



7 November 2016

## HMRC - MAKING TAX DIGITAL FOR BUSINESS: AN OVERVIEW FOR SMALL BUSINESSES, THE SELF-EMPLOYED AND SMALLER LANDLORDS

(Summary of questions) – **UK200Group responses in red**

### BRINGING BUSINESSES TAX INTO THE DIGITAL AGE

#### *Chapter 2. Acquiring Digital Tools*

Question 1: What are the challenges for businesses that currently keep their records on paper or simple spreadsheets in moving to an integrated software package for record keeping, and what further measures or support would help businesses to meet these challenges?

- Although the requirement to maintain records in non-paper form will represent an opportunity for those who have not yet embraced the digital age to do so, the requirement to move to a software package will penalise those who maintain perfectly adequate records using spreadsheets. To assist those taxpayers, it would seem appropriate to provide software that can take the output of a spreadsheet file and convert it appropriately.
- People do not appreciate the purpose of MTD. They understand that tax returns are necessary, but they do not see why the burden of that should be increased. Unless they can be engaged in the process, they will procrastinate and do a poor job of it.
- Access to IT equipment: many people simply do not have the hardware, or if they do they don't have the skills to use it. A simple comparative is looking at Jobcentre Plus, where people tend to be referred across to libraries to fill in job applications. Many of those people will potentially end up being self-employed, but MTD is a far bigger commitment in digital access than job applications.  
There is a reference to people having access to PCs in libraries, but the libraries (People's Network as was) are massively over-stretched just coping with the job applications issue. A qualified librarian is available who can recount how it can take the whole of a 2-hour session (this is not exaggeration) to get a single word typed on screen, once you factor in working out how a mouse works, and a keyboard, how they relate to what is visible on screen, the concept of an application, what the upward-pointing arrow on the keyboard means...
- Fear of making mistakes. Many people are petrified that by having made a mistake in an email, their bank account is being plundered. They know that bad things like that happen online; they have made a mistake, so they haven't been careful; so bad things will happen. It is inconceivable to anyone with any IT knowledge at all that anything bad could come from typing an email to a family member; it is an immediate and inevitable terror to those without. The thought of having to deal with The Taxman is petrifying. What if they hit the wrong button and go to jail? It doesn't bear thinking about. This literally paralyses people into inability to use software.
- The self-review threat. Currently, people gather their records and have an accountant review them, or else they look at them in one go in January. This means that the records are thought about in at least some depth. The structure of quarterly reporting followed by an end of year review risks people failing to review the quarterly reports properly (as they can be corrected at year end), but also failing to carry out a review at year end (the information was good enough for quarterly reporting).
- Training: all software packages require training, or at least someone showing you the basics. Free software is no different.

- Knowledge: Accounting software requires some basic knowledge of accounting concepts to work: it gives you a number of boxes to put numbers in, but you need to know which is the right one. Guidance and nudges can help, but if the software says "It might be A, or it might be B; A is table and B is not", there is an inescapable urge to plump for B without looking too much further – the software said it was as good an answer as any other, after all.
- Familiarity: three months between reports is just long enough to forget what you did last time, but frequent enough that reminding yourself is a drudge. Not only do you have to spend time reinventing the wheel, but the costs you put in box A last time may well end up in box B this time, which destroys any coherence in the output.
- Time: it will take time away from other business matters, and is likely not be a priority. Finding time to do it at all may be a struggle; taking time to do it properly even harder.

Question 2: What information and guidance would you find helpful in choosing the appropriate software for your business?

- This is a chicken and egg situation. You cannot know which is best until you've tried. You have to plump for one and hope, unless you can get an expert who knows your particular situation to recommend something.

Question 3: What types of business should a free software product cater for? What functionality would be necessary in a free software product?

- This is a very broad question. A one-size-fits-all will be horribly complicated and confusing to use. It is likely that different products will be better for different people, and having versions which are customised for retailers, consultancies, construction, labour-heavy businesses, and so on are likely to be best. But this gives the agony of choice, and the risk of choosing the wrong one.

Commercial packages are normally at least partly customised by someone who knows what they're talking about. That would cost, making the software not free. The least bad alternative is well-signposted different versions, or perhaps different modules being available to suit different businesses.

- As the requirements of MTD are Government imposed it would be appropriate to offer free software to any business that needs it in order to comply with MTD requirements – including those currently using spreadsheets. The software should have sufficient functionality to enable users to meet the requirements of MTD reporting including import from spreadsheet functionality. Those businesses which require more sophistication will have a range of products available for purchase according to the ConDoc.
- Software should allow for easy transition between cash and accruals accounting. Being locked into a simplified set of accounting principles would be unhelpful to a firm which decides that it wishes to have access to the useful management information available through accruals accounting.

Question 4: What level of financial support might it be reasonable for the government to provide towards investing in new IT, software or training, to whom should such support be aimed, and what is the most appropriate form for delivering such support?

- Free software should be all that is required provided that it is multi-platform (e.g., Windows, Android, IOS). Users should already have access to the hardware necessary. If there are significant numbers of people who do not have access to any IT technology or whose IT is not up to date perhaps a temporary enhanced rate of capital allowances could be made available to assist with the cost. On a national scale, provision of broadband to 100% of the country will be necessary.
- The main support is going to be training and familiarity with the software. That is labour-intensive and therefore costly. Software developers and accountants are probably best placed to deliver it, but will not have the resources. Some form of support for paying for this work would help taxpayers, but only if they can find the providers.

Question 5: What other forms of support would help to make the transition to Making Tax Digital easier?

- Allowing agents full access to taxpayers' DTAs, and the ability to take all actions on their behalf (assuming they have authority)
- HMRC guidance must be kept up to date, with obsolete information removed to avoid confusion. Out of date guidance is actively dangerous.
- HMRC's helplines are notoriously inadequate (see for example <https://www.nao.org.uk/report/the-quality-of-service-for-personal-taxpayers/>). They will need to be greatly improved to provide the assistance required for MTD.
- Access to impartial advice, free of any perceived HMRC bias, would help engage taxpayers.
- Where taxpayers are exempt from reporting quarterly, or have difficulty engaging fully with their DTA, it should still be possible for them (or their representative) to access to as much of MTD as is practical for them on an ad hoc and voluntary basis.

Question 6: What facilities would make it easier and more secure for businesses to enrol for Making Tax Digital and use software regularly?

- Allowing agents to do it on the client's behalf. Note that Fig 2.3 has 10 steps in it just to register, never mind to report – taxpayers are already giving up on far simpler filing requirements (such as ERS – nil returns are too complex, never mind setting up schemes). This sort of thing is why businesses use accountants in the first place: to take out the stresses of the book-keeping/accounts side of the business and concentrate on running it and making money!
- Businesses will need to be completely confident that their data is secure in the hands of HMRC and that appropriate systems are in place to safeguard their data.
- HMRC should also be prepared for, and alert taxpayers to, an increase in the number of scammer/phishing attempts etc. as it moves to develop additional communication channels such as IM.
- Reliable high speed broadband should be available in all areas.

### ***Chapter 3. Digital record keeping***

Question 7: Do you have any comments about the practicalities of keeping evidence of transactions and trading when using digital tools?

- Taxpayers will assume that scanning has worked, and so will discard receipts before realising that the scan has not worked, or the paper is folded, or the OCR has failed, or the light was too low to show the details. There is a significant danger of over-confidence leading to data loss, rather than an increase in data gathered.
- Where there is mixed business and private expenditure on a receipt, it will be treated as business by default. A petrol receipt which also has a sandwich and packet of crisps may all go into travel expenses.
- Many invoices give very few details: lawyers, for example, might provide nothing but professional services. Other invoices give far too many details: servicing and MOT for a company car will set out many lines of irrelevant data. This will make it hard to pull out the correct data reliably – and reliability is key.

