



**HMRC**

**Making Tax Digital: Transforming the tax system  
through the better use of information**

3 November 2016

## About ICAS

1. The following submission has been prepared by the ICAS Tax Committee. This Committee, with its five technical sub-Committees, is responsible for putting forward the views of the ICAS tax community, which consists of Chartered Accountants and ICAS Tax Professionals working across the UK and beyond, and it does this with the active input and support of over 60 committee members. The Institute of Chartered Accountants of Scotland ('ICAS') is the world's oldest professional body of accountants and we represent over 21,000 members working across the UK and internationally. Our members work in all fields, predominantly across the private and not for profit sectors.
2. ICAS has a public interest remit, a duty to act not solely for its members but for the wider good. From a public interest perspective, our role is to share insights from ICAS members in the many complex issues and decisions involved in tax and financial system design, and to point out operational practicalities.

## General comments

3. ICAS welcomes the opportunity to contribute to the consultation 'Making Tax Digital: Transforming the tax system through better use of information' issued by HMRC on 15 August 2016.
4. We support the overall objectives of 'Making Tax Digital' as set out by HMRC in December 2015. The four 'foundations' are laudable goals, but we have significant reservations about the timescale and the mandatory approach. To describe MTD as a reform of tax compliance obscures the reality that it is a colossal IT and change management project affecting some 5.4 million businesses and many more taxpayers. A project on this scale needs careful risk management to maximise both its success and acceptance by users.
5. This consultation is primarily dealing with MTD as it will affect personal, rather than business, taxpayers. In addition to issues with the timescale and the mandatory approach, this raises significant communication challenges which have not yet been adequately addressed.
6. Some personal taxpayers may decide, when they are told about MTD and the mandatory use of the personal tax account (PTA), that they would prefer to appoint an agent to deal with their tax affairs. We are most concerned about the negative messages regarding tax agents which are being suggested by publicity around MTD, and by the exclusion of agents from viewing their clients' online accounts. Development of agent services consistently runs behind the development of the business and personal tax accounts. We believe agents are vital to implementation and every effort should be made to work with agents so that they can assist current and prospective clients in dealing with MTD.
7. We agree with the basic premise that where HMRC already receives information from third parties taxpayers should not have to report that information to HMRC again. It is essential that the third party information is accurate, can be linked to the correct taxpayer and is securely protected.
8. Where there are errors in third party information taxpayers should be able to correct these themselves where they have the information to do so (for example amounts of bank interest); we do not agree with the proposal in the consultation document that the taxpayer should have to liaise with the third party. In many cases, this would increase rather than reduce the burden on the taxpayer; under self-assessment (SA) the taxpayer would simply supply the correct information and they should be able to do the same using their Personal Tax Account.
9. The consultation document notes that HMRC aim to have 7 million 'customers' using their Personal Tax Account by the end of March 2017. The latest HMRC statistics on GOV.UK estimate that for 2016/17 there will be over 30 million individual taxpayers. In February 2016 HMRC announced that 10.39 million SA returns were completed before the 31 January deadline (more than 92% of the expected returns) – of these 9.24 million used the online SA service.

