



# Agent Digital Authorisation

ICAS Briefing paper

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# Agent Digital Authorisation

## The aim of this paper is

- To provide ICAS staff with agreed positions and a list of identified issues and concerns to raise with HMRC, and
- To inform committee members and ICAS members more widely of the ICAS approach and to ensure ICAS properly represents members' views.

ICAS members are asked to send their views, concerns and comments to [tax@icas.com](mailto:tax@icas.com); this is a live document and the ICAS tax team welcomes member input to inform their work at all times.

## Introduction

As part of the wider Making Tax Digital agenda, HMRC is expected to create an end-to-end digital authorisation process for taxpayers to appoint an agent.

## Digital authorisation is necessary in a digital tax system

Implicit in the concept of digital tax, is the need for an effective digital means of appointing a tax agent. However, 'digital' brings new challenges and appropriate delivery is essential. Going digital is far more than digitising existing processes; it requires a rethink and introduces new pinch points. New digital procedures need to be designed with an awareness of their context. There must also be effective alternatives for the digitally excluded/digitally challenged so they can retain control of the process for authorising an agent.

## Overall objective

The system should be designed to address the needs of all parties as far as is practicable, given the constraints imposed by finite resources. Minimum standards should include:

- **The system must enable all taxpayers to appoint a tax agent in a manner which best suits their personal needs and aspirations.** This must allow for choice and make provision for disability and digital exclusion. Taxpayers should not be forced to jump through digital hoops to achieve their desired objective. The system must reflect the 'Your Charter' commitment that HMRC will 'accept that someone else can represent you'.
- **The system must be secure.** There need to be adequate safeguards to protect taxpayers, agents and HMRC from criminal use of the system. HMRC needs assurance that the taxpayer has consented to provide agent access to their confidential information.
- **The system should maximise the potential benefits of digitalisation.** It should streamline access; be efficient and easy to use; and put taxpayers in charge of the process.
- **The impact on taxpayer behaviour and compliance must be positive.**

# Important considerations

Digital will not simply replicate paper: how is the authorisation process to be transposed into digital format? What are the main considerations?

## General

- Cost: digital authorisation of any kind must be fully tested before rollout. Failure to do this will directly affect costs for taxpayers and agents – and indirectly (increased contact, system failures) for HMRC.
- There may be difficult choices arising from the need to balance the demands of security, simplicity and convenience.

## Taxpayers

- Require an easy to use, efficient and secure process.
- Ideally the process should be 'once and done'- and should not involve multiple complex steps spread over time.
- The system must have the functionality to accommodate multiple authorisations – for a variety of reasons taxpayers may use more than one agent.
- Taxpayers should not be required to use digital channels to authorise an agent; the digitally excluded or challenged should be able to retain control of the process through provision of suitable non-digital alternatives.
- The system must meet minimum standards for facilitating inclusion - including the right to delegate digital contact with HMRC to the agent.

## Agents

- A single approach to authorisation for all taxes is needed. Current digital roll-out is introducing multiple authorisation channels and different processes for different tasks.
- Agent access and the authorisation process need to be designed into digital systems from the outset.
- There needs to be a detailed road map for how the transition to HMRC Enterprise Tax Management Platform is to be achieved.
- The ability to manage and restrict access within individual agent firms is vital. Authorisation needs to be viewed in context and cannot be separated from firms' protocols on who can access client data.
- Some members carry out pro-bono work or support family and friends. Appropriate authorisation procedures are needed for this type of activity.

## HMRC

- HMRC needs a system which complies with GDPR requirements.
- The system must allow HMRC to see that the taxpayer has consented to the agent having access to their confidential information.
- Security considerations:
  - Is the agent who they say they are?
  - Is the system safe from those who might want to hack into it?
  - Have safety and ease of use been balanced effectively? I.e. will it be a 'want to use' system?
- How and when should alternative non-digital routes be provided?
- How can vulnerable and digitally excluded taxpayers be directed to appropriate HMRC support?

