in a sustainable way over the years. On the one occasion a decision to refuse admission was challenged in the courts, the High Court took the strict enforcement of these criteria into account in rejecting the application for a judicial review (*R v HM Treasury & Another (ex parte Service Authority for the National Crime Squad and Others)* QB [2000] STC 638).

I am afraid from the information presented so far it is not clear whether the bodies created under the various proposed models will continue to have powers to draw funding from local taxation as set out in point (ii) above. However, I am more than happy to provide a further view as the restructuring process progresses and details become clearer.

I think that at this stage the key point to bear in mind is that any new body or bodies must continue to meet the both of the entry criteria for section 33 as set out above.

The decision on whether bodies are admitted to section 33(3)k ultimately rests with HM Treasury as it is responsible for the operation of the refund mechanism. HMRC administers the scheme on HM Treasury's behalf. It would therefore be most helpful if I am able to discuss the issue of the restructuring of the Scottish Police and Fire services with colleagues in HM Treasury and share the information in your letter and any further details as the restructuring progresses. For reasons of customer confidentiality I am unable to do so without your approval and would be grateful if you are able to confirm that you are happy for me to discuss the issue and the extent to which I can disclose the information contained in your letter. Thank you for your assistance in this matter.

I hope that this information is helpful. Please let me know if you have any questions.

Yours sincerely,

Melanie-Jane Williams

Information is available in large print, audio tape and Braille formats.
Type Talk service prefix number – 18001

Director: Jim Harra



From: [REDACTED]
Sent: 05 December 2011 16:35
To: [REDACTED]
Subject: Police and fire Services in Scotland

Dear [REDACTED]

You wrote earlier in the year to my colleague [REDACTED], and I asked her to seek your confirmation that we can share the content of your letter with colleagues in the Treasury. Refunds of VAT under section 33 of the VAT Act 1994 are met from AME and thus fall within their province overall. I am not aware that we received a reply to this and unfortunately [REDACTED] is on 12 months special leave. It would, therefore, be very helpful to have an update on how your proposals are progressing, timescales and whether we can engage with the Treasury.

With many thanks

Kind regards

[REDACTED]

Safer Communities Directorate
Police and Fire Reform Division

T: 0131-244 3251

E: [REDACTED]



[REDACTED]
Team Manager
HM Revenue & Customs
VAT Supply Team
Room 3C/07
100 Parliament Street
LONDON
SW1A 2BQ

DELIVERING
A GAMES LEGACY FOR SCOTLAND

8 December 2011

Dear [REDACTED]

VAT IMPLICATIONS OF CREATING A NEW SCOTTISH POLICE SERVICE AND SCOTTISH FIRE AND RESCUE SERVICE

Thank you for your recent email following up on Melanie William's letter of 15 August. My apologies for the delay in replying but as you may appreciate a considerable amount of work has been underway here in preparation for the introduction to the Scottish Parliament of the Police and Fire Service Reform Bill which will enable the creation of the new Scottish Police and Fire and Rescue services.

The draft Bill will set out the way in which the new services will operate, and the links that the services will have with the local authorities.

Although funding will come from the Scottish Government, local authorities will continue to play a major part in the delivery of services in that they will:

- contribute to and comment on the local plan (which will be prepared by Local Commanders and Local Senior Officers);
- monitor and scrutinise performance against the local plan; and bring forward proposals for how performance could be improved and particular issues addressed by the Police, Fire and Rescue service, the local authority and other agencies;
- seek reports, answers and explanations about the plan and other relevant issues and, where necessary, raise issues with the Chief Officer, Chief Constable and the Scottish Fire and Rescue Service and Scottish Police Authority Boards; and,
- monitor and scrutinise the number of police complaints.

The frontline Police and Fire and Rescue services delivered in future will not be changed, despite the fact that they will be operating under a single Scotland wide force. In the case of the Police Service for Scotland, the force will operate with a single Chief Constable and Local Commanders and for the Fire and Rescue Service for Scotland, the force will operate with a single Chief Officer and Local Senior Officers.

The Chiefs of the respective services will be answerable to a Board comprising a chair and 7 to 10 members. The board members will be appointed in line with the Code of Practice determined by the Public Appointments Commissioner for Scotland. Members may therefore be Councillors but not necessarily. It is expected that the boards will operate in a similar way to each of the six joint boards and two unitary authorities which are currently in place for both Police and Fire and Rescue services. The bodies, as you can see, will continue to operate at arms length from the Scottish Government.

Under the present system Police and Fire and Rescue boards are classed as section 33 bodies resulting in them having the ability to recover VAT.

HMRC guidance leaflet 749 states that the following bodies are public bodies for the sake of VAT where they are:

- a police authority and the Receiver for the Metropolitan Police Authority.
- a fire authority constituted by a combination scheme made under Fire Service Act 1947, s.6;
- or
- any body specified for the purposes of this section by an order made by the Treasury.

In Melanie's reply of August 15 she stated that there are two strict criteria applied to bodies seeking admission to section 33, namely:

- (i) were both carrying out activities ordinarily carried out by local government; and
- (ii) had the power to draw their funds directly from local taxation.

She also advised that from the information presented previously that it was not clear whether the bodies created under the proposed model would continue to have powers to draw funding from local taxation as set out in point (ii) above.

I can confirm that whilst there is no direct link between the cost of police services and local taxation, the new Authorities will be funded directly by the Scottish Government. At present there are seven separate funding streams for policing (including police service pensions) with about two thirds of this funding provided directly by the Scottish Government. The Scottish Government fund the local authorities through the General Resource Grant and local authorities provide the remaining third of police funding from this Grant. After reform, local government will have the power to provide additional funding to increase the number of police officers in their area beyond those funded centrally. At present fire and rescue services receive their funding from their constituent local authorities via the General Resource Grant. Funding for fire and rescue service pensions are funded directly by the Scottish Government.

As the Act presently stands the new police body would not be classed as a police authority under the VAT Act 1994, despite the fact that it will be carrying out the same services that the individual police authorities are at present. The reference in the 1994 VAT Act is (by operation of the Interpretation Act) to Section 2 of the Police Act 1967 which will be repealed and replaced by a new Act. It would be useful to hear HMRC's views as to whether they would intend to amend section 33 of the VAT Act to reflect the new legislation. Similar legislative changes are likely to take place in respect of the Fire and Rescue Services.

I can also confirm that I am content for you to discuss the issue of the restructuring of the Scottish Police and Fire and Rescue services and the application to them of section 33(3)k with colleagues in HM Treasury and share any of the information that I have provided. I am of course more than willing to meet with you or HMT colleagues to discuss future arrangements.

Should you require any further clarification, please do not hesitate to contact me.

I have copied this letter to Paul Robertson, VLO for the Scottish Government.

Yours sincerely




**HEAD OF POLICE AND FIRE REFORM
SCOTTISH GOVERNMENT**

[REDACTED]

From: [REDACTED]
Sent: 24 January 2012 17:43
To: [REDACTED]
Subject: RE: VAT Implications of Creating a New Scottish Police Service and Fire and Rescue Service
Attachments: Timeline.doc

[REDACTED]

Please see timeline attached. As you will see the Finance Committee is taking evidence on 22 February followed by the Justice Committee taking evidence from the Cabinet secretary on 20 March. With regard to the VAT status, the Finance Committee session on 22 Feb is fairly critical.

[REDACTED]

Finance Team Leader | Police and Fire Service Reform | Police Reform Delivery Unit
Floor 1R, St Andrew's House, Edinburgh, EH1 3DG

[REDACTED]

From: [REDACTED]
Sent: 24 January 2012 17:37
To: [REDACTED]
Subject: RE: VAT Implications of Creating a New Scottish Police Service and Fire and Rescue Service

[REDACTED]

I am very happy to oblige. Please may we know what your timetable is.

Regards

[REDACTED]

From: [REDACTED]
Sent: 24 January 2012 17:34
To: [REDACTED]
Subject: RE: VAT Implications of Creating a New Scottish Police Service and Fire and Rescue Service

[REDACTED]

Many thanks for your email to my colleague, [REDACTED]. Now that we have provided you with all the documentation, it would be helpful if you could provide me with regular updates on our case particularly now that the Bill is going through the Parliamentary process. If you require any further information please do not hesitate to contact me.

21/06/2012

[REDACTED]
Finance Team Leader | Police and Fire Service Reform | Police Reform Delivery Unit
Floor 1R, St Andrew's House, Edinburgh, EH1 3DG

[REDACTED] ☒ [REDACTED] Mob [REDACTED]

From: [REDACTED]
Sent: 24 January 2012 17:12
To: [REDACTED]
Subject: RE: VAT Implications of Creating a New Scottish Police Service and Fire and Rescue Service

I have asked for legal advice before going to HMT because, having read a copy of the Bill I downloaded, it occurred to me there is an argument that the Scottish Police Authority is already included in section 33(3)f) of the VAT Act 1994. I will then go to HMT.

Regards

From: [REDACTED]
Sent: 24 January 2012 10:34
To: [REDACTED]
Subject: RE: VAT Implications of Creating a New Scottish Police Service and Fire and Rescue Service

I promised that I would send you details of the Police and Fire Reform Bill once it was published. This happened last week (apologies for not sending on sooner) -- link to the Bill and the accompanying documents is available on the Scottish Parliament's website at <http://www.scottish.parliament.uk/parliamentarybusiness/Bills/45701.aspx>

Any news in respect of HMT?

Regards

[REDACTED]
Police and Fire Reform Finance
Scottish Government
1R
St Andrew's House
Edinburgh
EH1 3DG

Please note I now work only to 14:00 on Wednesdays

From: [REDACTED]
Sent: 19 December 2011 14:45
To: [REDACTED]
Subject: RE: VAT Implications of Creating a New Scottish Police Service and Fire and Rescue Service

21/06/2012

[REDACTED]
Many thanks, this is most helpful.

Regards
[REDACTED]

From: [REDACTED]
Sent: 19 December 2011 14:38
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: VAT Implications of Creating a New Scottish Police Service and Fire and Rescue Service

[REDACTED]
Thanks for your email. I have been asked to respond on Christie's behalf to the two matters you raised:

1. The earliest the new services will come into existence will be 1 April 2013. In terms of the legislative timetable, the Bill will be introduced in January 2012, with Royal Assent anticipated in the summer.
2. The Bill will be publicly available on 17 January 2012 when it is launched. We will forward you a copy at that time.

