

7 November 2016

HM Revenue and Customs  
Making Tax Digital for Business Policy Team  
Room 3C/12  
100 Parliament Street  
London  
SW1A 2BQ



Sent by e-mail to: makingtaxdigital.consultations@hmrc.gsi.gov.uk

Dear Sirs

**Re: UK200Group's Response to Making Tax Digital Consultation**

Thank you for the opportunity to respond to the Making Tax Digital (MTD) consultation. We are now responding on behalf of the UK200Group, which is the UK's leading membership association of independent chartered accountancy and law firms. Collectively, we provide a voice for more than 150,000 SME's across the UK and we provide our members with services that support them in the following areas:

1. Business development
2. Business risk
3. Business delivery.

Our Quality Assurance and Standards (QAS) mark is a beacon of excellence for SMEs seeking the highest level of accountancy services; it both underpins and unites our members enabling them to work together to deliver seamless services for our client groups.

As you would expect, our member accountancy firms offer the full range of accounting services to their SME clients. They are acutely aware of the need to engage SMEs in the digitalisation agenda and therefore we are pleased to make this submission on their behalf.

In the past representatives of our Tax panel have met and made recommendations to the Treasury on various budgetary issues, to an All Parliamentary Party Group on PAYE Reform, and to the Office of Tax Simplification.

Since you launched the MTD consultation, we have canvassed our member firms, who have in turn been discussing the issues arising with their clients. We consider that we are uniquely placed with regard to small businesses, and are keen to pass on the benefits of this relationship.

A range of views have been expressed by clients and member firms. The following seeks to represent as many of those as possible, and to draw them together into common themes.

Overall, we recognise that there are great benefits to be obtained from MTD, and we are keen to work with HMRC to help design a system that will achieve the best balance of benefit to cost.

However, we do have some reservations. One strong theme is that the proposals seem to take little account of the practicalities of business, and betray some lack of understanding of what is possible, practical, and cost-effective; another is that the proposals appear to be far too rushed for such a major upheaval. We would very much recommend that the pace of development be slowed to allow full consideration of the issues, and to allow time for software systems (both taxpayers' systems and HMRC's) to bed in.

We appreciate that the task of integrating all of HMRC's systems is a huge one: we are daily faced with situations where information is not flowing correctly within HMRC. This sort of project must be done correctly, or it is not worth doing at all, and the timescales currently suggested seem to short. The consequences of the technology not performing adequately are significant.

We are also concerned that the benefits of MTD appear to accrue largely to HMRC. We struggle to put the proposals to clients in a way that they see as beneficial to them: it very much appears to be a case

of the taxpayer doing a lot more work for no reward. Balancing the obligations and rewards is essential if taxpayers are to be engaged fully.

This document sets out some general thoughts arising from the consultations; answers to specific questions raised in the consultation documents are listed separately.

We should be happy to discuss matters further, either by correspondence or by face-to-face meeting.

## **Overview**

We understand that there are three main objectives for MTD:

- Reduce accidental errors
- Increase information flows
- Reduce the administrative burden.

We very much applaud all three of these objectives.

Although not explicitly split out in the consultation documents and the discussions around them, the MTD project seems to split into two main streams:

- 1) Building a better infrastructure for information exchange
- 2) Increasing the scope of detail of information provided.

These are potentially independent – each could be provided without the other – although having both does of course give significant additional value.

We very much welcome the former, as we think that (assuming the technology works) it must be of help towards all three objectives. However, we have some reservations about the latter:

- The new reporting imposes new responsibilities that do not seem to be in line with Self-Assessment principles
- These responsibilities will certainly increase the admin burden
- We are not convinced they will deliver the benefits to the degree anticipated in the consultation.

Consideration of the new responsibilities leads to a deeper reassessment of how the tax system works, and how it ought to work. This gives a third stream, not set out in consultation:

- 3) Defining the rights and responsibilities of the various parties involved.