# Further discussion

## Agent 'approval' – taxpayer assumptions

HMRC work has shown that consumers are generally unaware that some sections of the tax market are self-regulating or that there is no requirement for their adviser to have specific expertise in order to provide advice. Digital authorisation may therefore be seen by some taxpayers as evidence that HMRC has approved a particular agent. Yet HMRC currently carries out only basic checks, for example, to ensure an agent is registered for Anti Money Laundering purposes.

It needs to be made clear to taxpayers that the fact that an agent is recognised by HMRC's online system does not mean that they are necessarily competent to undertake the work under consideration. This aspect of authorisation is part of a wider picture, including the need for recognition of professionally qualified agents.

## A 'one-stop' process

The goal for most clients and agents is a 'one-stop' process. This is particularly important for new clients; a single meeting to cover all administrative aspects, from engagement letter to authorisation to act on the client's behalf with HMRC, is efficient and effective.

The paper 64-8 has historically been a way of achieving this one-stop result. The replacement system must achieve the same outcome. Unfortunately, some digital authorisation procedures currently require the client to create a Government Gateway account and / or access their digital tax account in order to confirm appointment of an agent. This is not an approach conducive to good agent / client relationships in all circumstances.

If HMRC processes require a separate and additional 'digital handshake' from the client following the initial meeting with their new agent, the appointment process may be interrupted. Agent/client relations may be put under strain. The client may want the agent to take responsibility for all contact with HMRC and may have appointed an agent precisely so that they do not need to engage directly with HMRC. The client may not want to use digital authorisation procedures (or may be unable to use them). If the client fails to complete authorisation online, the agent is left stranded – appointed in form only, but unable to act. Considerable time and effort can be wasted to resolve this.

Resources should be dedicated to creating an authorisation route which can be 'once and done' from the agent and client perspective. This could be achieved in a variety of different ways. Some form of paper authorisation or telephone authorisation (facilitated by HMRC) may be required so that the digitally excluded remain in control of the process. Alternatively, HMRC may need to accept 'third party' verification of consent from the client, rather than direct digital confirmation.

## HMRC legacy systems

HMRC is in the process of moving its business to the new Enterprise Tax Management Platform (ETMP). Until this is complete, some services will be provided via legacy systems. HMRC does not access legacy systems to provide information for any service provided via ETMP. This means that existing agent authorisations on legacy systems are not visible for new services, such as CGT 30-day reporting and the Trust Registration Service.

This causes significant problems because agents are being required in some cases to register a new authority, where an existing valid authority is in place. Clients cannot understand why they need to re-authorise an agent who has been acting for some time.

While some duplication and disruption are to be expected as part of such a large IT project, it is unfortunate that authorisations for new services are not standardised: each service seems to be developing its own process. The multiplicity of channels also confuses clients.

A longer-term solution would involve a centralised authorisation management process so that it is clear to everyone (taxpayers, agents and HMRC), what authorisations are in place for each taxpayer across all taxes. However, an interim solution may be required to bring clarity in the short term.

Some strategic decisions are needed, particularly around the need for separate authorisation for different services and the boundaries between different channels of communication - telephone, paper and digital-only agent access.

### **Multiple authorisations**

Taxpayers may wish to appoint different agents for different taxes or for specific assignments.

They may also wish to appoint multiple agents for the same tax. Examples include:

- A business may use a bookkeeper to submit MTDfVAT returns each quarter, with a tax agent needing access for review and year-end finalisation
- A taxpayer may wish to use a new adviser for a one-off assignment, whilst retaining their existing agent for annual filing
- Multinational companies often use different agents for specific projects.

The centralised authorisation management process mentioned must have the functionality to accommodate multiple authorisations.

### **Digital exclusion, delegation and challenge**

HMRC's approach to digital is essentially binary. Either someone is 'digitally excluded' or they are required to join on the same terms as other taxpayers. There seems limited scope for the nuanced requirements of client and agent. HMRC's definition of digitally excluded is very restricted (for example, see [MTDfVAT notice 700/22 para 3.1](#)).