We would also be keen to be kept informed of how HMT are progressing with their consideration of this matter.

Regards

[REDACTED]
[REDACTED]
Police and Fire Reform Finance
Scottish Government
1R
St Andrew's House
Edinburgh
EH1 3DG
[REDACTED]

Please note I now work only to 14:00 on Wednesdays

From: [REDACTED]
Sent: 19 December 2011 10:32
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: VAT Implications of Creating a New Scottish Police Service and Fire and Rescue Service

[REDACTED]
Many thanks for this, which I have put to HMT as the arbiters in terms of adding bodies to the VAT refund scheme.

Please could I trouble you for two things in due course:

21/06/2012

1. Your proposed timetable.
2. A copy of the Bill (I could not find it via a Google search).

Kind regards

From: [REDACTED] On Behalf Of

Sent: 08 December 2011 10:32

To: [REDACTED]

Cc: [REDACTED]

Subject: VAT Implications of Creating a New Scottish Police Service and Fire and Rescue Service

Dear [REDACTED]

Please find attached a letter from [REDACTED] regarding the VAT implication of creating a new Scottish Police Service and Fire and Rescue Service.

<<VAT Implications of creating a new Scottish Police Service and Fire and Rescue Service.pdf>>

Kind Regards

[REDACTED]
Police & Fire Reform Division
Safer Communities Directorate

St. Andrews House
Regent Road
Edinburgh
EH1 3DG

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POLICE AND FIRE REFORM (SCOTLAND) BILL

ROADMAP TO STAGE 1

DATE	BILL DEADLINES	POLICY EVENTS
16 JANUARY	Bill introduced	
17 JANUARY		Bill launch
20 JANUARY	Last of policy instructions to SGLD	
8 FEBRUARY		Local Government Committee - SG evidence
22 FEBRUARY		Finance Committee - SG evidence
22 FEBRUARY		Local Government Committee - stakeholders' evidence
28 FEBRUARY		Justice Committee SG evidence
2 MARCH	Last of SGLD instructions to OSPC	
6 MARCH		Justice Committee stakeholders' evidence
13 MARCH		Justice Committee stakeholders' evidence
20 MARCH		Justice Committee - Cab Sec's evidence
31 MARCH - 15 APRIL	RECESS	RECESS
APRIL		Stage 1 Report
26 APRIL	Stage 1 Debate	

STAGES 2 & 3	
26 APRIL	<ul style="list-style-type: none"> ▪ Stage 1 Debate
	<ul style="list-style-type: none"> ▪ Preparing notes on non-SG amendments
	<ul style="list-style-type: none"> ▪ Last of policy instructions to SGLD
	<ul style="list-style-type: none"> ▪ Last of SGLD Instructions to OSPC
	<ul style="list-style-type: none"> ▪ CSCL clearance for policy changes (if required)
	<ul style="list-style-type: none"> ▪ Revising draft amendments ▪ Preparing notes on SG amendments ▪ Preparing material for Revised Ex Notes and (if required) Revised Financial Memorandum and Supplementary DPM
	<ul style="list-style-type: none"> ▪ SG amendments finalised ▪ Notes on SG amendments finalised
	<ul style="list-style-type: none"> ▪ SG amendments lodging deadline – 4.30pm
	<ul style="list-style-type: none"> ▪ Official lodging deadline for Day 1 - noon
	<ul style="list-style-type: none"> ▪ Notes on non-SG amendments finalised
	<ul style="list-style-type: none"> ▪ Stage 2 (Day 1) ▪ Lodging deadline for Day 2
	<ul style="list-style-type: none"> ▪ Stage 2 (Day 2) ▪ Lodging deadline for Day 3
	<ul style="list-style-type: none"> ▪ Stage 2 (Day 3)
MID JUNE	<ul style="list-style-type: none"> ▪ Revised and supplementary accompanying documents
MID JUNE	<ul style="list-style-type: none"> ▪ Lodging deadline for Stage 3
LATE JUNE	<ul style="list-style-type: none"> ▪ Stage 3

[REDACTED]

From: [REDACTED]
Sent: 02 March 2012 15:54
To: [REDACTED]
Cc: [REDACTED]
Subject: [REDACTED] RE: POLICE AND FIRE REFORM SCOTLAND

[REDACTED]

Please accept my apologies for sending just this short note. I'm not in the office today but wanted to send you a note before the week was over.

I understand that my colleague [REDACTED], wrote to [REDACTED] in your Finance Team on 7 February, to advise that neither the new single police authority nor the new single fire and rescue services would be eligible for Section 33 VAT refunds.

I'm writing to confirm that this is still our view and it is my understanding that our Minister will shortly be writing in kind in his response to the Finance Committee of the Scottish Parliament.

I appreciate that you and colleagues will have hoped that the normal eligibility criteria for Section 33 could have been overlooked. However, I believe that it will not come as a surprise given the correspondence last year between yourself and HMRC and the assumptions made in the reform Bill's business case.

If you or colleagues have any specific queries, I'll be back in the office on Monday morning.

Kind regards

[REDACTED]

From: [REDACTED]
Sent: 23 February 2012 13:08
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: [REDACTED] RE: POLICE AND FIRE REFORM SCOTLAND

[REDACTED]

Thank you for that.

An email to [REDACTED] copied to [REDACTED] and I would be great.

Many thanks.

[REDACTED]
Branch Head
Treasury and Banking
Scottish Government
[REDACTED]
[REDACTED]

From: [REDACTED]

21/06/2012

POLICE AND FIRE REFORM SCOTLAND

Sent: 23 February 2012 12:48

To: [REDACTED]

Cc: [REDACTED]

Subject: [REstricted] RE: POLICE AND FIRE REFORM SCOTLAND

[REDACTED]

Thanks for this.

I fully agree that you and SG colleagues should be informed first.

I know that [REDACTED] wrote to HMRC but, if [REDACTED] agrees, I think it would make sense if I sent you a note to confirm the outcome.

If that works for [REDACTED] who should I write to? (I'll email in the first instance though).

Regards

[REDACTED]

[REDACTED] | VAT & International Excise Team

HM Treasury, Blue Zone 3.157, 1 Horse Guards Road, SW1A 2HQ | [REDACTED]

From: [REDACTED]

Sent: 23 February 2012 11:52

To: [REDACTED]

Cc: [REDACTED]

Subject: POLICE AND FIRE REFORM SCOTLAND

Good morning [REDACTED]

We spoke earlier today about the VAT issues surrounding the Police and Fire Service Reform. The initial letter from [REDACTED] to HMRC asking that Section 33 status be considered was sent some time ago and since then there has been a letter from [REDACTED], convenor of the Scottish Parliament Finance Committee.

We are conscious of the fact that there has been no response yet to the original letter and that consideration is being given at official and ministerial level. It would be politically embarrassing if the response to the appeal for Section 33 status went to the Finance Committee at the same time or prior to the officials at the Scottish Government.

I would be grateful if you could arrange for the response to the initial letter to come through the official channels prior to any response to [REDACTED]

[REDACTED]

Branch Head

Treasury and Banking

Scottish Government

[REDACTED]

Fax [REDACTED]

[REDACTED]

21/06/2012

POLICE AND FIRE REFORM SCOTLAND

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[REDACTED]

From: [REDACTED]
Sent: 05 March 2012 17:32
To: [REDACTED]
Subject: RE: [UNCLASSIFIED] RE: Tele/videocon - S33

Nick

No just to discuss a range of possible options.

[REDACTED]
Branch Head
Treasury and Banking
Scottish Government

[REDACTED]
Fax: [REDACTED]

[REDACTED]

From: [REDACTED]
Sent: 05 March 2012 17:29
To: [REDACTED]
Subject: [UNCLASSIFIED] RE: Tele/videocon - S33

[REDACTED]

Did you have any specific options in mind?

Ta

[REDACTED] | Policy Advisor | VAT & International Excise Team
HM Treasury, 3 Blue 157, 1 Horse Guards Road, SW1A 2HQ [REDACTED]

From: [REDACTED]
Sent: 05 March 2012 17:17
To: [REDACTED]
Subject: RE: [UNCLASSIFIED] Tele/videocon - S33

[REDACTED]

Thank you for getting back to me.

We would like to discuss the letter of 29 February from [REDACTED] to the Scottish Parliament Finance Committee and the points made within it in respect of section 33 status. We would like to consider whether there are options in how we set up the new body that could secure a position of no detriment to UK Government and Scottish Government in relation to the net VAT position.

It would be useful to have colleagues from HMRC, HMT (VAT) and HMT (Spending Division)

21/06/2012

[REDACTED]
Branch Head
Treasury and Banking
Scottish Government

[REDACTED]
Fax: [REDACTED]

[REDACTED]

From: [REDACTED] <[REDACTED]>
Sent: 05 March 2012 16:19
To: [REDACTED]
Subject: [UNCLASSIFIED] Tele/videocon - S33

[REDACTED]

Sorry I didn't think to ask when speaking to you just now but, on reflection, it would be helpful if you could send me a note outlining the points that you and colleagues would like to cover.

It would help me make sure the right people attend and are able to advise.

Let me know if that's an issue.

Regards

[REDACTED]

[REDACTED] | Policy Advisor | VAT & International Excise Team
HM Treasury, 3 Blue 157, 1 Horse Guards Road, SW1A 2HQ [REDACTED]

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[REDACTED]

From:
Sent:
To:

[REDACTED]
06 March 2012 12:49
[REDACTED]

[REDACTED]
The details for the

participants should dial
(9) 0800 917 1956 and enter the pass number [REDACTED]

[REDACTED]
Branch Head
Treasury and Banking
Scottish Government



Fax: [REDACTED]



MEETING

[REDACTED]

From: [REDACTED]
Sent: 08 March 2012 17:28
To: [REDACTED]
Subject: RE: [RESTRICED] RE: MEETING

[REDACTED]

I have spoken to [REDACTED] who is working in a different Office at present. His diary over the next few days is pretty full and we are due to meet with him first thing tomorrow to discuss the VTA and Police. If he has any questions he will give you a call at 9 when we had scheduled the meeting.