Question 8: Do you agree with the minimum transaction data fields proposed for trading businesses, including retailers? What other data fields might the record keeping software usefully include as a minimum?

- The proposed minimum transaction data fields seem broadly adequate.
- If the cash basis is adopted, there is no need to have the date of an invoice. If it is not, there is no need for the payment date. Either way, only one date is required – unless we look at VAT tax points, which bring in other issues
- The supplier name might be very useful (see Q13 below)
- Splitting out material costs for CIS would be very useful. The rules about what is CIS-able and what is not are commonly misunderstood

Question 9: Do you have any comments about reflecting the current VAT requirements in MTD-compatible software?

- Partial exemption is very poorly understood, but almost certainly requires manual entry to allocate costs to different classes of income. It will be hard to automate this (it is hard enough to do it manually).

Question 10: Do you have any comments on the additional data capture requirements for property income and capital gains?

- Although it may be helpful for a landlord to be able to work out the profitability of each let property, unless the portfolio includes non-market rent properties or FHL, it may be simpler if the properties were categorised (full rent, non-market rent, FHL) rather than necessarily reporting on a property by property basis.
- Historic cost is the key bit of CGT data. This is also poorly understood, and at the moment is often handled badly even by large corporates with sophisticated tax teams.
- Asset disposals will need checking very carefully, especially when the cost is not on the system or the asset is exempt from CGT.

Question 11: What should the minimum categorisation in the software be? Would additional sub-categories be useful?

- Businesses differ in their needs, and additional subcategories might be useful so long as the software is flexible and does not overload the user with options.
- It makes sense for the minimum categorisation to be based on SA103F categories as these are familiar and adequate for most purposes particularly with the additions proposed by para 3.25.

Question 12: Do you have any comments on how businesses should reflect transactions and expenditure with non-deductible elements in the software?

- At present this has to be done on a case by case basis, and is extremely subjective. Business owners can have quite odd ideas of what is entertaining rather than subsistence, and what is private use; on occasion it is necessary to be quite firm with them.
- As it may not be apparent that one sandwich is a valid travel expense for an employee, where another (possibly on the same receipt) is a partner's lunch, it would seem quite hard to automate this process.
- Software should however be able to automatically adjust for clearly non-business expenses such as entertaining
- Functionality to disallow a proportion of other expenses where private elements are usually present (motor expenses, telephone etc.) should be incorporated.
- Some companies treat private use as a distribution, and some charge it to a loan account; some use a mixture. Flexibility and consistency are essential in the software.

Question 13: What prompts and nudges would be most useful to businesses?

- Default categories of expenditure are perhaps the most useful – petrol is a travel cost, envelopes are stationery, and so forth.
- There is a risk that many or most people will simply accept the defaults without checking or thinking about them, which could lead to error. Would accepting a default categorisation represent
- Common areas with different tax treatments should be flagged – anything including repairs, for example, should prompt questions over whether it involved structural improvements, or an integral feature
- Anything that might be capital should be flagged
- Items that look private should be queried (if they can be identified)
- Certain suppliers would normally fall into default categories. A DIY store is probably repairs, a cash and carry is probably cost of goods sold, a rail operator is probably travel. Certain banks do this for household expenses.
- The ability to turn off prompts and nudges would almost certainly be greatly appreciated by experienced book-keepers and accountants.

#### ***Chapter 4. Establishing taxable profit***

Question 14: Do you agree that businesses should have the choice as to when to record accounting adjustments?

- Yes. Needs will vary by business but it is important that businesses have this flexibility to minimise the necessary time spent on MTD.
- HMRC are implying that they will not look at the quarterly returns and as long as the final return is correct there will be no come back. An estimated or provisional report is therefore just as good (in practical terms) as a correct and complete one. That being so, the timing of adjustments is a relatively minor matter.
- As VAT reporting must be on more of an RTI basis at present, VAT requirements may be in tension with direct tax. Moving VAT to more of an annual reporting system (as is already available to some businesses) would be helpful: perhaps quarterly estimates, but with an annual true-up (as with partial exemption calculations).

Question 15: Do you agree that business should have the flexibility to reflect reliefs and allowances when they choose?

- Yes, it is important that businesses have this flexibility to minimise the necessary time spent on MTD.
- The ability to enter provisional estimates would be very useful.
- Needs will differ for direct and indirect taxes.

Question 16: What do you consider is the most appropriate approach to reflecting the effect of the personal allowance on an individual's taxable business profit?

- Not to do so: business profit is only one element of taxable income, and there are many others.
- Each source of taxable income should be included on the DTA, and the personal allowance deducted from the total without it being attributed to any one source.
- The only time it is appropriate to attribute the personal allowances to a particular source is for PAYE coding, and that is merely an approximation to collect broadly the correct amount of tax under PAYE. It is not actually a deduction from employment income in particular.
- In the whole of this chapter, it should be noted that a business has an existence which is to an extent separate from that of the proprietor. This is particularly true for partnerships and joint interests. It is therefore a category error to think of business income as identical to personal income: even for a sole proprietor this is only an approximation.

Question 17: Is this the right treatment of partnerships? Are there any additional partnership issues that need to be considered?

- Broadly, this appears correct, although there is a suggestion in the consultation document that the authors do not entirely understand how partnerships work in practice. This is a wide-ranging area with considerable variation, and so is hard to set out clearly in response to questions; we however should be happy to discuss it with HMRC in order to give the necessary context.
- One major issue is the presumption is that partnership shares are known in advance of the tax year. This clearly does not apply to, for example "eat what you kill" partnerships., but it is very common for profit shares to vary depending each partner's perceived contribution to the overall profit. There must be room for full flexibility in this regard, and functionality to deal with changes to partnership members or profit shares must be included.
- There must be a mechanism for resolving disputes between partners
- What happens if the responsible partner is delinquent and fails to submit the return?

Question 18: Is this the right treatment of individuals who receive income from property, let jointly?

- Broadly yes, but see above
- It is questionable whether this is required since the majority of individuals who receive income for property let jointly have other sources of income which may require them to report separately under MTD.

Question 19: Is this the right treatment of subcontractors within the Construction Industry Scheme? Are there any other CIS issues that need to be considered?

- Broadly yes. This could greatly help simplify subcontractors' affairs. In particular, being able to confirm that a subcontractor has received the correct amount would be enormously helpful.
- The question arises: why can this not be done now? The current mechanism is somewhat clumsy.
- What happens when a contractor is late submitting a CIS return? Can the subcontractor still get credit for tax actually deducted, even if the CIS system does not record it having been deducted?
- CIS is a mechanism for collecting tax due, not for calculating the tax liability. These are distinct processes and should not be conflated.

### ***Chapter 5. Providing HMRC with updates***

Question 20: Do you have views on how detailed the summary data in the updates should be, and whether the level of summary data should be different depending on the size of the business?

- It is important not to confuse precision and accuracy.
- If there is no supporting information, summary data is a precise but not necessarily accurate figure.
- If there is supporting information, the accuracy is probably increased, so long as the supporting information can be confirmed.
- Confirming the accuracy requires enforcement action, and in the absence of this the supporting data is of little comfort.
- If one assumes that the information is accurate anyway, then the level of information to be provided depends on the use to which it is put. If it is calculating taxable profit then only high-level data is required: three-line accounts plus tax-sensitive amounts. If business analytic tools are to be applied, then a summary P&L could be useful.
- The level of summary data should be set so that it takes the business no additional time to provide in the update. If the business is already recording this at the SA103F level, then that is the most detailed level which should be required. The level should not necessarily depend on the size of the business.
- Information provided would be most useful if it is a forecast of the full year position. That is far more relevant than actual results, given that even non-seasonal businesses have good and bad spells.
- Should actual results be required, a year to date actual total provides better error-checking than the movement since the previous update.