We consider that these different aspects of the MTD project should be taken in stages:

- 1) First, build a better infrastructure to share information currently provided
- 2) While that is being done, establish the principles of the various relationships
  - a. Under the current regime
  - b. Under a digitalised regime
- 3) Once both the above are complete, identify new areas of information provision to support 2(b).

This would deliver immediate efficiency gains for HMRC and taxpayers, while ensuring that future developments deliver benefits which outweigh the administrative burdens.

In addition, although HMRC appears confident that the technology will be in place, we note that failures in information sharing by HMRC are less significant than failures in allowing reporting. If DTAs do not allow taxpayers to see all the information available then they are no worse off than they are now, but if they do not permit mandatory reports to be filed reliably, then they will cost time and money, and will seriously erode engagement with the system. The above sequence would allow the less critical systems to be tested first, and give more time for the robust development of the more critical.

We consider that current proposals are the reverse of this order: they envisage making changes to taxpayers' obligations before they have been properly considered, which will risk imposing burdens without having established how benefits will be obtained from them.

Some comments on each of these areas are set out below.

## **Infrastructure**

At present information flows are severely restricted. For a taxpayer to establish what information HMRC holds is time-consuming and complex; to correct errors can be even more so. We very much welcome the proposals for Digital Tax Accounts (DTA) which will make this information much more readily accessible.

The first step in designing MTD must be to assist in delivery of the current regime. To this end we would suggest that HMRC should:

- Set up digital tax accounts
- Link these to sources of information within HMRC (RTI, CIS, NIC, VAT systems, etc.)
- Link in existing third-party information sources (banks, listed dividends, land registry)
- Enable taxpayers to confirm or contest third-party information
- Enable taxpayers to provide updates (change of address, new bank account, starting a business)
- Allow agent access:
  - o Ability to see DTA
  - o Access to data through specialist software
  - o Full rights as authorised by taxpayer.

Once such DTAs are established, further capabilities can be added as the need is identified from the work outlined below.

A full year of beta testing is required before the system is rolled out. Until the end of year process has been tested, there can be no confidence that the system as a whole is working correctly. This should include reluctant users of technology to ensure that it is sufficiently easy to use (habitual early adopters are not useful in this regard, although they are likely to be the majority of beta volunteers), although we accept that there may be difficulties in finding reluctant volunteers.

We consider that giving access to this increased level of information would be seen as a benefit by taxpayers. Providing that benefit without (immediately) requiring additional input in the form of quarterly reporting could be a good way to engage taxpayers. Once engaged, taxpayers may then be more amenable to gradual increases in reporting requirements.

## **Designing a modern tax system**

A number of questions have been identified from the MTD consultation documents:

- Is tax self-assessed, with third-party information supporting the taxpayer's view (if the same) or enabling HMRC challenge (if different); or is it assessed by HMRC based on the information, with the taxpayer being enabled to challenge the information provided?
- If a bank (for example) provides incorrect information, how should it be corrected? Taxpayer needs to have the power to correct it – relying on the third party doing so raises questions over the power to do so, and mechanisms for exercising that power.
- How much reporting should be mandatory, and how much information supplied to HMRC only as required? Currently there is no need to keep records that do not support figures in the return: do the proposals require taxpayers to submit information to demonstrate that there is nothing to put in the return?
- What use will HMRC make of the information provided? There is widespread concern that HMRC make little or no use of corporation tax returns and accounts in iXBRL format, and MTD also risks being seen as an exercise of throwing data into a void.
- Will the reporting proposals actually improve record-keeping? As set out in the responses to individual questions, we fear that the automatic data capture proposals could easily result in information being lost, and the repeated reporting might mean that issues are not considered as thoroughly as they ought to be.
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It is imperative that issues such as this are answered fully before MTD reporting requirements are imposed on taxpayers.

## **Rights and responsibilities**

There are a number of different parties involved in the tax ecosystem.

- The taxpayer
- HMRC
- Any agent(s) appointed by the taxpayer
- Third party information providers (bank, employment agency, lettings agent, Land Registry)
- Third parties accounting for tax (employer, contractor, etc.) – will also be information providers.