[REDACTED]

Treasury and Banking
Scottish Government

[REDACTED]
Fax: [REDACTED]

[REDACTED]

From: [REDACTED]
Sent: 08 March 2012 16:18
To: [REDACTED]
Subject: [RESTRICED] RE: MEETING

Hello [REDACTED]

Given the time, might it be preferable to reschedule for early next week?
We would need to have some time to think through any changes you are considering before the teleconference which we'll be hard pressed to do now.

- On the points that I promised to look into:
 - E&W policing** – after the reforms in E&W approximately a 3rd of police funding will continue to come from the police precept.
 - Environment Agency** – I believe the EA collects funding at a local level from a flood levy / land drainage work (Please don't quote me on the terminology just yet though).
 - National Parks** – National Park Authorities in England and Wales are included in s33 as they meet the 'perform local authority functions' and 'precepting' criteria. National Park Authorities in Scotland are not included in s33 as they don't precept.
 - Skills Academies** – I suspect that my notes have failed to record this one incorrectly. There are such things as Skills Academies but these do not receive VAT refunds. Did you say/mean normal Academies?

Regards

[REDACTED]

21/06/2012

MEETING

[REDACTED] | Policy Advisor | VAT & International Excise Team
HM Treasury, 3 Blue 157, 1 Horse Guards Road, SW1A 2HQ |

From: [REDACTED]
Sent: 07 March 2012 15:45
To: [REDACTED]
Subject: [REDACTED] | RE: MEETING

[REDACTED] and I could be around to call in at 9am on Friday. But we will need to have received something from you beforehand on the changes you are considering.

Would that work?

[REDACTED] | Policy Advisor | VAT & International Excise Team
HM Treasury, 3 Blue 157, 1 Horse Guards Road, SW1A 2HQ | [REDACTED]

From: [REDACTED]
Sent: 07 March 2012 15:20
To: [REDACTED]
Subject: MEETING

I was wondering if you can let me know of any times that you are free on Friday for a tele conference.

Early morning or afternoon would be the best.

[REDACTED]
Branch Head

Treasury and Banking

Scottish Government

[REDACTED]

Fax: [REDACTED]

[REDACTED]

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21/06/2012

MEETING

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From: Director of Financial Strategy
Sent: 09 March 2012 16:37
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: [RESTRICED] [REDACTED]
Attachments: [REDACTED]

copy as before + [REDACTED]

As discussed this morning, having considered the list of bodies that [REDACTED] has sent to you, we believe there is a very strong case for granting Section 33 status to the Fire and Rescue and Police Authorities proposed by Scottish Ministers. If you agree, then I am happy to discuss how we take this forward. If not, then we would want to see convincing arguments as to why each of these bodies were given Section 33 status but not our proposed new Authorities.

As [REDACTED] says in his note, we are due to provide an update to the Scottish Parliament Finance Committee next Wednesday (because they are currently considering the Financial Memorandum to the Fire and Police Bill). It would be helpful to have an early response to inform that update, but we will probably simply say to them that we are in discussion with you about your reasons for rejecting the request for Section 33 status.

Thanks again for your time this morning.

*Director of Financial Strategy
Scottish Government*

3B South

From: [REDACTED]
Sent: 09 March 2012 16:07
To: [REDACTED]
Cc: [REDACTED]
Subject: [RESTRICED] RE: [REDACTED]

[REDACTED] | Policy Advisor | VAT & International Excise Team
HM Treasury, 3 Blue 157, 1 Horse Guards Road, SW1A 2HQ | [REDACTED]

From: [REDACTED]
Sent: 09 March 2012 15:55
To: [REDACTED]
Cc: [REDACTED]
Subject: [REDACTED].doc

[REDACTED]
[REDACTED]
Thank you for setting aside the time for our chat this morning, I now attach a note of the bodies that we identified,

Thanks
[REDACTED]

[REDACTED]
Branch Head
Treasury and Banking
Scottish Government

☐ [REDACTED]
Fax: [REDACTED]

☎ : [REDACTED]

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21/06/2012

1

VAT Policy team
HM Treasury

POLICE AND FIRES SERVICE REFORM VAT

Further to our telephone conversation of earlier today, I have detailed below information on the 9 bodies we discussed. I have also attached at Annex A what I believe to be the list of all bodies that are able to recover VAT through section 33, 33(B) and other special sections of the VAT ACT 1994.


BODY	INFORMATION
a passenger transport authority or executive within the meaning of Part II of the Transport Act 1968;	The body has the power of precept in England and Wales but in Scotland has the power to request funds under section 13 of the Act. If they cannot agree on a sum then it will be referred to the Secretary of State who will adjudicate.
a port health authority within the meaning of the Public Health (Control of Disease) Act 1984, and a port local authority and joint port local authority constituted under Part X of the Public Health (Scotland) Act 1897;	Whilst there would appear to be a power of precept the annual accounts do not show that this has been used. All funding would appear to come from the sponsoring Department.
a nominated news provider, as defined by section 280 of the Communications Act 2003;	The main news provider is ITN, which has no precept on local taxation. The accounts for ITN indicate that income is from various sources including advertising and production sales.
The Environment Agency [SI 1986/1978]	The Agency has precept capability relating to the former National Rivers Authority who had the ability to raise income through taxation. This would suggest that the whole body receives section 33 status even if only a small percentage of the total income comes through this source.
National Park authorities within the meaning of Environment Act 1995, s63 [SI 1995/2999]	The Dartmoor National Park wrote in the foreword to their annual accounts that moving to 100% funding from DEFRA may affect their section 33 status but the following year advised that "Treasury has confirmed that the National park Authority shall also

	continue to maintain VAT exempt (G99 status)"
Academies	Section 33(b) of the VAT Act has been introduced to allow academies to recover VAT. This section has been introduced to negate the impact of moving from a local authority funded body to a body funded 100% by central Government.
Police Service Northern Ireland	Northern Ireland has a National police force which is funded by central Government but is able to recover the VAT under section 99 of the VAT Act 1994.
the British Broadcasting Corporation;	The main income of the Corporation is via license fees. The Office of National Statistics class the license fee as taxation, but it is neither a local tax or one that is levied on every house
a general lighthouse authority within the meaning of Part VIII of the Merchant Shipping Act 1995;	The body has income from a general tax levied against ships that come into the ports based on the tonnage. There is no local power of precept.

I would be obliged if you could confirm that the list of bodies I have at Annex A is the comprehensive list.

It would be useful if we could have a follow up discussion early next week as the matter is due to be discussed at our Finance Committee meeting on Wednesday.

Happy to discuss.


Treasury and Banking Branch
Mail Point 12
3rd Floor North
Victoria Quay
Edinburgh
EH6 6QQ

9 March 2012

PUBLIC BODIES

a local authority

a river purification board established under section 135 of the Local Government (Scotland) Act 1973, and a water development board within the meaning of section 109 of the Water (Scotland) Act 1980;

an internal drainage board;

a passenger transport authority or executive within the meaning of Part II of the Transport Act 1968;

a port health authority within the meaning of the Public Health (Control of Disease) Act 1984, and a port local authority and joint port local authority constituted under Part X of the Public Health (Scotland) Act 1897;

a police authority and the Receiver for the Metropolitan Police District;

a development corporation within the meaning of the New Towns Act 1981 or the New Towns (Scotland) Act 1968, a new town commission within the meaning of the New Towns Act (Northern Ireland) 1965 and the Commission for the New Towns;

a general lighthouse authority within the meaning of Part VIII of the Merchant Shipping Act 1995;

the British Broadcasting Corporation;

a nominated news provider, as defined by section 280 of the Communications Act 2003;

The Commissions for Local Administration in England, Scotland and Wales, and the Commission for Local Authority Accounts in Scotland [SI 1976/2028]

The New Authorities and the Residuary Bodies [SI 1985/1101]. These were set up following the abolition of The Greater London Council (which included the Inner London Education Authority) and the six Metropolitan County Councils, and undertake some of the functions previously carried out by those bodies. The bodies covered by the SI are:

- a metropolitan county Police Authority
- a metropolitan county Fire and Civil Defence Authority
- a metropolitan county Passenger Transport Authority
 - a metropolitan county Residuary Body

Probation committees – these ceased to exist from 1 April 2001, with probation becoming the responsibility of the National Probation

PUBLIC BODIES

Service, a body that does not qualify for s33 membership
Magistrates' courts committees [SI 1986/336] – on 1 April 2005 these became the responsibility of the Department for Constitutional Affairs, a body that does not qualify for s33 membership
Charter Trustees constituted by Local Government Act 1972, s264(4) or (5). [SI 1986/336]
Charter Trustees established by an order made under Local Government Act 1972, s17 [SI 1997/2558]
Authorities established under Local Government Act 1985, s10 [SI 1986/532]
The Environment Agency [SI 1986/1978]
National Park authorities within the meaning of Environment Act 1995, s63 [SI 1995/2999]
Norfolk Broads Authority [SI 1999/2076]
Waste regulation and disposal bodies established under Local Government Act 1985, s10 [SI 1986/532]. These authorities were set up following the abolition of the GLC and Metropolitan County Councils and have taken over the waste regulation and disposal functions of those authorities
Regional water authorities [SI 1973/2121]
Transport for London [SI 2000/1672]
London Fire and Emergency Planning Authority [SI 2000/1517]
Greater London Magistrates' Court Authority [SI 2001/3453] – on 1 April 2005 this became the responsibility of the Department for Constitutional Affairs, a body that does not qualify for s33 membership
Greater London Authority [SI 2000/1046]
Fire authorities constituted by a combination scheme made under Fire and Rescue Services Act 2004, Part 1. Academies
Police Service Northern Ireland
Security Services

[REDACTED]
[REDACTED]
From: [REDACTED]
Sent: 13 March 2012 11:15
To: [REDACTED]
Subject: [REDACTED].doc

If not too much trouble, can you provide the details relating to the Dartmoor National Park? Links to the relevant statements / accounts would be really helpful.