Many taxpayers appoint an agent in order to delegate all contact with HMRC – and expect the agent to handle digital interaction with HMRC. Some taxpayers who fall outside HMRC's narrow definition of 'digitally excluded' may still struggle to interact digitally with HMRC. For example, they may be at ease sharing photographs with friends on social media, but cannot manage online tasks, such as setting up accounts, completing forms, submitting returns or dealing with 'technical' matters.

The agent authorisation process should support the right of taxpayers to 'opt out' of direct digital communication with HMRC and to delegate digital interaction to the agent.

### **Trusted Helpers and pro bono advisers**

While the main focus of this paper is paid-for tax advice, authorisation in its wider context includes representation by friends, family and pro bono advisers. HMRC would understandably like to formalise procedures; this would introduce visibility and accountability - and facilitate targeted help.

The boundary between paid-for and pro bono advice is significant for several reasons. From a professional point of view, regulatory bodies will normally permit their members to undertake pro bono work without requiring them to have Professional Indemnity Insurance or a practising certificate, although for ICAS members, adherence to ICAS ethical standards and Professional Conduct in Relation to Taxation is still required.

Formally appointed tax agents must demonstrate compliance with Anti-Money Laundering (AML) regulations before they are allowed to act. A trusted helper or family member does not need AML registration to register with HMRC, but currently, the range of tasks which a trusted helper is permitted by HMRC to undertake is limited (<https://www.gov.uk/help-friends-family-tax>). Critically, the list does not include submission of a self assessment tax return – often the very task a taxpayer would ask a friend, family member, or pro bono adviser to assist with.

From a practical point of view, friends, family members, and pro bono advisers have a positive and beneficial role within the tax system. HMRC's authorisation process for them is something of a half-way house. It excludes trusted helpers from an activity which they are likely to be asked to undertake for a taxpayer.

This could lead to trusted helpers accessing a taxpayer's digital tax account directly, using the taxpayer's credentials, an outcome which reduces visibility and accountability.

### **Removing an agent**

HMRC's outline journey provides for taxpayers to manage agent authorisation via their Digital Tax Account. A taxpayer who wished to remove authorisation for a specific firm would, on this model, be able to remove authorisation at any stage and potentially without contacting the agent directly.

It is as yet unclear how individuals who do not wish to (or cannot) access HMRC digital services or a digital tax account would remove an agent authorisation under this model. HMRC needs to outline an alternative, non-digital route for removing or changing an authorisation.

In many cases, a previous agent's authorisation would cease when a new agent is appointed. There is still the need for a standalone system for removing authorisation.

### **Rogue agents**

It is essential that HMRC systems are secure. HMRC therefore rightly wants to prevent 'rogue' agents gaining access. However, this must not impede the provision of a simple, easy to use mechanism for authorising agents.

HMRC should address the issue of 'rogue' agents through its registration process for agents, rather than via the digital authorisation process for taxpayers appointing an agent. Effective agent verification by HMRC could be combined with other ways of identifying and tackling fraud. For example, identification of unusual activity, such as multiple refund claims paid into the same bank account.

As envisaged at the outset of MTD, a 'layered', risk-based approach should also be considered. This could involve regulated, trusted agents having access to simplified procedures.

# The ICAS Role

ICAS (The Institute of Chartered Accountants of Scotland) is the oldest professional body of accountants. We represent over 22,000 members who advise and lead businesses. Around half our members are based in Scotland, the other half work in the rest of the UK and in almost 100 countries around the world.

ICAS regulates over 1,000 practices providing tax, accountancy and business services across the UK and beyond.

ICAS has a public interest remit – a duty to act not only for its members but for the wider public good. Our technical experts work in a positive and constructive manner to advise policy makers on legislation and to raise issues of importance to our members, individual taxpayers and businesses alike.

Taxation is one such area of importance and ICAS has contributed, and will continue to contribute, to tax policy in Scotland, the UK and beyond.

The Tax Board's objectives in establishing its policy positions are to:

- act in the public interest
- provide constructive input to the authorities, and
- represent the interests of ICAS members, affiliates and students.

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