Question 21: Do you have any comments on the categorisation of summary data in the updates?

- As noted above, if there is to be no analysis then categorising the data is redundant and merely gives a false perception of accuracy.

Question 22: Do you have any views on what VAT data the updates should contain? Do you have any views on the advantages or disadvantages of including VAT scheme data in the updates? If so, which schemes and which data should be included in the updates?

- The same factors apply as above: it depends on what use is to be made of the data.
- Unless full transactional data is to be provided, a summary adds little to support the basic VAT return
- If full transactional data is provided, then in most cases it will show up apparent discrepancies. It is extremely onerous to reconcile the VAT position to the pound. A large number of false (or at least immaterial) positives will be generated.
- It would be helpful to businesses if they had the option of dealing with all reporting requirements for profits tax and turnover tax on the same return. Consequently, all appropriate VAT data should be able to be included if the business wished to go down that route.
- Conversely, as many businesses have an agent who deals with one set of taxes but not the other, the flexibility to report direct and indirect taxes either on one return or on more than one would be necessary.

Question 23: What flexibility around update cycles would be useful?

- This rather depends on the purpose of the 3-month maximum interval. In the absence of an articulated purpose, it is hard to say.
- Commencement and cessation should be flexible to accommodate the chosen accounting date.

Question 24: Do you agree businesses should be allowed one month to submit their update? Would any problems be caused for VAT registered businesses by standardising the time limit for updates for all taxes?

- One month is excessive if all that has to be done is hit the "submit" button in the software.
- It is quite short if any review work at all is to be carried out. We would suggest that in practice a month is the minimum time required: many businesses struggle with VAT reporting, for example.
- One month may cause issues where businesses habitually run a lot of invoices (payable or receivable) towards the end of the month on 30-day payment terms. Extending the deadline may allow more invoices to be noted as having been paid in the same update as they are reported to be issued. The VAT deadline of a month plus 7 days is helpful in this respect.
- Looking at Fig 5.2, we consider that the cumulative overview of Richard's tax position is potentially misleading. At the end of Quarter 1, Richard's DTA tells him that he has an estimated tax bill of £1,300. It is not clear that this is simply for that quarter, and it would be easy for him to mistakenly think it an estimate for the full years. Although this figure is useful, it would be much more useful if it is paired with an estimate of the total position for the year: this would make the position completely unambiguous.
- This could be done in any of a number of ways:
  - Multiply up, so the estimated full year figure is 4x Q1, or £5,200. This is simple, but may be inaccurate.
  - Use the actual Q1 figure for this year, and assume Q2-4 will have the same figures as in the previous year. This is relatively simple and allows for seasonality
  - Use the change in Q1 income to modify the previous year's figures (so if income is up by 10% in Q1, assume a 10% increase for the full year). This risks giving undue weight to isolated results
  - Our preferred route: allow the taxpayer to provide a rough forecast for the full year. This allows all the potential sources of error to be considered and eliminated.

Question 25: What method of deriving a business's start date for providing updates under Making Tax Digital would be most straightforward for businesses?

- There is a fundamental problem with MTD reporting, in that VAT uses calendar quarters but 5 April is still relevant for Income Tax and PAYE. It would be hugely beneficial to move the tax year by 5 days to end on 31 March, with PAYE months ending on the last day of the calendar month. This would align direct and indirect taxes and reduce the scope for error significantly. It would also mean that the slight fudge set out in 5.32 would not be required.
- We can see that each option is useful in different circumstances, and have no settled view on which is best. Allowing some flexibility might be most helpful.
- Aligning VAT staggers with accounting year ends would also be a welcome clarification and simplification.

Question 26: Do you wish to make any comments about the operation of 'in-year' amendments to updates for the purposes of profits taxes or VAT?

- Under the proposals set out, MTD reporting will only provide information allowing an estimate of direct tax due to be made. It is not definitive. That being so, it does not seem necessary to require corrections of errors, so long as year to date numbers are correct (see Q20 above).
- VAT is a slightly different matter, but the current practice of allowing errors to be reflected in the next VAT return would be replicated by ensuring that the year to date figures in the next report are correct.
- If MTD updates are regarded as definitive, then they effectively have the status of full returns, which suggests that penalties for late filing and for inaccuracies might be in



contemplation. This would seem to be expanding the scope of MTD significantly beyond what has been suggested.

### ***Chapter 6. 'End of Year' Activity***

Question 27: Do you agree that the process of finalising the regular updates should be separate to the regular updates?

- Yes – they are apples and oranges. The regular update is a simple provision of information already recorded, whereas the finalisation would seem to be where judgement and careful consideration are required. The difference is between accounting on the one hand, and preparing the tax return on the other.
- It is also perhaps easier to portray the finalisation process as being a simpler version of preparing a tax return, noting to taxpayers that if they have done their updates correctly then the tax return work could disappear entirely – this is one of the areas of MTD that has some marketing value.
- Tying the end of year adjustments into the reporting deadline for the last regular update would be impractical, but delaying the deadline for the last update would dilute the impact of MTD. Separating the two seems to be the only practical solution.

Question 28: Do you agree that businesses should have nine months to complete any End of Year activity?

- Emphatically not. In 5.31 it is noted that 2.5 million businesses have 5 April year ends, and many more (including many companies) use 31 March. All these would have a filing deadline of New Year. 31 January causes enough problems (note that around half of all personal tax returns submitted in January), but 5 January would be disastrous.
- Experience shows that taxpayers work to the deadline - we note that currently around half of all personal tax returns are submitted in January. Every year taxpayers will be surprised to find that Christmas falls in late December, and that they have left enough time to do the end of year returns properly. This will result in rushed reviews and greater scope for error.
- There is considerable merit in simplifying matters by permitting 12 months to finalise the MTD position:
  - This aligns the filing window with the enquiry window
  - It also aligns income tax and corporation tax
  - Individuals are in the habit of doing their tax returns in January, and many would continue to do so. This would spread that load across the three months to March, considerably easing the strain on HMRC, agents, and charities providing assistance to taxpayers
- At the very least, the current 10 months should be allowed to avoid New Year issues.

### ***Chapter 7. Exemptions***

Question 29: What criteria should be applied in determining whether to exempt a particular business or business type from the requirements of MTD?

- The aim of MTD is to mitigate tax loss from innocent errors by taxpayers. It should therefore be targeted at taxpayers more likely to make errors
- Businesses which are not taxable present little risk of loss of tax, and should be exempted.
- Businesses with simple accounting affairs are much less likely to make errors of omission. Tax is lost when income is omitted, or when costs are overstated – the latter is not so much an error of omission, as of failing to exclude costs from business records.
- Businesses with simple tax affairs are less likely to make errors of treatment. Tax is lost when disallowable costs are not identified as such
- Simplicity does not come from the number of zeroes on the end of the figures, but from the number and type of transactions, and their regularity. One-off or variable items are more easily mistaken than regular consistent items.
- From the above, it can be seen that a business with a regular and consistent income, but irregular and costs, is less likely to risk tax loss. Property rental would fit this description: so long as the existence of the business is known, and it is included on the landlord's DTA, the risk of loss is relatively small: the rent can easily be taxed, and if costs are likely to be deductible then their omission does not lose tax.