Cheers

[REDACTED]
[REDACTED] Policy Advisor | VAT & International Excise Team
HM Treasury, 3 Blue 157, 1 Horse Guards Road, SW1A 2HQ | [REDACTED]

From: [REDACTED]
Sent: 09 March 2012 15:55
To: [REDACTED]
Cc: [REDACTED]
Subject: [REDACTED].doc

Thank you for setting aside the time for our chat this morning, I now attach a note of the bodies that we identified.

Thanks

[REDACTED]
Branch Head
Treasury and Banking
Scottish Government

[REDACTED]
Fax: [REDACTED]

[REDACTED]

[REDACTED].doc>>

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21/06/2012

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From:
Sent:
To:
Cc:

[REDACTED]
09 May 2012 13:33

[REDACTED]

Subject: POLICE SERVICES SCOTLAND -VAT

Follow Up Flag: Follow up
Flag Status: Red

Attachments: Police and Fire Reform s 104 interpretation act.doc

[REDACTED]

Further to our tele conference of Friday, please find attached a draft provision for inclusion in the section 104 Order amending the interpretation Act. Apologies we did not get it to you by close of play Tuesday.

You will see from the attached that the draft provision amends the definition of the term "police authority" to mean the Scottish Police Authority, reference to "police authority" in section 33(3)(f) of the VAT Act will therefore be interpreted to mean the "Scottish Police Authority".

I would also be grateful if you could also advise us of your thoughts with regards to the use of the interpretation Act in respect of the Scottish Fire and Rescue Service.



Police and Fire
Reform s 104 l...

Happy to discuss.

[REDACTED]
Branch Head
Treasury and Banking
Scottish Government

[REDACTED]
Fax: [REDACTED]

[REDACTED]

Police and Fire Reform – section 104 order

Amendment of Interpretation Act 1978

- 1 (1) The Interpretation Act 1978 is amended as follows.
- (2) In Schedule 1 (words and expressions defined)—
 - (a) in the entry that begins “Police area,” repeal paragraph (b),
 - (b) repeal the entry for “Police authority”.
- (3) At the end of Schedule 1, insert the following heading and entry—

“Construction of certain expressions relating to the police: Scotland

In relation to Scotland—

 - (a) references to a police force include references to the Police Service of Scotland;
 - (b) references to a chief officer of police include references to the chief constable of the Police Service of Scotland;
 - (c) “police authority” means the Scottish Police Authority;
 - (d) Scotland is to be treated as the “police area” of the Police Service of Scotland and references to a police force or police authority for any area include references to the Police Service of Scotland or, as the case may be, the Scottish Police Authority;
 - (e) references to a constable or chief constable of, or appointed for, any area are to be construed as references to a constable or, as the case may be, the chief constable of, or appointed for, the Police Service for Scotland.”.
- (4) In paragraph 6 of Schedule 2 (application to existing enactments), repeal the entry that begins “Police area.

[REDACTED]

From: [REDACTED]
Sent: 10 May 2012 16:42
To: [REDACTED]
Cc: [REDACTED]
Subject: SCOTTISH POLICE SERVICE VAT
Attachments: List 10.05.12.doc

[REDACTED]

As discussed, please find attached an illustrative draft provision which would provide a power for the Scottish Police Authority to call upon local government funding for specified policing measures in local areas. Please note that this proposal has not yet been cleared by Ministers or discussed with police and local government stakeholders.

The context for the proposal is that: the new Police Service of Scotland will have local commanders who will be responsible for working with local authorities to set priorities and objectives for policing in their area, and to produce an agreed local plan. The local authority will be able to specify policing measures for inclusion in the plan and any cost of implementing those measures must be met from the local authority's funds (including local taxation) in so far as not already met. Examples of these measures could include police involvement in community projects and initiatives, additional police officers, increased overtime to meet local needs and campus police officers.

The agreed draft provision could be tabled as an amendment to the Police and Fire Reform (Scotland) Bill and would give the Scottish Police Authority the right to call upon funds from local authorities, so that they would be required to meet the costs of those measures in so far as they are not otherwise met.

Such local authority funded measures will be very much distinct from the normal day to day services which are charged by Police services i.e. fete etc.

This proposal can also be readily applied to the Scottish Fire and Rescue Service, as the provisions in the Bill relating to local arrangements for both police and fire and rescue are very similar.



List 10.05.12.doc

[REDACTED]

Branch Head
Treasury and Banking
Scottish Government

[REDACTED]
Fax:

[REDACTED]

Police and Fire Reform (Scotland) Bill - Stage 2

Section 46

Kenny MacAskill

1 In section 46, page 19, line 25, at end insert—

<() A local authority may specify policing measures that it wishes the local commander to include in a local policing plan.>

After section 48

Kenny MacAskill

2 After section 48, insert—

<Funding by local authorities

(1) Subsection (2) applies where—

(a) at the request of a local authority, a local commander has included policing measures specified by the local authority in a local policing plan, and

(b) the local authority has approved the plan.

(2) Any expenditure of the Authority which is incurred in respect of the policing of the local authority's area as a result of specified policing measures must, in so far as not otherwise met, be met by the local authority.>

[REDACTED]
From:
Sent:
To:
Cc:
Subject:

[REDACTED]
15 May 2012 16:08
[REDACTED]
POLICE VAT

[REDACTED]
I tried calling but got your voicemail.

I wondered if you had any news on the Police VAT?

[REDACTED]
Branch Head
Treasury and Banking
Scottish Government

[REDACTED]
Fax: [REDACTED]

[REDACTED]
[REDACTED]

[REDACTED]

From: [REDACTED]
Sent: 23 May 2012 14:43
To: [REDACTED]
Subject: FW: [RESTRICATED] RE: VAT on Police/Fire Reform

[REDACTED] as requested in your earlier note.

[REDACTED]
Deputy Director, Finance (Programme Management)
3C-72, Victoria Quay
[REDACTED]

From: [REDACTED]
Sent: 07 February 2012 16:40
To: [REDACTED]
Cc: [REDACTED]
Subject: [RESTRICATED] RE: VAT on Police/Fire Reform

[REDACTED]
This issue cuts across VAT policy which jointly rests with Treasury and HMRC and of course the wide public spending management policy.

Both of these services currently benefit from Section 33 VAT refunds on account of their being partially funded from local taxation but following the reforms will be ineligible according to long-standing criteria as they will no longer levy a precept on local taxation.

There would be very repercussive significant risks for the Section 33 refund is we allow them to stay in and I understand that the Scottish Government have assumed that Section 33 status will be withdrawn. We have also looked at other refund options but these have significant downsides particularly as most if not all set potentially costly precedents.

We also looked at your suggestion of compensation. However, whilst being exchequer neutral, the proposed compensation route would add to the totality of public spending aggregates and for that reason I do not think we can agree to the proposed increase in public spending that you suggest. On principle, we do not compensate areas of the public sector to reflect changes in the tax burden – a good example is the increase in the VAT rate to 20% that came in to effect a year ago. And this policy is symmetrical; we don't reduce budgets when tax burdens decrease.

Sorry that we cannot be more helpful on this occasion.

Thanks

[REDACTED]
Devolution Branch
2N, HM Treasury
Tel: [REDACTED]

From: [REDACTED]
Sent: 06 February 2012 16:16
To: [REDACTED]

21/06/2012

[REDACTED]
Subject: RE: [RESTRICED] RE: VAT on Police/Fire Reform

[REDACTED]

Sorry - bit of a misunderstanding with Justice colleagues. £22m (£21.8m to be exact) relates to Police and £4m to Fire so the combined total is £25.8m.

My apologies for any confusion.

[REDACTED]

[REDACTED]
Deputy Director, Finance (Programme Management)
3C-72, Victoria Quay

From: [REDACTED]
Sent: 03 February 2012 11:33
To: [REDACTED]
Cc: [REDACTED]
Subject: [RESTRICED] RE: VAT on Police/Fire Reform

[REDACTED]

That's what I suspected but thought that I'd better check.

It's the total that I am focussing on at present but a breakdown between police and fire would be helpful for the future.

Thanks

[REDACTED]
Devolution Branch
2N, HM Treasury

From: [REDACTED]
Sent: 03 February 2012 11:29
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: [RESTRICED] RE: VAT on Police/Fire Reform

Keith - total cost. We currently have eight police authorities and eight fire authorities. In the future there will be one national service for police and one for fire. The VAT is £22m for both of those new services combined. I can break down the £22m into police and fire if that would help but I suspect it's the total that's the important thing.

Regards

[REDACTED]

[REDACTED]
Deputy Director, Finance (Programme Management)
3C-72, Victoria Quay

21/06/2012

From: [REDACTED]
Sent: 03 February 2012 11:25
To: [REDACTED]
Cc: [REDACTED]
Subject: [RESTRICED] RE: VAT on Police/Fire Reform

[REDACTED]

I will be taking this issue forward with colleagues here who are responsible for VAT policy.

There is just one point that I need to clarify, namely where you say the additional cost is £22m pa. Is that the total cost for the two new bodies or for each new body?

Thanks

[REDACTED]
Devolution Branch
2N, HM Treasury
Tel: [REDACTED]

From: [REDACTED]
Sent: 11 January 2012 16:40
To: [REDACTED]
Subject: VAT on Police/Fire Reform

[REDACTED]

Good to catch up earlier today. I hope you enjoyed the visit.

I said I would let you know the extent of the expected loss brought about by any change in VAT status of Police and Fire Authorities from the s33 status (1994 VAT Act) they currently enjoy. We estimate that the total additional cost to the new central government bodies (one each for Police and Fire) would be in the region of £22m p.a.

We were advised by HMRC that decisions on which bodies attract s33 status are not taken by them but by HM Treasury. I understand my Justice colleagues have been in touch with the relevant team but the issue remains unresolved. It would be helpful if the outcome were a positive one, particularly since this would be cost neutral.

Regards

[REDACTED]
Deputy Director, Finance (Programme Management)
3C-72, Victoria Quay
[REDACTED]

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Safer Communities Directorate
Police Division
T: 0131-244-3251
E: Christie.smith@scotland.gsi.gov.uk



Ms Melanie-Jane Williams
HMRC
VAT Supply Team
Room 3/09
100 Parliament Street
London
SW1A 2BQ

26 May 2011

Dear Ms Williams

I am writing about the potential future VAT status of the police and fire services in Scotland.