10. HMRC needs to ensure that it develops and implements a proper communications plan to cover people who will not be using their PTA by March 2017, which may be a significant number. The consultation document is geared to the PTA and does not address this important issue. All taxpayers need to continue to receive information about their tax affairs, regardless of whether they have accessed their PTA. Those who have not accessed their PTA also need to be told about MTD, ie that from a specified date tax will be dealt with via the PTA, so that they can make an informed decision for the future. Options for individuals to consider include going online (which might involve buying a computer, getting internet access etc), whether (and how) to use a trusted helper, appointing an agent to deal with their tax or informing HMRC that they are digitally excluded and will need help.
11. For those in business MTD commences from April 2018 (subject to any exemptions). The timetable for the switch to the online PTA for personal taxpayers and the interaction with SA (and simple assessment) also needs to be made clear and communicated properly to individual taxpayers. The consultation document (paragraph 2.20) indicates that SA returns can be continued after 2018 (with the option of using the PTA instead) but it is not clear whether this is referring to paper SA returns or online. Paragraph 2.24 notes that HMRC expect that 'the majority of customers will have transitioned by 2020' – but this is in the context of updating HMRC. Paragraph 1.8 refers to delivering the 'end of the tax return by 2020' but it seems clear that this relies on additional third party information being available for pre-population.
12. There may be some taxpayers for whom HMRC will never have all the required information from third parties. Paragraphs 2.19 and 2.20 of the consultation 'Making Tax Digital: Tax Administration' also make clear that HMRC specifically envisage that the SA return and the digital tax account will overlap - and that some taxpayers will be completing both (presumably the digital tax account covering business income and the SA return covering 'personal' tax on savings income etc). 'Customers' are likely to find this very hard to understand and deal with.
13. Other consultation documents explain the proposed 'End of Year' process and declaration for unincorporated businesses. We assume that for personal taxpayers (at least those who were within SA) there will be a similar requirement to access their PTA to check that all pre-populated information is correct and to submit information relating to non-pre-populated assessable income (such as dividends) or reliefs (such as gift aid); presumably there will also need to be a declaration, like that on the current tax return. Currently the deadline for personal tax returns is 31 October (paper returns) and 31 January (online); we assume that the deadline for individuals using their PTA is likely to be 31 January but this needs to be confirmed.
14. As noted above the timetable for the transition from the SA return to the PTA also needs to be clarified. We assume that some individuals with complex affairs, or where some information will never be available from third parties, will remain in SA. Under the present regime taxpayers outside SA are not required to complete a return although they should check their PAYE coding notices and ensure they notify HMRC of any changes to their circumstances. With the move to the PTA will these individuals now be obliged to check the pre-populated data and make a declaration, particularly if they wish to claim, say, gift aid? Or, does HMRC intend to use 'simple assessment' in this context (see our comments below)? Again, this needs to be clarified and communicated.
15. The proposals for 'End of year activity' for landlords, the self-employed and businesses are likely to mean that individuals have a deadline for the 'End of Year' declaration for these activities of 9 months after the end of their business period. If the deadline for data checking/personal tax declarations in the PTA does remain 31 January they will therefore, in many cases, have a different deadline for their business and personal 'returns'. This may be confusing and certainly needs to be communicated.
16. Until individuals are told that they will need to use their PTA going forward, with a clear timetable for the switch (and an outline of their options as noted above) HMRC also needs to ensure that individuals who are not using their PTA do not suddenly receive a communication (for example, the prototype P2) which does not include all the information

they need unless they go to their PTA – particularly where no alternative (like a telephone number) is included (for example, the P800 notice). This piecemeal approach to the transition is unhelpful.

17. The consultation document does not specifically discuss HMRC's ability to raise 'simple assessments' which it intends to use where it has information about a taxpayer's personal tax liability. It is therefore unclear whether these will be issued in a paper format (at least initially and longer term for the digitally excluded) or only through the PTA. If the latter this raises questions about those who have not accessed their PTA. Some aspects of the proposals appear to assume the use of simple assessment but this is not made explicit. Clarification of the proposals for the use of simple assessment and a consultation on the approach would be helpful.
18. We understand that alongside the use of simple assessment HMRC intend to mandate payment online through the PTA; again, this should be subject to consultation. It is hard to see how it fits with HMRC's stated aim of helping people to comply, given that many individuals (whilst not digitally excluded) choose not to use online banking and/or make payments online due to security concerns. Where an agent is acting it also raises questions about how the taxpayer will be able to make their payment; as noted above we believe insufficient attention is being given to the role of agents in MTD.