- Age should also be taken into account. An exemption for sole traders over retirement age, for example, could be reasonable.

Question 30: Should charities be exempt from the requirements to maintain digital records and to update HMRC at least quarterly?

- We would generally prefer level playing fields, so all organisations have the same obligations.
- However,, there is a tension here between stated aims of MTD:
  - If MTD is to encourage good accounting practice then charities (which are obliged for non-tax purposes to keep good records) are perhaps squarely in its sights
  - If MTD is to reduce tax loss then charities (which pay relatively little tax) are perhaps peripheral
- On balance, we consider that the former is more the province of the Charity Commission than HMRC, and so the latter carries more weight. As a result, we think there is a reasonable argument that charities should not be required to update HMRC through MTD.

Question 31: Should trading subsidiaries of charities be exempt from the requirement to maintain digital records and to update HMRC at least quarterly?

- No - we consider that such companies are trading businesses and should be on a level playing field with other such businesses.
- The fact that they generally have little tax to pay because they make Gift Aid payments does not necessarily mean that they should be regarded as non-taxpayers, although we recognise that there is a reasonable argument here if the point of MTD is to collect tax rather than to encourage good accounting practice.

Question 32: Should CASCs be exempt from the requirement to maintain digital records and to update HMRC at least quarterly?

- They should be treated like Charities.

Question 33: Should businesses within the insolvency process be included within the scope of the requirement to maintain digital records and to update HMRC at least quarterly; and are any special arrangements required for this group?

- Again, we would prefer a level playing field.
- However, it is inherent in the insolvency process that responsibilities shift with very little notice, and that normal systems are disturbed. Unless it becomes possible for a practitioner to step in as agent with full powers at short notice, it will not necessarily be practical for an insolvent business to make the updates.
- Take for example a business which becomes insolvent shortly after quarter end: the next quarterly update might be due only a week later, and the practitioner cannot rely on having the systems knowledge and the authority to act in time to meet that deadline.
- In addition, it is normal for insolvency practitioners to correspond regularly to agree liabilities (this is required before any distributions can be made), and MTD may simply duplicate that work.
- We would therefore suggest that insolvent businesses should be left out of MTD; or if they are in scope, there should be a period of grace after insolvency (and a light touch) thereafter
- If it is possible for an insolvency practitioner to step in as agent with full powers at short notice, would hope that this is also available to agents generally.
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Question 34: Which businesses should be included within a consistent definition of persons 'unable to engage digitally'?

- In the spirit of equalities legislation, one might expect the definition to be "those who self-identify as such". This may be too broad, but we cannot easily see clear criteria that could be used.
- The categories in 7.21 seem to cover the businesses that should be included (and standardisation across taxes would, as ever, be helpful) but the second bullet point is very vague.
- Intensely seasonal businesses such as farming should be considered for special treatment, given the extremely high work load at certain times of year.

Question 35: Do you agree that £10,000 annual income is an appropriate threshold for exempting businesses from Making Tax Digital? Do you have any other comments on how the exemption should operate?

- As noted above, classes of simple business should also be exempted.
- Turnover is not necessarily a good guide to size of business. A small number of high-value receipts would put a business into MTD, where a large number of small ones could be much more complex (and hence risky) but exempted.
- In addition, equating income and turnover is a category error.
- A private landlord with 12 receipts of rent at £1,000 per month, with agent's fees deducted at source and some mortgage interest to claim relief for, would be above the £10,000 limit but would have almost nothing worth reporting. That represents rent on a single modest house: much higher gross incomes
- If the tax risk is of concern, then taxable profit is more relevant than turnover. A better threshold might be that if taxable profit in the previous year is less than £10,000 then the taxpayer is exempted from quarterly updates. This would have the additional merit of allowing new businesses a year to organise themselves – although any complex business (with PAYE, CIS or VAT obligations, for example) would still be included from the start.
- If a turnover test is thought desirable, alternatives would be to set the threshold at the VAT threshold (our preference, for consistency), or at a multiple of the personal allowance.
- If exemption is set by reference to a financial threshold it should move with inflation, or otherwise increase over time (as with the VAT threshold).

Question 36: Should the smallest unincorporated businesses that are not exempt have an extra year to prepare for Making Tax Digital? How should eligibility for this group be defined?

- Yes – businesses which do not currently use software need time to adapt.
- Eligibility for this group is very hard to establish, and a cut-off would be unfair to those right on the line. As we would recommend delaying the whole process in any case, we would suggest that the criteria for this deferral should be very broad – ideally, encompassing all businesses.

Question 37: Do you agree that the principles set out in Fig. 7.3 are the right ones to use in determining eligibility for an exemption? Are there any additional principles which should apply?

- These appear to be reasonable, especially sub para (c).
- A business should be able to claim exemption from reporting if its income decreases from one year to the next.

Question 38: Which additional groups (if any) should be exempt from the requirements to maintain digital records and to update HMRC at least quarterly?

- None identified as yet

### ***Chapter 8. Initial Assessment of Impacts***

Question 39: Do you believe that there is the opportunity for MTD to create savings for your business? What percentage time reductions would you see from the following?

a) Targeted software tax guidance (prompts and nudges to get information right first time).

b) Gathering, collating and inputting data.

c) Reporting obligations through providing regular updates.

d) Any other potential savings not covered above.

- Potentially yes but only after a few years once the system has had time to bed in and is running smoothly. We are not sure how long this will take – look at Self Assessment, which has been on the go since 1997, and the issues agents and taxpayers are still faced with after 20 years of fine tuning.
- At this stage there is not enough information available to be able to estimate possible savings either for our client businesses or for our own practices.

- The impact is likely to vary considerably across different clients: small businesses which do not currently use accounts software are likely to have increased running costs, although all business should be able to save time by having better access to information through the DTA.
- The cost of employing a part-time book-keeper is likely to run into three figures a month for even a small business. A few hours a week could easily be £200 a month or more, giving an annual cost of £2,500-plus. This might reduce costs for the year end, but these are normally only a few hundred pounds. A net cost in excess of £2,000 per business does not seem unreasonable.
- The alternative would be for the proprietor to learn the skills personally and perform all the reporting. This role is one where experience pays off enormously: a skilled book-keeper is far faster than an amateur. The cost is likely to be felt outside normal working hours, taking up weekends and evenings, but may still eat into time available for work. It is also possible that the administrative burden would deter some small businesses from starting up.

Question 40: Do you think there are different business sectors or sizes likely to benefit more from MTD? If so, what would these be?

- Larger businesses which have frequent contact with HMRC will benefit more from improved information flows and better ability to notify HMRC of changes. They will also suffer less from reporting obligations, where they already have systems in place to report internally.
- Smaller businesses will benefit slightly from improved information flows. Their day to day running costs will be increased by having to continually revisit matters: essentially they currently work on a batch processing basis, which gives economies of scale, and having to process information in a number of smaller batches takes more time.
- The construction industry will benefit if CIS can be better integrated into other tax matters.

Question 41: What costs might you expect your business to incur in moving to the new regime? Please provide details of the costs for:

- a) Time spent in your business familiarising with the new processes and conversion to these new processes.
- b) Software expenditure costs (new or upgrading software).
- c) Hardware expenditure costs (purchase of a computer, tablet device, etc).
- d) Any other costs which are not covered above.

- At present we are unable to quantify these costs for ourselves. Time will be the primary cost.
- We expect very significant costs to our client businesses. These will primarily be in their own time and effort, and in our time assisting them. The financial burden of our providing this assistance will have to be split between us and our clients somehow, and it is not at all clear how this will pan out. The software and hardware costs are likely to be much less significant in most cases, but certain businesses make no use at all of technology and will be much harder hit.