Consultation on the future of police and fire services

The Scottish Government has been consulting on options to reform Scotland's police and fire services. There are currently 8 police forces and 8 Fire and Rescue services in Scotland and these are funded through Local Government. These consultations closed on 5 May 2011 and responses are currently being analysed. The Scottish Government, with the support of police and fire stakeholders, believes that given the scale and duration of future budget cuts, the structural status quo is no longer tenable. Current structures date back to the 1970s and these now need to change to adapt to the challenges facing today's services.

Both the policing and fire consultation papers set out 3 options for reform:

- Keeping the current structures with enhanced collaboration;
- Regional police and fire models;
- Single police and fire services for Scotland.

All options must demonstrate that they will improve services and accountability; enhance performance for communities and deliver the efficiencies required to protect frontline services.

I have attached electronic links to both consultation papers at the end of this letter.

VAT implications of reform

As you will be aware, both the police and fire services in Scotland are under the VAT Act 1994 classed as section 33 bodies.

The respective fire and police bodies are set up under the Police (Scotland) Act 1967 (as amended) or the Fire (Scotland) Act 2005. Our intention is to progress with primary legislation during the next Scottish Parliament to put the services onto a new statutory footing. Our expectation would be that the new services would still be eligible for Section 33 status.

St Andrew's House, Regent Road, Edinburgh EH1 3DG
www.scotland.gov.uk



Potential future structural models

Each of the models described above is under consideration by Ministers at the moment and their views will be informed by the responses received to the recent consultation exercise. Some discussion of the early issues and ideas arising is set out below.

Eight body model

Maintaining eight forces and services with increased collaboration would not require existing funding mechanisms to be revisited, however, consideration is being given to whether these might be simplified and how accountability for service delivery could be strengthened.

Regional Model

A move to a regional structure with a smaller number of police and fire boards would reduce the variation in delivery approaches, thus reducing duplication of effort and improving consistency of service delivery.

Single model

A single service model would present the opportunity to drive out duplication, ensure consistency and rationalise existing systems and structures as far as possible. Efficiencies should be realised through economies of scale. Budgets could be pooled at a national level then targeted at local need. Local accountability could be enhanced through greater engagement at the level of each local authority.

It would be possible to establish a national Scottish Police Authority (SPA) at arms length from Ministers with responsibility for the governance of the Police Service and holding the Chief Constable to account; and a formal committee of the Council, the Local Police Committee, in each local authority area responsible for agreeing a Local Policing Plan and holding the Local Senior Officer to account.

The SPA could be established as a separate statutory body with members appointed by Ministers. The Local Police Committee could either be a scrutiny body without responsibility for directly funding policing in the area, or alternatively, the Committee could be responsible for funding policing in the local area.

The future funding of the police service could follow a number of models ranging from 100% direct funding from the Scottish Government to being a 100% Local Authority funded service. There are various options here and these will be considered in light of the consultation responses received.

For the Fire and Rescue Service (FRS), it would be possible to establish a non-statutory Executive Agency and give Ministers a decision making role and responsibility for driving forward change. Alternatively, the establishment of a statutory Scottish Fire and Rescue Authority (SFRA) at arms length could have delegated responsibility for running the Service. A formal committee, the Local Fire Committee, in each local authority would take responsibility for agreeing the Local Fire and Rescue Delivery Plan and holding the Local Senior Officer to account.

I would welcome your thoughts on the issue of VAT for the future services and myself and colleagues who are developing this policy would be happy to meet with you and colleagues to discuss these issues further.

Yours sincerely



**CHRISTIE SMITH
HEAD OF POLICE AND FIRE REFORM
SCOTTISH GOVERNMENT**

<http://www.scotland.gov.uk/Publications/2011/02/10120102/0>

<http://www.scotland.gov.uk/Publications/2011/02/10120752/0>

[REDACTED]

From: [REDACTED]
Sent: 12 June 2012 13:45
To: [REDACTED]
Cc: [REDACTED]
Subject: [REDACTED] RE: VAT

[REDACTED]

Thanks. Was it a public session and do you have a link? Can't seem to find anything for Justice Committee beyond 29/5.

[REDACTED]

[REDACTED] | Head of Devolved Spending Team Devolved Countries Team, HM Treasury, 2D.270, 2 Red,
1 Horse Guards Road, SW1A 2HQ | [REDACTED] please consider the environment before printing this
email.
www.hm-treasury.gov.uk

-----Original Message-----

From: [REDACTED]
Sent: 12 June 2012 13:41
To: [REDACTED]
Cc: [REDACTED]
HMT
Subject: RE: [REDACTED] RE: VAT

[REDACTED]

Apologies for the delay in getting back to you.

The amendment that was being put forward was discussed and the Cabinet Secretary advised the Committee of the decision by HM Treasury. Following this the amendment was dropped. We were asked to provide the committee with details of the proposed amendments to the Bill which were shared with yourselves

The Cabinet Secretary's appearance before the Justice Committee is available on the Scottish parliament's website and the VAT issue was discussed at 11.15 around 1 hour 30 into the meeting just after the break.

[REDACTED]

Branch Head
Treasury and Banking
Scottish Government

[REDACTED]
Fax: [REDACTED]

*: [REDACTED]

-----Original Message-----

From: [REDACTED]
Sent: 12 June 2012 09:14
To: [REDACTED]
Cc: [REDACTED]
Subject: [RESTRICATED] RE: VAT

[REDACTED]

Very willing to co-ordinate on this, though from the conversation yesterday I understood that we could expect your Ministers to make something of this today? Think it would be better if we could avoid that, so happy to work on how we co-ordinate the announcement.

[REDACTED]

[REDACTED] Head of Devolved Spending Team Devolved Countries Team, HM Treasury, 2D.270, 2 Red, 1 Horse Guards Road, [REDACTED]. Please consider the environment before printing this email.
www.hm-treasury.gov.uk

-----Original Message-----

From: [REDACTED]
Sent: 11 June 2012 19:51
To: [REDACTED]
Cc: [REDACTED]
Subject: VAT

[REDACTED]

Grateful if you could advise if there are any plans to make the decision public. We have the next stage of the Bill tomorrow and would hope that there are no plans to make announcements before then.

We also spoke previously about coordinating any announcements.

Thanks
[REDACTED]

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Tha am post-d seo (agus faidhle neo ceanglan còmhla ris) dhan neach neo luchd-ainmichte a-mhàin. Chan eil e ceadaichte a chleachdadh ann an dòigh sam bith, a' toirt a-steach còraichean, foillseachadh neo sgaoileadh, gun chead. Ma 's e is gun d'fhuair sibh seo le gun fhiosd', bu choir cur às dhan phost-d agus lethbhreac sam bith air an t-siostam agaibh, leig fios chum neach a sgaoil am post-d gun dàil.

Dh'fhaodadh gum bi teachdaireachd sam bith bho Riaghaltas na h-Alba air a chlàradh neo air a sgrùdadh

Cabinet Secretary for Justice
Kenny MacAskill MSP

T: 0845 774 1741
E: scottish.ministers@scotland.gsi.gov.uk



David Gauke MP
Exchequer Secretary to the Treasury
HM Treasury
1 Horse Guards Road
London
SW1A 2HQ


DELIVERING
A GAMES LEGACY FOR SCOTLAND

21st June 2012

Dear David

Our officials have been discussing for some time the VAT status of the proposed Scottish Police Authority (SPA) and Scottish Fire and Rescue Service (SFRS). I understand that you have decided that you are not prepared to allow the new bodies to recover VAT.

We have not received any formal reasons for your decision but I understand it is on the basis that the SPA and SFRS will be funded by central government.

We have sought to work with you cooperatively and constructively. This included setting out the ways in which the Police and Fire Reform (Scotland) Bill provides for enhanced local democratic scrutiny of the delivery of policing and fire and rescue creating a new direct relationship with the 32 local authorities, not joint boards. We have reiterated that both SPA and SFRS will continue to be able to receive funding from Scottish local authorities to pay for the cost of agreed local priorities.

I consider that this availability of a local funding mechanism meets your policy as set out in your letter of 29 February to the Scottish Parliament's Finance Committee. However, to provide you with reassurance that our proposals meet your policy, we had shared with your officials options for providing an express provision in the Bill to make that funding link totally explicit. We considered this would demonstrably satisfy your policy and facilitate your decision to make the necessary changes to UK legislation to allow the SPA and SFRS to recover VAT.

It is therefore extremely disappointing that you have rejected our proposals and furthermore have been unable to co-operate with us, failing to provide a credible basis for your decision or to offer suggested amendments that would meet your policy without undermining our whole programme of reform.

St Andrew's House, Regent Road, Edinburgh EH1 3DG
www.scotland.gov.uk





JUSTICE
29 JUL 2012
PRIVATE OFFICE

HM Treasury, 1 Horse Guards Road, London, SW1A 2HQ

Kenny MacAskill MSP
Cabinet Secretary for Justice
St Andrew's House, Regent Road
Edinburgh
EH1 3DG

17 July 2012

Dear Kenny

Section 33 VAT Refund Scheme

Thank you for your letter of 21 June 2012 regarding the VAT status of the proposed Scottish Police Authority (SPA) and Scottish Fire and Rescue Service (SFRS).

The Section 33 refund scheme (s.33) was introduced together with VAT in 1973, following a Ministerial commitment that VAT would not become an additional burden on local taxation. HMRC's published guidance sets out the long-standing criteria for access to the s.33 scheme. Notably, this includes the requirement for an eligible body to be funded directly through local taxation.

The reforms to Scottish police and fire services, which will see responsibility for these services centralised and moved away from local authorities, mean that the new services no longer meet the



eligibility criteria for s.33. This was acknowledged repeatedly by the Scottish Government in correspondence with the UK Government and indeed, as set out in the business case for the reforms, the proposed savings from the changes were 'predicated on VAT not being provided for'.

Following a request from the Scottish Government we have been working with your officials to explore whether your reforms can be amended to enable s.33 eligibility. However, we have been unable to reach agreement on the inclusion of an element of local funding in your reforms which is crucial for s.33 eligibility. The funding link that the Scottish Government have suggested and to which you refer to in your letter is a provision for local authorities to request additional resources be allocated to local policing, with the additional costs that arise being paid for by the local authority. However, I do not consider this provision to equate to the element of local funding that is required to enable s.33 eligibility for the SPA and SFRS.