### Specific questions

**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?**

19. Individual taxpayers with frequent variations in their income might find it useful (as suggested in the consultation document) to check their PTA regularly for an update on their expected tax position. Other taxpayers (whose income is relatively stable) might find this confusing. Many of these individuals may prefer to wait until the year end to visit their PTA to check that all third party supplied data is correct. Individuals will need to be reminded that they should check third party data – and that they should not assume that HMRC/their employer/banks/building societies will necessarily have got it right. As noted above individual taxpayers need clarity on the timescale for the switch to the PTA and what the deadline will be for completing checks of pre-populated data, adding additional data about other income or gains and claiming reliefs after the end of the tax year.
20. We assume that HMRC will be updating PTAs in real time ie when the data is received from a third party it will be put into the PTA and HMRC will make any required adjustments to PAYE codes and update the expected tax payable. Individual taxpayers should be allowed to set their own preference for the frequency of notifications from HMRC relating to updates to their PTA. The consultation document refers to text alerts prompting individuals to log in (or simply to being 'prompted' without specifying the mechanism) but we assume alerts could also be sent by email. Not everyone does, or can, use mobile 'phones (particularly those using assistive technology). The default could be to send a notification whenever a change takes place and at the year end but with the option for the individual to change this to monthly or some other frequency.
21. As noted in our general comments some taxpayers may decide that they wish to appoint an agent to deal with their tax affairs. Others may be digitally excluded. HMRC needs to ensure that agents have access to their clients' PTAs and can deal with any alerts. As noted in the consultation document other arrangements will also have to be put in place for the digitally excluded to ensure that they are not disadvantaged and can still access essential information about their tax.
22. We assume that notifications of new PAYE codes to employers will take place as rapidly as possible to ensure that the right amount of tax is collected.

**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?**

23. It is very difficult to express an opinion on this question at this stage. We note (paragraph 2.26 of the consultation) that HMRC is conducting research with individual taxpayers. Taxpayers will need to be able to see easily the source and amount of any entries; if they cannot do so HMRC and third parties are likely to receive many queries.
24. We are concerned that tax will continue to be calculated on an annual basis but HMRC envisages monthly projections of an individual's tax (paragraph 3.7 of the consultation). This might be helpful for those whose income fluctuates regularly. It is likely to be less helpful for those with relatively stable income, for whom an annual calculation is likely to be easier to understand and to check.
25. It is also hard to see how the proposals will work (in terms of providing meaningful information) where an individual has some savings interest paid monthly and some paid annually (or at some other frequency, for example at the end of fixed term accounts). Paragraph 3.7 of the consultation suggests that HMRC will not be collecting or using historical information for the monthly projections. However, as suggested in paragraph 2.9 it will be using historical information to establish the PAYE code needed to collect tax on interest above the savings allowance, at least initially. For an individual whose savings interest does not change dramatically during a year, a PAYE code based on the prior year's interest figure works reasonably well. Receiving a code change every time a monthly interest payment is made is unlikely to be helpful. It could also produce highly misleading results; for example, if a relatively large payment of interest is made early in the tax year at the end of a fixed term account but the coding notice is based on the assumption that this will be a monthly receipt.
26. Paragraph 2.22 of the consultation points out that taxpayers will still have a statutory obligation to make sure that the information is correct and complete and to report any income not included on an annual basis. As noted above we believe that individuals will need to be reminded of this obligation; many taxpayers already assume that HMRC and their employer will get things right (as HMRC's 'Vijay' case study notes). Pre-population through the PTA is likely to reinforce this view. The timing of this end of year check also needs to be clarified (particularly if there is any possibility that the deadline may be moved from 31 January). As noted in our general comments the use and impact of simple assessments also needs to be clarified.

**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?**

27. It is essential that third party information is allocated to the correct taxpayers and that transmission of data is secure. It is not clear from the consultation document how HMRC and third party providers intend to ensure that this is achieved.
28. In the context of savings interest, we understood, from discussions at a meeting with HMRC last year that it would only be possible to allocate bank and building society interest correctly by using National Insurance numbers (currently only required to be supplied for ISA accounts). We understand from a more recent meeting that HMRC may now be considering other options. There will certainly need to be a mechanism for accurately identifying taxpayers, particularly where several taxpayers with the same or similar names live at the same address. Does HMRC intend to require that NINOs, or other additional information (above what is currently needed), will have to be supplied for all savings accounts in future?
29. We consider that HMRC and third party providers should provide more information about exactly what information will be required, whether additional information (compared to the current position) will be needed and the broad details (ie without compromising security) of how all this data will be securely protected, particularly when it is being transmitted to HMRC. For example, will data be encrypted?