The tax ecosystem has been evolving over the years, particularly with the introduction of increased third-party reporting requirements. These lead to a complex web, which risks confusion and contradiction if not carefully managed.

We consider that establishing the relationships – and their concomitant rights and responsibilities - is vital to the design of Making Tax Digital, which is after all a codification of underlying tax principles.

The core relationship must be between HMRC and the taxpayer. We do not propose to analyse this in great detail, other than to note that it is currently founded on Self-Assessment. At present, in the vast majority of cases the taxpayer has the right to self-assess its tax liabilities, and the responsibility to report them (and the underlying tax base) to HMRC, and ensure that payment is made on time. HMRC has a number of rights: to enforce payment, to enquire into self-assessments, and to assess where a self-assessment is lacking; it has a responsibility to the taxpayer to exercise these powers appropriately, fairly, and with due discretion.

Several aspects of the consultations seem to erode the principle of Self-Assessment: for example, the suggestion that, where a bank provides a figure for interest paid to a taxpayer, that figure will be used by HMRC unless the bank (perhaps prompted by the taxpayer) changes it.

This moves assessment of the tax on that interest from the taxpayer to HMRC – or possibly even the bank. Not only is this a fundamental change in the burden of proof, it also has significant implications for administration and enforcement. What happens if a taxpayer can conclusively prove that a figure is incorrect, but the bank neglects or refuses to change it? There are currently no mechanisms for this.

We consider that no changes should be made that would affect Self-Assessment as a core principle, unless they are part of a carefully-considered, coherent, and explicit change of tax policy.

Other parties can be best described by their role in the process, which will usually be ancillary to this core relationship:

### ***Information providers***

These entities have an obligation to report certain transactions to HMRC. We consider that tax legislation should ensure that:

- Information is provided to HMRC in a clear and timely fashion
- The provider must supply the same information to the taxpayer independently, allowing a cross-check
- HMRC must make the information it has been supplied available to the taxpayer
- A mechanism must be in place to resolve discrepancies.

As the primary relationship is between the taxpayer and HMRC, the role of information supplied by an information provider must be merely to corroborate that provided by the taxpayer, not to supplant it. That is, where for example a bank reports that a taxpayer has received £1,500 of interest, if the taxpayer can demonstrate that only £1,000 of interest was received, HMRC must be obliged to accept that the correct figure is £1,000. If that has been demonstrated to HMRC, then there is no need to correct the bank's report: it can instead be simply discarded as erroneous.

We would recommend that where a third-party figure is shown in a DTA, there should be a facility within the DTA allowing the taxpayer to:

- 1) Flag the figure as disputed
- 2) Note the reasons why it is in dispute

- 3) Upload evidence supporting this contention
- 4) Have the dispute reported to the third party.

The third party should then be responsible for contacting the taxpayer to resolve the position.

We consider that the dispute should be resolved through the DTA, as this ensures that the taxpayer, HMRC, and the third party can all be involved and informed through known and secure channels. To require the taxpayer to resolve the matter with the third party directly, as suggested in the consultation, would put an undue burden on the taxpayer that could be lightened by automating the process, and also fails to give the taxpayer any assurance that the third party will respond or power to require it to.

The entity's relationship with HMRC should extend only to the provision of information. It may be appropriate for HMRC to have enforcement powers in this regard.

### ***Accounting for tax***

These entities are required to deduct tax from transactions and pay it over to HMRC on the taxpayer's behalf. They will necessarily provide information on these amounts, and perhaps on other amounts (such as an employer accounting for PAYE and reporting it under RTI, but also providing information on forms P11D).

Again, this relationship should be ancillary to the core relationship. There are some instances where the relationship with HMRC has evolved to the extent that the accounting for tax becomes almost a primary liability: with CIS, for example, HMRC regard unpaid tax as being due from the contractor, even where it is known that the sub-contractor has already paid it over to HMRC. The extent to which it is desirable to routinely attribute one taxpayer's liability to another person should be carefully considered.

### ***Agents***

There are two main roles for agents: to advise the taxpayer as to their course of action, and to take that action on their behalf.