Firstly, additional resources, which will often take the form of additional officers, would likely have little impact on VAT costs since staff wages do not incur VAT. Therefore, the purpose for applying s.33 - to prevent VAT becoming a burden on local taxation - does not apply. While a local authority can provide additional discretionary funding to the police, this contribution would, for the most part, not be subject to VAT.



More importantly, as set out in the HMRC guidance, s.33 requires that the relevant body has the power to draw on local taxation. Under the proposed Scottish reforms, neither the police nor fire services will have such a power. Instead the provision of funding would be at the local authority's discretion.

In your letter you refer to the approach adopted in respect of academy schools in England. I do not accept there is such a parallel here. The fundamental rule for funding public services is that VAT costs are included within upfront funding allocations. VAT refund schemes are an exception to this principle and can only be justified where there is a specific policy need for one. Academies in England do not have access to s.33. Section 33B was created as a separate refund scheme, because academies did not meet the long-standing eligibility criteria for s.33 that only bodies funded from local taxation are eligible. The introduction of the scheme for academies was necessary because, without it, local authority schools would have had an incentive to maintain the status quo. It is therefore likely that, in the absence of a VAT refund scheme, these education reforms would have been frustrated by a lack of a refund scheme, thus placing the entire reform programme at risk. This contrasts with the decision to proceed with the police and fire service reforms in Scotland, which were made assuming that VAT refunds would be lost. (I also note by your estimates for the reforms, that the savings of £1.7bn over 15 years far outweighs any lost VAT refunds). There is therefore no policy imperative that necessitates the introduction of a new refund scheme to ensure your reforms succeed.



Despite efforts to work with the Scottish Government to enable ongoing eligibility to the VAT refund scheme, we have been unable to persuade you to alter your reforms to introduce an element of local funding which is consistent with the published guidance. As a result I am unable to agree to the new police and fire services continuing to receive VAT refunds.

Separately, you wrote to the Chancellor on 7 June to ask for an in-principle agreement to the making of an Order under section 104 of the Scotland Act 1998, to make consequential provisions arising from the reforms being made to your police and fire services.

The proposed consequential amendments include two issues which are the responsibility of HM Treasury Ministers – provision for pensions for police officers, cadets, special constables and fire-fighters and provisions on the treatment of stamp duty where the right to buy is exercised on a house provided for police or fire and rescue purposes.

I can confirm that I am content for the proposed changes to be taken forward in the Order.

John
David Gauke
David Gauke MP

[REDACTED]

From: [REDACTED]
Sent: 26 July 2012 13:14
To: [REDACTED]
Subject: RE: [RESTRICATED] RE: VAT AND SCOTTISH POLICE Farr, [REDACTED]

[REDACTED]

Another one

[REDACTED]
Branch Head
Treasury and Banking
Scottish Government

[REDACTED]
Fax: [REDACTED]
[REDACTED]

From: [REDACTED]
Sent: 23 April 2012 14:48
To: [REDACTED]
Cc: [REDACTED]
Subject: [RESTRICATED] RE: VAT AND SCOTTISH POLICE Farr, [REDACTED]

[REDACTED]

That will be fine. It's best to meet before as I have further meetings after the Shared Services meeting. Does 9am give you enough time to get here? [REDACTED] will join us as well.

Regards

[REDACTED]

[REDACTED] Reliefs & Refunds Branch | VAT & International Excise Team, HM Treasury | 3 Blue 163, 1 Horse Guards Road, London SW1A 2HQ | Tel: [REDACTED]

From: [REDACTED]
Sent: 23 April 2012 11:35
To: [REDACTED]
Subject: VAT AND SCOTTISH POLICE

[REDACTED]

I wondered if it would be possible to have a chat for 30 minutes or so about the Police and Fire Service VAT issue.

I am not sure if you would want anyone else there. Happy to meet before or after the Shared Services meeting. My flight is due in at Gatwick at 7.50.

[REDACTED]

26/07/2012

Branch Head

Treasury and Banking

Scottish Government

[Redacted]

Fax: [Redacted]

[Redacted]

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[Redacted]

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Dh'fhaodadh gum bi teachdalrèachd sam bith bhò Rìaghaltais na h-Alba air a chlàradh neo air a sgrùdadh airson dearbhadh gu bhèil an siostam ag obair gu h-èifeachdach neo airson adhbhar laghail eile. Dh'fhaodadh nach eil beachdan anns a' phost-d seo co-ionann ri beachdan Rìaghaltais na h-Alba.

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Minister for Community Safety and Legal Affairs
Paul Wheelhouse MP

T: 0300 244 4000
E: scottish.ministers@scotland.gov.uk



Rt Hon David Mandell MP,
Parliamentary Under Secretary of State for Scotland,
Scotland Office,
Dover House,
Whitehall,
London
SW1A 2AU



3 March 2016

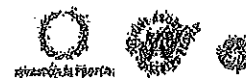
VAT ON SCOTTISH EMERGENCY SERVICES

Late last year, you may have seen press coverage of recent comments by Pat Walters, Chair of the Scottish Fire and Rescue Service (SFRS) and the Chief Constable Sir Stephen House about the impact of VAT on the budgets of the Scottish Emergency Services. I also believe that you will have subsequently received a letter from Pat Walters in which Pat further highlights the specific situation in relation to the VAT status of the Scottish Fire and Rescue Service (SFRS), in which he sought the support of Scottish MPs in having this anomaly addressed.

Since taking on my new responsibilities as Minister for Fire, and following a series of meetings with, and visits to, the SFRS, I have been struck by the range of specialist rescue equipment needed to fulfil their role. You and I have both seen the huge contribution the SFRS makes in response to, for example, recent flooding across the south of Scotland and specifically within areas of Dumfries and Galloway, where firefighters played a hugely positive role in assisting those affected, as no doubt you would acknowledge. Were SFRS able to reclaim their VAT, they would be able to increase investment in modern equipment by over a third.

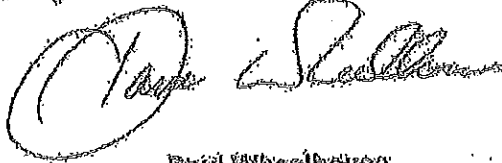
I was delighted to see the Chancellor's decision in the Autumn Statement which enables search and rescue charities to reclaim VAT on their purchases of goods and services, however, regrettably, this leaves the official Scottish Search and Rescue services in an increasingly anomalous position in purchasing the same kit, and I wonder if there is an opportunity for a real win-win solution here. You will know that almost all SFRS investment in rescue equipment stays in the UK, and much of it in Scotland through procurement from leading companies like Clan Tools and Plant Ltd, and Emergency One (UK) Ltd, both of Dumfries in Ayrshire, so there is a clear link between any possible VAT reclaim and safeguarding UK and Scottish manufacturing jobs.

St Andrew's House, Regent Road, Edinburgh EH1 3DG
www.gov.scot



I appreciate that time is of the essence, given the approach of parliament in advance of the General Election, but I would warmly welcome an opportunity to discuss how we might work together on this - to both support Scotland's Fire and Rescue Service and the excellent work they undertake on our behalf, while also stimulating capital investment in a sector where Scottish and UK firms are well placed to compete for any additional business that would arise.

Kind regards



Paul Wheelhouse

CC: Secretary of State for Scotland

Deputy First Minister
and Cabinet Secretary for Finance, Constitution and Economy
John Swinney MSP

T: 0300 244 4000
E: dfm@scotland.gsi.gov.uk



Rt. Honourable George Osborne MP
The Chancellor of the Exchequer
HM Treasury
Parliament Street
London
SW1P 3AG



Our ref: A10132824

9 March 2015

Dear George,

VAT status of Scottish Police Authority (SPA) and the Scottish Fire and Rescue Service (SFRS)

Further to my letter to you of 28 November 2014 in advance of your Autumn statement on 3rd December, I now write again regarding the VAT status of the Scottish Police Authority (SPA) and Scottish Fire and Rescue Service (SFRS).

As set out in my letter of 28th November 2014, the ruling by HM Treasury that SPA and SFRS are not eligible to reclaim VAT has created a glaring disparity of treatment between the Police and Fire services in Scotland – against those in other parts of the UK. Maintaining this inequality of treatment is in stark contrast to the assurances of fairer treatment for Scotland made by the UK Government both before and after the Referendum on Scottish Independence.

In your Autumn Statement, you announced that there would be a change to s.41 of the VAT Act, 1994 to take account of impending changes to the Highways Agency which is being transferred from an Executive Agency to a Company limited by guarantee. The statement said that the relevant legislation would be updated to ensure that the new company is eligible for VAT refunds from 1 April 2015.

The situation with Scotland's Police and Fire services should be rectified in exactly the same way. With the Highways Agency, a Government policy to amend the status of the body, which would normally prevent that body from being able to reclaim VAT under the rules applicable to Government Departments, is being rectified by a change to the VAT Act. My primary point is that, just as for the Highways Agency, the substance of the police and fire activities in Scotland did not change when their legal status changed on 1 April 2013. The inclusion of Police and Fire within section 33, or the insertion of a new section 33(F) would rectify this inequality.

I also note that there are to be changes to s33 of the VAT Act, 1994, which applies to local authorities and certain named other authorities including police and fire services in England and Wales. The changes will admit non-departmental public bodies enabling them to claim VAT refunds in line with the HMT contracted out regime. Despite police authorities being specified under s33 (3) (f), you refused to admit the SPA on the grounds that it has no power of precept on local taxation.

The fact that you have made changes to the VAT Act to accommodate UK Government policy such as the changes to the Highways Agency, the introduction of a new s33(E) for shared services and the establishment of s33(B) which allowed Academy schools to recover VAT, demonstrates that your refusal to admit SPA and SFRS in to s33 of the VAT Act is blatantly unfair.

Yours,



JOHN SWINNEY



SCOTLAND OFFICE

Parliamentary Under Secretary of State

Dover House
Whitehall
London SW1A 2AU

Telephone: 020 7270 6806/6816

Fax: 020 7270 6815

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Paul Wheelhouse MSP
Minister for Community Safety and Legal Affairs
St Andrews House
Regent Road
Edinburgh
EH1 3DG

25 March 2015

VAT ON SCOTTISH EMERGENCY SERVICES

Thank you for your letter of 3 March on the issue of the impact of VAT on the budgets of the Scottish Emergency Services.