**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?**

30. No. It makes sense for the default assumption to be 50:50 and for taxpayers to be required to inform HMRC if a different split is appropriate. For married couples and civil partners this reflects the legislative position. Any other approach is likely to lead to complications, particularly where a third party information provider holds out of date or incorrect information.

**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?**

31. There should be a standard approach to ensure that minimum standards are enforced.

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

32. As noted in the consultation document banks and building societies already tell account holders about interest paid and employers must inform employees of their pay and deductions. It would make sense for the third party providers to have to include a note explaining that information has been passed to HMRC.

**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?**

33. As noted above HMRC and third party providers need to provide more information and assurance about how data will be securely protected, particularly when it is being transmitted between third parties and HMRC. Will data be encrypted? Will industry standard security measures be applied? Who will be responsible if there is a breach of security and how will taxpayers be informed? If taxpayers suffer identity theft, loss or inconvenience as a consequence of a data breach will they be compensated and will they receive help and advice on protecting themselves from ongoing consequences of the loss (and potential future misuse) of their data? Most taxpayers will have no choice about dealing with HMRC online so they are entitled to expect that HMRC (and third party providers used by HMRC) will take care of their data and if there is a breach that they will be assisted and compensated appropriately.

**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?**

34. No. As discussed above taxpayers remain under a statutory obligation to make sure that the information in their PTA is correct and complete. If they believe that a third party provider has provided incorrect information they should be able to correct it (where they have the information to do so); it is the taxpayer's tax 'return' and their responsibility. They should not be obliged to contact the third party provider to try to get them to correct it, which is likely to take time and involve unnecessary aggravation for the taxpayer; for current SA taxpayers it would be a backwards step from the current position.
35. Taking the example of savings interest, many taxpayers who have been within SA will be used to keeping totals of their bank and building society interest to include them in their tax returns after the year end. In future, they will keep the records to check the pre-populated amounts in their PTA. After the year end they will be required to enter non-prepopulated data (gift aid, dividends etc) and also to 'sign' a declaration that the information is correct and complete. They cannot be expected to sign such a declaration if they know that the bank or building society has provided an incorrect figure. They should be able to insert the correct figure and should not be forced to go to the third party provider. If HMRC wishes to challenge the taxpayer's figure they would need to follow the normal processes for doing so. The approach proposed in the consultation would

increase the burden on the taxpayer rather than reducing it which would be contrary to the stated aims of MTD.

36. As noted in our general comments the consultation document does not discuss the likely timeframe for individuals to enter additional data and 'sign' their declaration under MTD; we assume the deadline will be 31 January but it would be useful to have clarification on this point.

**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.**

37. We note that HMRC does not expect (paragraph 4.2) that employers will experience significant impacts from employee queries arising from more frequent changes to tax codes. The assumption appears to be that employees will be directed to their PTA, that they will go to their PTA and will understand the information presented. This assumption may be optimistic for several reasons -not least that as noted in our general comments many taxpayers are not expected to have accessed their PTAs by 2017. Many employees are also used to asking their employers about tax – or asking HMRC (as noted in HMRC's own case studies). What arrangements is HMRC putting in place to deal with additional calls to their helpline asking for information? What help will be available for employers?
38. It might help to mitigate the impact of more frequent code changes if HMRC ensured that it has implemented a proper communication programme telling individuals about forthcoming changes and PTAs – as noted in our general comments above.

**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?**

39. We have no comments on this question.

**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?**

40. We have no comments on this question.

**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?**

41. We have no comments on this question.

**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?**

42. The sources of income listed in paragraph 5.11 would be a good starting point but given the need to consult on each potential new class the 2020 timetable looks ambitious. Implementing effective and secure reporting of income from these sources may also be considerably more challenging than implementation with the initial third parties (essentially banks and building societies). Banks and building societies at least have experience in providing information to HMRC and in protecting customer data but the same may not be true (or true to the same extent) in other cases. As noted above matching data to the correct taxpayer is a key issue; will taxpayers be expected to provide their National Insurance numbers (or other additional data) to any company in which they hold shares and to peer-to-peer lending sites? Many individuals are likely to find this unacceptable.

**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?**

43. We have no comments on this question.