At present, agents have some limitations in their ability to act as agents. The ERS Online system is perhaps typical: an agent can submit returns on behalf of the taxpayer, but is unable to register a taxpayer, or to set up or close a share scheme on their behalf.

This causes problems for taxpayers in many respects. Matters such as ERS Online are minor and incidental for many SMEs, but require disproportionate effort to learn a new system for perhaps a one-off return.

As a matter of principle, we consider that an agent should be legally and practically able to act on behalf of a client in whatever way has been agreed with the client, and HMRC systems should enable flexibility of approach:

- A taxpayer should be able to delegate any power they have to an agent
- A taxpayer should be able to have multiple agents for different tasks
- It should be clear which (if any) agent has authority for what
- An agent should be able to see all information relevant to the task at hand
- There should be confidentiality over information which is not relevant
- Appointing new agents should be a simple process
- Taxpayers must be able to change software without complications

We recognise that there are tensions inherent in this: simplicity and security do not always go hand in hand, and ease of appointing a single agent to "do my tax" is not always consistent with flexibility to have multiple agents. However, we do consider that the agent-client relationship should be empowered by HMRC's systems, rather than constrained by them.

A particular issue here is that different agents may be responsible for different areas of a single taxpayer's affairs. MTD must for example permit a taxpayer to report their private affairs under MTD, while one agent reports VAT issues, another reports on business income tax, and a third deals with the partnership of which the taxpayer is a member; when a fourth agent takes over with effect from 2020, leaving the first three still in place for 2019, authorisation and access systems must be able to cope.

In addition, although the UK200Group comprises professional agents, a large number of agents are informal – family and friends, for example. Agent authorisation and access systems should allow for such agents, who may be less familiar with some processes and who will have less access to sophisticated software.

At present it appears that the tax system does not allow taxpayers to make as good use of agents as they might. This is largely due to poor flows of information, and problems authorising agents to act – both delays in obtaining authorisation, and restrictions on what they may do. We look forward to MTD permitting much greater flexibility by breaking down these barriers, albeit with due regard for security concerns.

## **Conclusion**

In summary, as a group of independent chartered accountancy and law firms, we consider that there are great benefits to be obtained from MTD.

However, we do have some reservations:

- The timescale for implementation is too short for full consideration and resolution of the issues
- The principle of Self-Assessment, and the HMRC-taxpayer relationship, will be fundamentally changed
- HMRC do not seem to understand how accounts are prepared and used by businesses. They seem to regard tax as the primary purpose of accounts, and to seek to alter GAAP for the convenience of HMRC and MTD without regard to the needs of other users of accounts
- Taxpayers' appetite to engage with MTD is small, and the proposals seem to offer few benefits to off-set the costs; and
- Taxpayers' ability to engage has been over-estimated, and the cost and difficulty of overcoming the obstacles has been under-stated.

Our key recommendations are as follows:

- Digital Tax Accounts be set up now, providing:
  - A central place for a taxpayer to see the information HMRC currently possesses about them, and
  - A mechanism for providing HMRC with information simply and automatically (reducing the need for phone calls and letters)
- HMRC should consult on the future design of the tax system. Changes in the rights and responsibilities of various parties, and in particular new obligations on taxpayers, should not be introduced until:
  - That consultation is complete, and
  - The necessary technology has been tested over a full compliance cycle (one year of interim reporting plus the end of year procedures)
- Simplifications of accounting should be optional, for tax purposes only;
- Clear benefits for taxpayers should be identified, incorporated, and publicised.

We are keen to work with HMRC to help design a system that will achieve the best balance of benefit to cost.

Should you require any information, please do not hesitate to contact us. In the meantime, we attach a document that draws together the views of our membership. In it we have included members' views on the answers to the consultation questions.

Yours faithfully



Andrew Jackson  
**Chair UK200Group's Tax Panel**



Declan Swan  
**CEO UK200Group**

**Enclosed:** Making Tax Digital Summary of Questions – 7 November 2016 - final