The UK Government position on this is clear. There are no current plans to bring forward legislative proposals to make Scottish Fire and Rescue Service eligible for VAT refunds. In 2011 the Scottish Government were explicitly advised of this potential consequence of changing from regional fire and police forces to single authorities as part of the proposed revised funding model for Scottish Fire and Rescue Service and Police Scotland. At the time they took the decision to make these reforms they would have known they would no longer be eligible for the VAT refunds as a result.

This position was confirmed in a letter from Mr David Gauke MP, Financial Secretary to the Treasury, to Mr Watters of the Scottish Fire and Rescue Service on 27 February.

The UK parliament will be dissolved formally on Monday 30 March, so diary constraints mean we are unlikely to be able to discuss this further before purdah.

I would like to thank you for taking the time to raise this issue.

Rt Hon DAVID MUNDELL MP

Cabinet Secretary for Justice
Michael Matheson MSP

T: 0300 244 4000
E: scottish.ministers@gov.scot



The Rt Hon Theresa May MP
Home Secretary
The Home Office
2 Marsham Street
London
SW1P 4DF



Your ref:
Our ref: EXCOMM/2499
November 2015

Dear Theresa,

EMERGENCY SERVICES MOBILE COMMUNICATIONS PROGRAMME (ESMCP)

[Redacted.]

[Redacted.]

[Redacted.]

[Redacted.]

Functionality

[Redacted].

Transition

[Redacted]

Affordability

[Redacted]

On a further significant financial matter, ESMCP is serving to underscore the objectionable implications of the anomalous VAT treatment of Police Scotland and the Scottish Fire & Rescue Service. The inability of these organisations to reclaim VAT adds considerably

(possibly in excess of £50m, or 10%) to the costs that will be faced if ESN is adopted here and, obviously, is a major inhibitor in that regard. And it could seem potentially to lead to the bizarre situation that, for example, if police officers or firefighters were to deploy from Dumfries & Galloway to assist colleagues dealing with an incident in Carlisle, the costs of using interoperable communications would be greater for those rendering assistance than for the local services. [Redacted].

[Redacted.]

Governance

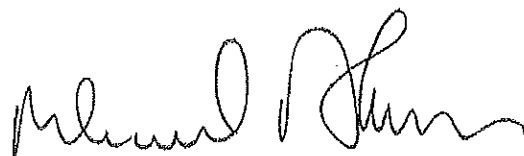
[Redacted].

Collateral Benefit

[Redacted].

Conclusion

[Redacted].

Best wishes


MICHAEL MATHESON

Deputy First Minister
and Cabinet Secretary for Finance, Constitution and Economy
John Swinney MSP

T: 0300 244 4000
E: dfm@gov.scot

Rt Hon George Osborne MP
Chancellor of the Exchequer
HM Treasury
1 Horse Guards Road
London
SW1A 2HQ



20 November 2015

Dear George

I am writing to set out the key issues that the Scottish Government wishes to raise ahead of the Autumn Statement and Comprehensive Spending Review on 25th November.

Although the economic outlook remains positive in both Scotland and the UK, there are signs that the pace of growth is slowing, as indicated by the provisional estimate for third quarter growth in the UK. There are also clear global challenges arising from the sharp slowdown in growth in China, and other emerging economies, and muted growth in the Euro Area.

Given the economic outlook, it is imperative that the Autumn Statement sets out measures to support economic growth and protects households from further austerity.

Fiscal Consolidation

Tax credits

Oil and gas sector


Scottish Police Authority and Scottish Fire and Rescue Service VAT

I have previously raised the VAT position of the Scottish Police Authority and the Scottish Fire and Rescue Service. Scotland's police and fire services are in the inequitable position of being the only front line emergency services in the UK unable to reclaim VAT resulting in an additional cost to the services of in excess of £30 million per annum. I am also aware that, if adopted, the implementation of the Emergency Services Mobile Communications Programme, a major collaborative procurement initiative to facilitate interoperable communications, could result in an additional £50 million VAT cost to the Scottish public sector as a result of this disparity which will see all other participating emergency services in the UK being able to recover the VAT element of the contract. This inconsistency is indefensible.

The structural changes in the way police and fire services are funded in Scotland and the lack of any power of precept is given as the technical reason for excluding these emergency services from Section 33 of the VAT Act. However, this basis highlights the discrimination in the legislative treatment of public bodies across the UK. The VAT Act has been amended previously to accommodate similar UK Government operational changes including permitting Academy Schools and Highways England to recover VAT when the creation of these bodies did not allow recovery under existing legislation. I would again urge you to consider the necessary changes through the Finance Bill to accommodate the ability of these vital bodies to recover VAT.

Social Housing costs

Apprenticeship Levy



JOHN SWINNEY



Deputy First Minister
and Cabinet Secretary for Finance, Constitution and Economy
John Swinney MSP



T: 0300 244 4000
E: dfm@gov.scot

Rt Hon Greg Hands MP
Chief Secretary to the Treasury
HM Treasury
1 Horse Guards Road
London
SW1A 2HQ

8 January 2016

Dear Greg,

Following on from our productive meeting on the fiscal framework this afternoon, I am writing in relation to comments that you made to the media today during your visit to the Royal Bank of Scotland Headquarters in Edinburgh.

At that visit, when asked about the inequitable VAT status of the single police and fire services in Scotland, you pledged to listen to Scottish Government pleas to make the police and fire services exempt from VAT. This is very welcome. When asked about the impact that the current VAT position will have on the Scottish costs of the Emergency Services Mobile Communications Programme, you indicated that the Scottish Government "has not raised this specifically" with you, but that you "will happily look at it."

The Scottish Government has regularly and consistently raised the issue of the VAT position of the Scottish Police Authority and the Scottish Fire and Rescue Service (and associated cost burden of over £30 million per annum) with the UK Government over the past 4 years. We have also specifically raised the issue of the impact that this VAT position will have on the Emergency Services Mobile Communications Programme.

On 5 November 2015, my colleague Michael Matheson, Cabinet Secretary for Justice wrote to the Home Secretary setting out a number of points about the Scottish Government's participation in the Emergency Services Mobile Communications Programme. That letter was copied to your office. Within the letter, Mr Matheson explicitly raised the VAT impact that the current situation will have on the Scottish costs of that programme – which could result in an additional £50 million VAT cost to the Scottish public sector.

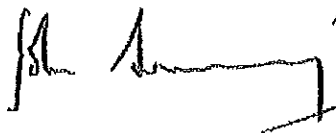
This is a position that none of the other participating Government Departments, Devolved Administrations or Emergency Services across the rest of Great Britain will face. I have attached a copy of this letter at Annex A. In the reply to that letter, then then Minister for Policing, Crime, Criminal Justice and Victims, Mike Penning MP, chose not to address the points raised about the VAT position.

In addition, I personally raised the same issue with the Chancellor of the Exchequer as part of my letter to him on 20 November 2015 ahead of the Autumn Statement and Comprehensive Spending Review. A copy of that letter is attached at Annex B.

It is therefore abundantly clear that the Scottish Government has communicated to HM Treasury the concerns that we have about the impact of the current, indefensible inconsistency with the VAT treatment of the police and fire services in Scotland will have on the Emergency Services Mobile Communications Programme.

As I said at the outset of this letter, I welcome your commitment today to listen to the concerns that the Scottish Government has raised on police and fire VAT and I would again urge you to consider the necessary changes to allow these important emergency service bodies to be able to reclaim VAT.

I would be happy to discuss any of the above when we meet again later this month.



JOHN SWINNEY

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HM Treasury, 1 Horse Guards Road, London, SW1A 2HQ

John Swinney MSP
Deputy First Minister
and Cabinet Secretary for Finance, Constitution and the Economy
St Andrew's House
Regent Road
Edinburgh EH1 3DG

15th January 2016

Dear John,

VAT STATUS OF SCOTTISH POLICE AND FIRE SERVICES

Thank you for your letter of 8 January regarding the VAT status of the single police and fire services in Scotland.

2. We have not discussed this matter at any of our previous meetings, but having considered both your letter and historical correspondence between the Treasury and the Scottish Government, I am convinced that Scotland's single police and fire services are not eligible for Section 33 VAT refunds.

3. The Section 33 VAT refund scheme was introduced to ensure that VAT is not a cost borne by local taxation. To be able to use the scheme to recover VAT, the organisation in question must both undertake a local government function and have the power to draw funding directly from local taxation.

4. The Scottish Government restructured Police Scotland and the Scottish Fire and Rescue Service in 2012. Although these bodies undertake a local government function, they do not have the power to draw funding directly from local taxation and are centrally funded by the Scottish Government rather than through any legal

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call on local taxes. This inability to raise funds from local taxation means that they are not eligible for VAT refunds under Section 33.

5. It is my understanding that in 2011 the Scottish Government were explicitly advised of the potential consequence of restructuring Police Scotland and the Scottish Fire and Rescue Service under the proposed revised funding model. However, the Scottish Government's business case at the time stated that the benefits of the restructuring outweighed the costs of losing VAT refunds. At the time the decision was taken to make these reforms, the Scottish Government therefore knew that eligibility for VAT refunds would be lost.

6. I understand that the Scottish Government was also advised in 2011 and 2012 that, were the relevant legislation amended to give the new single bodies the power to draw on local funding, it is likely that they would be eligible under Section 33. Should the Scottish Government wish to consider doing so, I would be happy to discuss this further with you.

Your ever,

A handwritten signature in black ink, appearing to read "Greg Hands".

GREG HANDS

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OFFICIAL

Deputy First Minister
and Cabinet Secretary for Finance, Constitution and Economy
John Swinney MSP



T: 0300 244 4000
E: dfm@gov.scot

Rt Hon Greg Hands MP
Chief Secretary to the Treasury
HM Treasury
1 Horse Guards Road
London
SW1A 2HQ

Our ref:

24 February 2016

Thank you for your letter of 15 January in relation to the VAT status of the police and fire services in Scotland.