Question 42: Do you expect that your business will incur additional on-going costs as a result of these changes? Please provide the details of the additional costs or time for:

- a) Additional support from your accountant or tax agent.
- b) Additional time spent gathering, collating and inputting data.
- c) Additional time reporting obligations through providing regular updates and any end of year activity.
- d) Any other costs or time spent not covered above.

- We expect that our typical clients will have to spent more time on each of the activities noted above. Any savings will come through the automation of accounting systems, but this automation is already available to existing users of accounting software (and so to credit savings to MTD would be inappropriate), and will represent an additional time cost to those who do not currently use it.
- As a general rule, we consider that businesses which would benefit from accounting software are already doing so, and those who chose not to do it are (in most cases) making a rational business decision that the costs outweigh the benefits. By mandating the use of software, MTD simply reverses that business decision.
- Our member firms have relatively sophisticated systems and so are likely to have relatively low additional ongoing costs once the initial period is over (but see below re: partnerships)

Question 43: Will particular businesses (e.g. partnerships) experience more difficulty in adapting to the changes? If so, please provide details, including any additional one off costs or ongoing costs.

- Partnerships will be significantly impacted if they are having to predict profit splits which will not be finalised until after the year end, particularly if HMRC is to place any reliance at all on the in-year estimates for any purpose.
- Small businesses with a low volume of transactions and no in-house accounting or book-keeping experience will be disproportionately affected. They will have to relearn their processes each quarter in order to input a small volume of data.

Question 44: If you are an agent, please provide details of how these changes will impact on your own business, including details of any one-off and ongoing costs or savings. How do you perceive that these changes might affect your clients?

- See above generally
- We will have to reorganise our businesses from a once-and-done system for preparing accounts to on-going book-keeping support for clients. Although on-going support is normal, it is currently suited to the circumstances and needs of the client, rather than regular reporting.
- At present it is possible to timetable regular work away from December and January, clearing the decks for tax return work. Quarterly reporting will significantly reduce the scope for this, as quarterly reports will be required in December (and January for 30 April year ends, which are also common). This will make the current busy period even busier, and the quarterly updates will almost certainly be given a lower priority than the end of year work, resulting in more estimates and provisional figures.

<https://www.gov.uk/government/consultations/making-tax-digital-bringing-business-tax-into-the-digital-age>

## SIMPLIFYING TAX FOR UNINCORPORATED BUSINESSES

Question 1a - What level do you consider to be an appropriate turnover entry threshold?

- It is helpful if the level is linked to some other significant level and, as such, linking to a multiple of the VAT threshold seems appropriate, simple to understand and requires no additional burden on businesses approaching the VAT threshold as they are required to monitor their turnover for VAT registration in any case.

Question 1b - For a threshold not linked to the VAT threshold, should it be reviewed annually in the light of inflation or less frequently (please state recommended interval)?

- Annually: the rationale for increasing the VAT threshold applies equally here

Question 2a - If the entry threshold were to be increased, do you agree that the exit threshold should continue to be set at twice the entry threshold?

- Yes, that is simple, logical and understandable

Question 2b - If the entry threshold were to be increased, do you agree that the UC threshold should continue to be set at twice the entry threshold?

- Yes

Question 3 - Do you agree with the proposed approach of following accounting periods? If not, what alternative approach would you support?

- Yes, however, the use of non-annual periods may be of limited significance for many businesses because of the need to provide annual accounts for various reasons including for banks or other lenders to the business or mortgage applications for the proprietors.

Question 4a - Are there any other events or situations which would require additional rules?

- We consider that overlap profits are an archaic concept with no place in a modern tax system. They serve only to impose a double tax charge on businesses, and should be eliminated
- A mechanism for allowing existing overlap relief to be given to businesses should be devised, to put all businesses on a level playing field. One suggestion might be to allow it to be spread over ten years, as was done with the UITF18 adjustments a few years ago.

Question 4b - Would it be helpful to make any changes to tax accounting periods for any other types of income?

- Differences in treatment between types of income make for confusion. What applies to one type should ideally apply to all.
- Having said that, aligning periods with the tax year is also helpful in some cases (see the alignment of pension input periods), and the needs of other parties should be taken into account. Keeping the tax year as the accounting period for bank interest, for example, is likely to be helpful.
- CIS should be aligned with the business accounting year, not 5 April.

Question 5 - Are there other end of year adjustments not listed in paragraph 4.12 which could be simplified within a reduced reporting framework?

Question 6 - Would you welcome the four relaxations proposed?

- There is a risk of complicating the tax system if businesses can pick and choose whether to apply the accruals principle and other elements of GAAP. The proposals already allow small businesses to adopt a cash basis, larger businesses are more likely to want or need to know their accounting profit based on GAAP for various reasons. In particular, banks will probably want businesses to which they lend to prepare accounts on a consistent basis and GAAP is such a basis.

- We are somewhat concerned that this sort of relaxation dilutes the concept of “Generally Accepted Accounting Principles”. Consistency is helpful to all parties.
- We note that many of the relaxations would simply prevent businesses recognising reductions in profit. In practice, this appears to be less of a simplification than it might appear in theory: a business which does not think it worth analysing stock in detail, and which has no outside stakeholders pressuring it to do so or auditors checking whether it has, may not be terribly strict about it under GAAP.

Question 7 - Do you think that the restrictions proposed are appropriate? If not, what restrictions would you suggest?

- If the relaxations proposed are adopted, then the restrictions proposed seem sensible in ensuring that the right profit is taxed.

Question 8 - Do you believe that simplifying the capital/revenue distinction as suggested in paragraphs 5.7 to 5.13 would simplify reporting for businesses within the cash basis?

- No, there are potentially subjective elements included and inequalities such as 5.8(b) where an intangible may prove to have a life of less than 20 years but no deduction is available because the intangible doesn't have a fixed life of 20 years or less.
- The proposed disallowances go rather further than existing restrictions on capital allowances. Cars always qualify for capital allowances, for example, and so excluding them would be very disadvantageous to business (it would however be a great boon to the car leasing industry, which would suddenly have many more small business customers). The general intention in 5.12 to exclude assets which depreciate only slowly cannot apply to cars!
- A simpler option, consistent with the principle in 5.5, might be to allow deductions on the cash basis for any expenditure which does not form the base cost of a chargeable asset for capital gains tax purposes (or the equivalent intangible asset rules). This would ensure that economic relief is given for all expenditure in a manner consistent with the life of the asset.

Question 9 - Can you identify any specific caveats which might be needed to ensure that the new rule operates as intended? Are there any potential tax planning opportunities which the current rules would not prevent?

- The rule does not address the capital/revenue question which arises when considering whether, for example, expenditure is a repair (deductible on this cash basis) or capital expenditure on a building.
- As noted, disallowing any relief at all for cars will simply result in businesses leasing cars rather than buying them.
- The status of hire purchase vehicles would need to be addressed: it would be inequitable if £20,000 of cash laid out were denied in respect of a hire purchase vehicle, but allowed for a leased one, based simply on the existence of an option to purchase at the end of the primary lease term.
- Overall, we do not consider that the rule as set out would be fair or equitable, or that it would operate as intended.

Question 10a - If the cash basis entry threshold is raised would you consider using the cash basis, or advising your clients or members to use it? If so please provide details of anticipated impacts, including both one-off and ongoing benefits and costs.

Question 10b - If the proposed basis period reform is taken forward, how do you think this would impact on business admin burdens? If possible, please provide details of anticipated impacts, including both one-off and ongoing benefits and costs.

Question 10c - If the reduced reporting framework is introduced, please provide details of how this will affect your business or your clients or members, including details of both the expected one-off and ongoing benefits and costs for:

- Familiarisation with the new scheme and updating software or systems
- Having to make fewer adjustments than would be required under UK GAAP

Question 10d - If the revenue / capital divide is simplified as suggested do you believe that this would simplify reporting for businesses within the cash basis? If so please provide details of anticipated impacts, including both one-off and ongoing benefits and costs.

Question 10e - Please tell us if you think there are any other impacts, benefits or cost not covered above.

- Although it appears that many businesses claim to be using the cash basis at present, we suspect that in many cases this is because they do not understand the question.
- There seems to be a general pressure from HMRC to move to cash basis for unincorporated businesses. This would appear to be a doubling of the workload for financial reporting as banks and finance houses are not generally content with cash basis accounts (and a business plan drawn up purely on a cash basis would not be accepted) so small businesses could find themselves in the situation of preparing cash basis figures for HMRC and accruals basis figures for other purposes. This mean that the simplifications are in fact a potential complication for those businesses.

<https://www.gov.uk/government/consultations/business-income-tax-simplifying-tax-for-unincorporated-businesses>



## SIMPLIFIED CASH BASIS FOR UNINCORPORATED PROPERTY BUSINESS

Question 1 - Do you feel there should be a relevant maximum limit imposed for eligibility for the cash basis for unincorporated property businesses? If so, what should this limit be and why?

- No

Question 2 - Do you feel there is any reason why the cash basis should not be optional for all eligible unincorporated property businesses?

- No

Question 3 - Would you want to opt in for each of their property businesses separately (for example, UK property business and overseas property business) or would they prefer to choose whether to opt in for all their property business income or none of it?

- Although flexibility is always desirable in some respects, we consider that the election should be all or nothing

Question 4 - Does the above advice give you enough information to decide whether or not to use the cash basis with/without (please indicate) professional advice? If not, what else would you need to know about the new rules?

Question 5 - Does a regime that allows for individuals letting jointly, not in partnership, to separately opt to report using the cash basis present particular difficulties or issues?

- It should not, each individual is taxed on their share of the net income whether cash or non-cash bases are used. The only difference should be timing.
- However, this is inconsistent with the proposal that there should be a nominated individual who fulfils MTD obligations in respect of a particular property, which appears to be a simple and consistent principle.

Question 6 - Should eligibility for the trading cash basis affect eligibility for the cash basis for unincorporated property businesses? If so, do you have any suggestions on what this interdependence should be?

- No, the property business and associated cash basis election should stand alone

Question 7 - Would only recognising deposits that landlords are entitled to keep at the end of a tenancy create unnecessary complexity?

- No, refundable deposits should not be recognised as income as the deposit is not the property of the landlord unless and until it becomes non-refundable. This reflects the true position of the deposit: the funds are essentially held in trust by the landlord, and belong to the tenant until they become non-refundable.

Question 8 - Do you feel there is anything which has not been considered which could make the cash basis as simple as possible for landlords?

Question 9 - Are you aware of any risks that the cash basis for unincorporated property business could present which could lead to the avoidance or reduction of liability to income tax? If so, please provide details.

Question 10 - Do you have any comments, not already provided, on any aspect of the proposal?

Question 11 - If the government introduces a simpler tax system for unincorporated property businesses, please provide details of how this will affect your business. This should include details of both the expected one-off and ongoing benefits and costs of:

a) Familiarisation with the new basis and updating your software or systems.

b) Not having to keep accruals accounts and prepare calculations in accordance with UK GAAP.

- Most of these businesses have simple accounts prepared solely for tax purposes. Quarterly reporting would be a relatively substantial increase in their obligations, especially as the number of transactions to be reported will often be very small, but the simplified cash basis is likely to have few on-going costs.

Question 12 - Please tell us if you think there are any other benefits or costs not covered in the summary of impacts

- Despite the comments in paragraph 1.4, HMRC do not generally regard buy-to-let landlords as being in business: they can be denied holdover relief on incorporation, for example, and do not qualify for Business Property Relief. To include them in MTD on the basis that they are businesses would therefore appear to be something of a double standard.
- For consistency, if a landlord is not in business then they should be excluded from MTD quarterly reporting, in the way that a taxpayer with share investments would be; if they are subject to the obligations of being "in business" for MTD purposes then they should also obtain the benefits of that status for other tax purposes.

<https://www.gov.uk/government/consultations/business-income-tax-simplified-cash-basis-for-unincorporated-property-businesses>

## VOLUNTARY PAY AS YOU GO

Question 1 - Do you see any challenges with the voluntary payments process described? Do you think there are alternative options that should be considered, and if so, what are these?

- No.
- We do not see why a DD option is not already something used, as for cashflow of both businesses and HMRC this would surely be a more beneficial option.

Question 2 - Do you have any views or suggestions on the display of voluntary payments in the digital tax account?

- The approach seems reasonable.
- Care should be taken not to confuse individuals trying to work out what is actually due compared to what they have paid.
- A simple "bank account" showing recent transactions and the current balance due, together with forthcoming due dates (with known or estimated figures) would be useful

Question 3 - Should there be a 'period of grace', and if so, what period would be appropriate to allow for separate payment of an amount becoming due?

- Allocations should ideally be made by the taxpayer, not automatically
- If a "bank account" offsetting all liabilities and payments is used, then the question of allocations becomes redundant, especially if a consistent scheme of penalty interest is used – it does not matter which liability is which.

Question 4 - Do you have any general comments to make on the allocation of voluntary payments?

- Allocations should ideally be made by the taxpayer

Question 5 - Do you foresee any problems with HMRC's intended approach to the allocation of voluntary payments?

- Problems arise largely because HMRC operates on the basis of there being a number of entirely independent tax liabilities. Taxpayers however operate on the basis of there being one taxman to be kept happy. Splitting liabilities in a manner which is to a large extent arbitrary is not helpful to the taxpayer.

Question 6 - What improper or inappropriate use of the repayment facility do you think there may be, and what rules do you think should be applied by HMRC to stop that happening?

- If a payment is voluntary, then it should be repayable at will.
- There should be an option to propose an amount over which credit will automatically be repaid. Anything lower than that just stays in their HMRC account and earning the standard interest amount.

Question 7 - Do you agree with a restriction on repayment shortly before a liability becomes due, and if so, what period or terms of restriction do you think should be put in place?

- No: cashflow management is not helped by restrictions being placed on the flow of cash
- At most, HMRC could remind the taxpayer that a liability is in prospect before making the repayment, and perhaps delay the repayment by a few days to allow for a response.

Question 8 - Do you have any views or evidence on whether, and how, HMRC should revisit the sums paid as payments on account to match more closely to the sums being reported under MTD?

- They should stay similar to the current system, as generally we would prefer to maintain stability in the system where possible while these changes take place. We can then see how the MTD process and the PAYG system progresses and adjust accordingly.

- This is particularly true if MTD is only reporting actual figures rather than forecasting the year's liability. A holiday business with a March year end, for example, would seem to be doing particularly well in the first two quarters, but to increase payments on account because of that would distort the position.

Question 9 -Do you have any views or suggestions on customers' ability to elect for overpayments to be held as voluntary credits?

- Interest should be paid on credit balances at the same (non-penalty) rate as it is charged on underpayments.

Question 10 - What are your views on how voluntary payments might work for partnerships? Do you think partners will see the convenience of direct payment towards their total liabilities as outweighing a loss of a limited amount of confidentiality?