In your letter you explain why you do not believe that Scotland's police and fire services are eligible for VAT refunds under Section 33 of the VAT Act 1994 and also indicate that the Scottish Government were informed of this consequence before we undertook the reforms of our police and fire services.

Just to be clear, we have not claimed that we were unaware of the position taken by HM Treasury on VAT issues in relation to our police and fire reform programme. Indeed this very issue was discussed at length in the Scottish Parliament as part of the passage of the reform legislation. However, being aware of the position does not equate to our agreement with the inequitable consequences, as explained further below. The consequences of course include a new and additional income stream for the UK Government of around £30m/annum from public bodies funded from the Scottish block grant.

We are requesting a change in VAT law to maintain a policy intention - that police and fire services in Scotland should continue to be able to reclaim VAT, maintaining a level playing field with the rest of the UK. But the ability to maintain this policy intention, as outlined in your letter, has been frustrated by a technicality of VAT law (that to be able to reclaim VAT, police and fire service in Scotland must be able to draw on local taxation as part of their funding).

I note that the UK Government has previously changed VAT law to maintain an effect (relating to VAT reclaims) that would otherwise have been upset by a change in organisational structure flowing from a separate policy.

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In the case of Highways England, HM Treasury changed VAT law to maintain a policy intention (VAT being recoverable on contracted out services) when the existing letter of VAT law would have frustrated this (because Highways England was about to become a company and so would not have been entitled to recover VAT paid on contracted out services).

The Scottish Police Authority and Scottish Fire & Rescue Service, the new bodies replacing the legacy police and fire services in Scotland, were created to further improve the efficiency and effectiveness of key public services in Scotland. The associated structural change has implications for VAT costs. An adjustment to VAT legislation would simply enable the new bodies to recover VAT as was the case before. I do not believe that such an adjustment would create a precedent. The core functions and purposes of both bodies remain as they were before the reforms were undertaken, which are equivalent to police and fire services across the rest of the UK, and they would continue to receive core funding from the public sector.

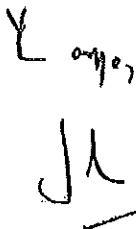
I am of course not arguing that our police and fire services in Scotland are in precisely the same situation as Highways England, nor that they should receive the same ability to reclaim VAT under s.41 of the VAT Act, but I do believe that as HM Treasury have changed VAT law for one government body to achieve a taxation outcome, it would be consistent and equitable to make a parallel change to achieve the same effect in respect of another body.

I therefore ask you to consider further the proposition that, on grounds of reasonableness and equity, HM Treasury should adjust the relevant VAT rules in respect of police and fire services in Scotland to restore the VAT repayment position to what was in place before the structural changes, in line with the effect of the changes made in respect of Highways England on its VAT repayment position at the time of its structural reform.

The Secretary of State for Scotland spoke at a briefing to journalists in Edinburgh on 19 January 2016. At that engagement Mr Mundell said that he was seeking a "reboot" of the relationship between the UK and Scottish Governments and "respectful and collegiate inter-Government working." Resolving the VAT status of our police and fire services would, I suggest, be a very good example of constructive working relationships in operation.

I hope you could agree to work with me on this important issue for Scotland. I propose that in the first place, our respective officials arrange an early meeting to explore potential solutions, and report back to us.

I am copying this letter to the Secretary of State for Scotland.


JOHN SWINNEY



HM Treasury, 1 Horse Guards Road, London, SW1A 2HQ

John Swinney MSP
Deputy First Minister
Cabinet Secretary for Finance, Constitution and Economy
St Andrew's House
Regent Road
Edinburgh
EH1 3DG

7 March 2016

Dear John

VAT STATUS OF THE POLICE AND FIRE SERVICES IN SCOTLAND

Thank you for your letter to the Chief Secretary of 14 February on the VAT status of the police and fire services in Scotland. I am responding as the Minister with responsibility for VAT policy.

As you know, the UK and Scottish Governments have been in correspondence about this for some time. Given that, I would be happy for my officials to meet yours as you request to discuss this issue further. Please contact [REDACTED]

[REDACTED] to arrange as necessary.

*Yours
David*

David Gauke MP

Deputy First Minister
and Cabinet Secretary for Finance, Constitution and Economy
John Swinney MSP



T: 0300 244 4000
E: dfm@gov.scot

Rt Hon Greg Hands MP
Chief Secretary to the Treasury
HM Treasury
1 Horse Guards Road
London
SW1A 2HQ

17 March 2016

EMERGENCY SERVICES MOBILE COMMUNICATIONS PROGRAMME: VAT

I regret that I have again to return to the unresolved issue of reserved legislation preventing Police Scotland and the Scottish Fire & Rescue Service reclaiming VAT, while it allows every counterpart organisation in the UK to do so.

This is a general problem impacting on our Scottish police and fire services, as I made clear in my letter of 24 February 2016, but the iniquity of the position is highlighted particularly starkly in relation to the collaborative Emergency Services Mobile Communications Programme (ESMCP) – a fact that is clear to Scottish Ministers as we consider the implications of being a long term participant in that programme.

As Michael Matheson, Cabinet Secretary for Justice, pointed out in his letter of 5 November 2015 and I reinforced in my letter of 8 January 2016, in terms of fairness and in terms of operational effectiveness (including mutual aid and cross-border/inter-agency cooperation), it is difficult to fathom why, of all the emergency services in Great Britain, Police Scotland and the Scottish Fire & Rescue Service should have to pay significantly more than anyone else for access to a shared communications network – as a result of current UK taxation legislation.

On 26 February 2016, the Financial Secretary to the Treasury responded to a letter from the cross-party Justice Committee of the Scottish Parliament, where he merely restated the current legal position and repeated that Scottish Ministers were aware of it at the time of the creation of Police Scotland and the Scottish Fire & Rescue Service. As I made clear in my letter to you of 24 February 2016, Scottish Ministers are not disputing that we were aware of this position when our single police and fire services were created – as were all MSP's in the Scottish Parliament – but that simply does not equate to us being in agreement with the inequitable consequences.

We must find a way to resolve this position and not use this issue for political knockabout – as one of your Ministerial colleagues appeared to do in a debate in Westminster Hall on 1 March 2016.

Therefore, I must repeat my request, in relation to this important matter of cross-party concern in Scotland, that the UK Government should either:

- commit to restoring parity across the UK emergency services and adjust the current legislative position with regard to VAT (a process which you successfully adopted when the creation of Highways England resulted in them losing the ability to be eligible for section 41 status); or
- provide a rational explanation to justify why two key Scottish participants in ESMCP should effectively have to pay 20% more than their counterparts in the rest of the country for access to the same shared communications network.

I am copying this letter to the Minister for Policing, Fire and Criminal Justice and Victims, to the Financial Secretary to the Treasury, and to the Secretary of State for Scotland.

Yours truly,



JOHN SWINNEY

Cabinet Secretary for Finance and the Constitution
Derek Mackay MSP



Scottish Government
Riaghaltas na h-Alba
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Rt Hon Philip Hammond MP
Chancellor of the Exchequer
HM Treasury
1 Horse Guards Road
London
SW1A 2HQ

12 November 2016

Dear Philip

[Redacted]

[Redacted]

Implications of Brexit

[Redacted]

[Redacted]

[Redacted text block]

Fiscal Consolidation

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North Sea

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¹ <http://www.resolutionfoundation.org/wp-content/uploads/2016/11/Taxbase-FINAL.pdf>



[Redacted text block]

1. Improve access to decommissioning tax relief

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2. Urgent clarity on the use of loan guarantees

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3. Measures to stimulate exploration

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Welfare Cuts

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[REDACTED]

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Scottish Police Authority and Scottish Fire and Rescue Service VAT

I have raised on numerous occasions the issue with regards to the inability of the Scottish Police Authority and the Scottish Fire and Rescue Service to reclaim VAT – which results in an additional cost to these bodies of around £30 million per annum. My colleague, the Deputy First Minister and Cabinet Secretary for Education and Skills wrote to the Chief Secretary to the Treasury on 24 February 2016 and 17 March 2016 on this issue and we are still awaiting a response to those two letters.

The issue has been highlighted again with the Emergency Services Mobile Communications Programme, a major collaborative procurement initiative to facilitate interoperable communications across all of the emergency services within the UK. HMRC recently confirmed that the VAT on the contract is recoverable for all Crown Bodies under the HM Treasury contracted-out direction. This will see all emergency services across Great Britain, with the exception of the Scottish Police and Fire Services, recovering the VAT element of the contract. Financially this will see an additional cost to the Scottish taxpayer of £50 million in VAT over the lifetime of this programme to implement a critical GB-wide emergency services communications system.

Your officials have always maintained that the reason for the refusal to allow the services to reclaim VAT was because of the way Police and Fire services are funded in Scotland, and in particular the fact that they do not have a power of precept on local taxation. In practice, police and fire services in Scotland provide exactly the same services as in other parts of the UK, and it is very difficult for people in Scotland to understand why an extra cost burden should be placed on emergency services here. It is also difficult to understand why the Police Service of Northern Ireland, whose funding comes predominantly from the UK Treasury, is able to reclaim VAT under section 99 of the VAT Act while Scottish emergency services, which particularly from 2017-18 will be funded increasingly by Scottish taxpayers, cannot.

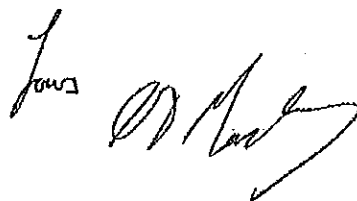
² <http://www.resolutionfoundation.org/wp-content/uploads/2016/11/Under-new-management.pdf>

This disparity of treatment places a significant financial burden on Scotland, and in my view is not defensible by reference to objective criteria. We all realise that where there is a will there is a way, and the UK Government have highlighted this in recent years through legislative changes to allow VAT to be reclaimed by successor bodies following UK Government policy changes such as introducing Academy Schools and establishing Highways England. The existing position feels quite unfair. I therefore urge you to reconsider introducing changes to VAT legislation through the Finance Bill that would enable our Scottish emergency services to recover VAT.

Major new initiatives on fiscal matters

[REDACTED]

[REDACTED]



DEREK MACKAY