- The confidentiality issue would definitely be an issue for many partnerships, although some would prefer the convenience of having tax managed centrally. Having the option is useful, but allowing different partners in the same partnership to make different choices is essential

Question 11 - Do you think there are any special considerations that should apply to third party voluntary payments?

Question 12 - What additional processes or measures would make customers feel more confident about making voluntary payments?

Question 13 - Do you have any suggestions for the basis on which earlier repayments could be reasonably claimed?

Question 14 - Please tell us if you think there are any other costs or benefits not covered in the summary of impacts, including any detail you may have.

<https://www.gov.uk/government/consultations/making-tax-digital-voluntary-pay-as-you-go>

## TAX ADMINISTRATION

- As a general point, we note that virtually all the interactions addressed in this consultation document are negative:
  - Enquiries
  - Assessments
  - Interest on late payment
  - Penalties for non-compliance
  - Enforcement action
- It would be helpful in engaging taxpayers if there could be some positive movements. Examples might be:
  - Ease of amending or querying a tax position
  - Simplifying the appeals process
  - Guaranteeing quick repayments (although BACS normally takes two hours, HMRC require 30 days...)
  - Interest on tax overpaid or paid early

### *Chapter 2*

Question 2.1 - Do you agree that compliance legislation should be amended to replicate current enquiry powers into the Self Assessment return to the End of Year declaration?

- Yes

Question 2.2 - Do you agree that current HMRC and customer safeguards should also be maintained?

- Absolutely. Safeguards are essential and should not be diluted.

Question 2.3 - Are there any other options for preserving HMRC's current enquiry powers in MTD?

- We consider that the best approach is to regard the end of year submission as being the tax return for these purposes. The current enquiry powers then fit very simply.
- It should also be regarded as a tax return for other purposes: the taxpayer should have 12 months to make amendments, for example.

Question 2.4 - Do you agree with the proposed approach to replicate HMRC's compliance powers for determinations, corrections, information powers and discovery assessments?

- Yes

Question 2.5 - Do you have any other comments on how compliance powers need to change to transition to MTD?

- The lack of enquiry powers into regular updates (correct, in our view) serves only to reinforce our view that these updates should be regarded as purely provisional estimates. We are having difficulty with the concept of a report which required to be made, but which is not required to be accurate. This then colours our view of penalties for late filing, below.

### *Chapter 3*

Question 3.1 - Do you agree that 12 months is an appropriate length of time to allow customers to become familiar with the new obligations before the new penalty regime comes into effect?

- This is the minimum, and should be extended if possible. Note what happened with RTI, auto enrolment also provides some lessons.

Question 3.2 - Do you agree that the period to wipe the slate clean should be 24 months? If not, what other period would be appropriate?

- 24 months is a long time. 12 months seems to work for VAT.

Question 3.3 - We invite views on the design principles outlined for the points-based penalty. For example, do you consider there are any further elements to build in to this basic model?

- The points system seems reasonable for the first 12 months as everyone gets used to it. Maybe once businesses are more used to the MTD processes, and HMRC have ironed out all inevitable glitches (as with RTI), the points system could then be adjusted accordingly.
- The initial penalty-free period should be used by HMRC as a dry run, to monitor the level of penalties which would have occurred.
- Penalty notices should be available on paper by default, with an option for them to be paperless. Penalties are an imposition of a liability on a taxpayer by HMRC, rather than a self-assessment, and as such it is imperative that the taxpayer is reliably informed of them. Sending them to an email address that may not be checked regularly is not sufficient.

Question 3.4 - At what stage for each of these different submission frequencies should points generate a penalty?

- It should be looked into on a quarterly basis. If the business has missed a monthly deadline but have caught up by the time the quarterly deadline is due, then the threat of penalties has worked and there is no need to incur a point. If they miss the quarterly deadline then a 1 point penalty seems fair and would cover previous deadlines missed in that quarter.

Question 3.5 - We would welcome comments on whether existing penalties are sufficient to support compliance with occasional filing obligations. If not, what more is needed?

- As occasions of occasional filing obligations may not be apparent until long after the fact, it is not appropriate to include them in this system. The lack of an IHT return for example may not be known for several years, and to go back and add a point effective several years ago would not only be confusing, but would undermine the certainty which is a key part of the discipline that the penalty regime is seeking to impart.

Question 3.6 - Do you agree that, in principle, a single points total that covers all of the customer's submission obligations is the right approach?

- Yes this seems reasonable: with VAT and RTI becoming integrated under MTD, the penalty system should also.

Question 3.7 - Do you agree that the proposal outlined in paragraphs 3.25 to 3.28 is the right way to operate a single points total? If not, what alternative would you suggest that ensures the design of the penalty is kept simple?

- We agree the proposal outlined appears reasonable and fair.

Question 3.8: We welcome views on whether the escalator model would be a more effective way of aligning with the five principles described in paragraph 3.2?

- This would seem reasonable, although we are not sure there would be many occasions when the 1st Quarter would not be completed whereby the second and third quarter would be.
- It would be simpler just to have the obligation roll from one quarter to another. Failure to file a return in Q1 would generate one point; failure in Q2 another; filing in Q3 stops more points accruing in respect of that obligation.

Question 3.9 - Do you agree that a fixed amount penalty is appropriate? 30

- Yes, a fixed penalty would be easier to understand and easier for businesses to realise the exact amount rather than just being threatened with a percentage.
- In addition, as a penalty would arise from at least 4 defaults, there would be at least four amounts on which a tax-geared penalty could be based. This would make the system arbitrary and uncertain.
- Deliberate failure to make a return is addressed in 3.38. We would suggest that a deliberate failure to make a return could be suitably dealt with by regarding it as a deliberate return of £nil, subject to the normal tax-geared penalties for inaccuracy. The threshold for "deliberate

failure” should of course be quite high, to avoid the penalty catching taxpayers who would have filed late but for a check by HMRC.

Question 3.10 - Should the amount of fixed penalty reflect the size of a business?

- There should be a grading system yes: it would seem strange that a joiner with a £30k turnover be treated the same as a multi-million pound company.
- Having said that, we cannot easily see a way of varying the penalties that would be consistently fair. “The size of a business” is a rather indistinct concept: does it relate to turnover, profit, net assets, gross assets, number of employees? Take a highly-g geared low-margin wholesaling business with high turnover (and hence VAT payments) and low profits, and a people-based business with no debt and relatively low turnover, almost all of which is profit. The former may be far “larger” by turnover and gross assets, but much “smaller” if one looks at profit and net assets; if the goods it deal in are VAT-exempt or zero-rated, it could justifiably be called “smaller” by reference to taxable turnover.

Question 3.11 - Do you agree that points should only become appealable when they have caused a penalty to be charged?

- No. As is always the case, there will be times when common sense needs apply and as long as a penalty has a reasonable case to be appealed, this should be heard and judged accordingly.
- It should be possible to appeal against any points which contribute towards a penalty, regardless of when they were accrued: removing the first point would be as effective as removing the last.
- If points will disappear after a period, appealing the first points is redundant unless and until later ones are accrued.
- If points last for 2 years, then it may not be apparent that an appeal is needed until 2 years after the first point is awarded. Denying the taxpayer a right of appeal until 2 years after the fact significantly impairs their ability to mount an appeal.
- In addition, some taxpayers who consider themselves compliant would be aggrieved (or even insulted) at having points that they do not think should be there. Permitting appeals against them would reduce a source of ill-will and grievance.

#### **Chapter 4**

Question 4.1 - Do you agree that 14 days is an appropriate length of time to allow customers to either pay in full, or make arrangements to do so before penalty interest is charged?

- No, 14 days would not be long enough, especially with the current communication system with HMRC. Letters we receive advising of penalties or just general correspondence from HMRC are already commonly dated at least 10 days before it arrives.
- Even if communication is electronic, account should be taken of the reasonable interval between looking at emails. It is unreasonable to expect a person, who may have reluctantly embraced digital technology solely to meet HMRC’s obligations, to check their email every day just in case they have incurred a penalty. Note that, by definition, these penalties would apply in some cases to taxpayers who have missed a payment inadvertently.

Question 4.2 - Do you think that charging penalty interest is the right sanction for noncompliance with payment obligations?

- Yes, this appears to be a reasonable approach.
- We assume that there will be a normal rate of interest for late payments within the period above.
- The DTA should allow the taxpayer to effectively have a single account with HMRC, and we no reason why it should be very simple to allow taxpayers to reallocate payments from one liability to another (if indeed it is even necessary to track separate liabilities). Any interest (including penalty interest) should be only on the balance remaining after all credit balances are offset.
- We consider that the penalty rate of interest should be high, but able to reduce to the normal late payment rate where the taxpayer is compliant – if a liability cannot be paid straight away but contact has been made and a repayment plan imposed, then the reduced rate of interest (or even removal of interest altogether) should apply.



Question 4.3 - Are there other commercial models that might be appropriate for us to consider?

Question 4.4 - We invite views on the design principles outlined for penalty interest. For example, do you consider there are any further elements to build into this proposal?

Question 4.5 - Does model 1 or model 2 best meet the government's objective of providing a fair and proportionate response to late payment of tax?

- Model 2 seems more reasonable so as the interest charged increases the longer an amount goes unpaid or not dealt with, but the percentages suggested work entirely to the detriment of the taxpayer. Model 1's total penalties are 5%, 10% and 15%, and Model 2's are 4%, 14%, and 29%. It would be better if the increases were less harsh.
- Both models however risk disproportionate charges, due to the cliff edges built into them.

Question 4.6 - Do you agree that the timing of late payment penalties should change to reflect the frequency of payment due dates?

- Yes

Question 4.7 - We invite views on the design principles outlined for late payment sanctions. For example, do you consider there are any further elements to build into these proposals?

Question: 4.8 - Which proposal best meets the design principles?

- Proposal A. The second proposal seems to be simply trying to preserve elements of the existing system, which frequently gives unfair or disproportionate results. Late payment is a timing issue, and so the penalty should be as closely related to the time value of money as possible without arbitrary cliff edges.

## **Chapter 5**

Question 5.1 - Should the current interest rules for Income Tax and Class 4 National Insurance contributions continue to apply in MTD?

- Yes – see above.

Question 5.2 - Do you have any initial comments about aligning interest rules across taxes?

- It is inequitable that interest on overpaid tax does not accrue interest at the same rate as that on underpaid tax, especially if the latter has a higher penalty rate. The interest rates for under- and over-payments should be aligned.

## **Chapter 6**

Question 6.1 - Please provide details of how the proposed administrative changes will affect you, including details of any one-off and ongoing costs or savings.

- On an on-going basis it is likely that the costs will be small, as most clients are compliant and will not be affected.
- Initial costs of explaining the position to clients may be more significant.
- No savings are anticipated.

Questions 6.2 - Do these administration proposals have a significant or disproportionate impact on groups with legally protected characteristics, as recognised in the Equalities Act 2010?

- They are likely to have some additional impact on groups less able to respond quickly due to problems accessing information, interpreting it, or providing replies (such as the visually impaired). We cannot quantify this impact, and so cannot judge whether it would be significant or disproportionate.

<https://www.gov.uk/government/consultations/making-tax-digital-tax-administration>

## TRANSFORMING THE TAX SYSTEM THROUGH BETTER USE OF INFORMATION

Question 1 - Where events during the year result in a change to a customer's tax projection, what is the appropriate format and regularity of notification that HMRC should send to employers and customers?

- Email and post to ensure all received. Technology doesn't always work!
- A paperless option should be available (as with banks) but should not be the default
- Would it be appropriate simply to let notifications accumulate on the DAT, to be addressed as part of the regular update process?
- Some changes should not be implemented unilaterally. Changes to PAYE codes for example should be suggested by HMRC, but not implemented until the taxpayer has had a chance to consider it.

Question 2 - Have you any suggestions for how we present third party information in your digital tax account in a way that will make it easier for you to understand your tax?

- Different areas for different types of income should be fine.
- It should be clear that the information is provisional and to be confirmed. Many taxpayers will be included to take anything appearing on an HMRC portal as gospel.
- A simple tax computation would be helpful, in two columns: one showing HMRC's estimate of the position, and the other allowing for over-ride by the taxpayer.

Question 3 - If you are concerned over privacy impacts of HMRC's plans for improving how we use third party information we already receive; do you have any suggestions for how these concerns could be resolved?

Question 4 - If a third party information provider is aware of how the ownership of a joint asset is split; do you think the third party provider should inform HMRC?

- No. It is the responsibility of the taxpayer to provide HMRC with that kind of information, too much input from third parties would cause more trouble and incorrect details.
- A third party provider may not for example be aware of the existence of a bare trust
- We assume that FATCA details will be made available through the DTA

Question 5 - Information providers will want to keep their customers fully informed about the information they provide to HMRC (and have a responsibility to do so under the Data Protection Act 1998). Do you think there should be a standard approach, or should information providers design the best approach to meet the needs of their particular business and customers?

- There should be a standard approach integrated into the DTA.

Question 6 - Do you have any preferences for how you would like to be kept informed by third party information providers?

- No, so long as the taxpayer is independently informed of matters reported to HMRC, and is given sufficient supporting information to judge the position correctly (or allow their advisor to do so)

Question 7 - Do you think there are any additional safeguards we should consider in relation to the protection and use of third party information by HMRC?

Question 8 - Do you agree with the principles we have set out for how information queries should be resolved? What are your expectations for how this would work in practice?

- No. Information provided should only be regarded as provisional: under Self-Assessment, the taxpayer's view trumps any other party's unless it is demonstrated to be incorrect.
- The DTA should have a button by each data point allowing the taxpayer to flag it as disputed and enter the figure they consider correct. Clicking that button should then open a field allowing the taxpayer to explain the position, and perhaps attach supporting information. This explanation should then be forwarded to the information provider, who should then be

responsible for opening a dialogue with the taxpayer. This would ensure that the taxpayer is using the correct lines of communication, saving time and cost for all concerned.

- If the taxpayer and the third party fail to agree, then HMRC will be aware of the issue and can enquire into the taxpayer's figure as appropriate.

Question 9 - How can we best align HMRC's third party information requirements with information provider's circumstances? For example, with other standards information providers need to meet; other regulatory change; internal business processes and requirements.

Question 10 - If you currently provide information to HMRC at year-end what would be the impact of moving to a more frequent in-year process, assuming that HMRC is able to align to your circumstances as described above?

Question 11 - We have given you a high level introduction to the standards necessary to make the exchange of data efficient and dependable. Do third party providers foresee any specific challenges in adopting standards along these lines?

Question 12 - What opportunities do current and potential information providers and software Providers see for a stronger partnership with HMRC to enhance our customer experience?

Question 13 - What new sources of third party information would most enhance the customer experience and best contribute to the aim of ending the tax return for all?

Question 14 - How can we best open up discussions and begin to work with new potential information providers who are not currently providing information to HMRC on a regular basis.

<https://www.gov.uk/government/consultations/making-tax-digital-transforming-the-tax-system-through-the-better-use-of-information>