



Reporting rules for digital platforms - consultation

Response from ICAS

21 October 2021

About ICAS

1. The Institute of Chartered Accountants of Scotland ('ICAS') is the world's oldest professional body of accountants. We represent over 22,000 members working across the UK and internationally. Our members work in the public and not for profit sectors, business and private practice. Approximately 10,000 of our members are based in Scotland and 10,000 in England.
2. The following submission has been prepared by the ICAS Tax Board. The Tax Board, with its five technical Committees, is responsible for putting forward the views of the ICAS tax community; it does this with the active input and support of over 60 committee members.
3. 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 into the many complex issues and decisions involved in tax and regulatory system design, and to point out operational practicalities.

General comments

4. ICAS welcomes the opportunity to respond to the HMRC consultation, [Reporting rules for digital platforms](#), published on 31 July 2021.
5. We agree with the comments in the introduction to the consultation that a fragmented approach to reporting across different jurisdictions would be burdensome and inefficient for platforms – and would present problems for tax authorities trying to enforce reporting. Provided the OECD model rules are widely taken up and implemented they should produce a more efficient and effective system. We assume that HMRC will be liaising with other jurisdictions to try to facilitate the smooth implementation and running of the reporting regime.
6. It is important that adequate time is allowed for platforms to prepare and make any necessary changes to their systems, to enable them to comply with the rules. As the intended implementation date is January 2023 this means that legislative requirements and detailed reporting schema need to be finalised as soon as possible.
7. We have concerns about the security risks arising from mandating the provision, storage and transmission of confidential identifying data relating to platform users. The proposed verification service (GVS) might address some of these, but it would need to be in place in time for the start of platform reporting, and adequately resourced by HMRC so that it works effectively.
8. We believe there is considerable scope for platforms and HMRC to help platform users to comply with their tax obligations. One advantage of platform reporting should be that both sellers and HMRC receive the data – this may avoid some of the problems which have arisen with CRS data, where only HMRC receives the data. However, reporting to sellers will need to be more frequent than annually and the information should ideally be provided in a user-friendly format.
9. it would be useful for all platforms to advise sellers of their responsibility to meet their tax obligations – and to signpost sellers to information provided by their jurisdiction of residence. We suggest that HMRC should consider providing a list of signposts to useful information on GOV.UK, which platforms could provide to UK based sellers.

Specific questions

Chapter 2 (Scope)

Question 1: Do you agree with the government's proposals on excluding certain platform operators? Please indicate whether you think platforms would make use of the exclusions in practice and what factors might influence these decisions.

10. The general approach to exclusions seems sensible. However, further clarification is required around the scope of the exemptions and the meaning of 'relevant services'.

11. It is unclear whether exemption will be available for digital wealth platforms which have 'sellers' who are themselves regulated businesses. For example, an investment management business might operate digital investment platforms used by financial advisers and wealth managers who are FCA regulated. These regulated advisers are the users of the platforms, rather than the underlying clients whose assets are being managed by the platform.
12. It is not clear, in this example, that any relevant services are being provided – the services provided by these platforms do not appear to be analogous to those being provided in the examples given in the consultation, where service providers in the gig economy are being connected to customers. In the wealth platforms scenario, the underlying clients will already have a relationship with the FCA regulated advisers and managers at the time when their assets are added to the digital wealth platform.
13. If the services are within scope, we believe that an exemption should be available for platforms, in circumstances where the platform is facilitating payments to established regulated businesses in the financial sector.

Question 2: Are the definitions on the scope of the model rules sufficiently clear? Are there scenarios not anticipated by the rules where guidance is needed?

14. As noted in our response to Question 1, clarification of the meaning of 'relevant services' is required. Would the services provided, in the example given in our response to Question 1, be within the scope of the rules (under the professional work heading)? This needs to be clarified. If they are relevant services, we consider that an exemption should be available in the circumstances set out in our response to Question 1.
15. More generally, the reporting rules are aimed at workers in the gig economy, many of whom will be using digital platforms. Paragraph 2.14 of the consultation mentions that services provided by certain employees of platform operators will be excluded from being 'personal services' 'because the seller will already be subject to PAYE. However, as recent high-profile cases have illustrated, the employment status of gig economy workers is often unclear.
16. The government's 2018 Good Work Plan stated that it would bring forward detailed proposals on how employment status frameworks for employment rights and tax could be aligned. The plan also committed the government to legislating to improve the clarity of the employment status tests. This consultation illustrates the importance of bringing forward proposals and draft legislation as soon as possible.

Question 3: Is any additional guidance needed in light of the government's plans to adopt the extension of scope in its implementation of the model rules?

17. Paragraphs 2.20 and 2.25 of the consultation indicate that the government intends to extend the scope of 'excluded sellers' to include occasional sellers where the operator facilitated less than 30 sales of goods for 2,000 euros or less in a calendar year. It is not clear how this will increase the benefits of implementing the model rules for sellers, platforms, and HMRC – in particular how it helps sellers to comply with their tax obligations and enables HMRC to tackle non-compliance (paragraph 2.26).
18. Sellers might use more than one platform – but not exceed 2,000 euros on any of them. The sellers would probably find it easier to comply if they had reports from each platform (although in practice we understand that some platforms already provide some kind of reports to sellers – but not always in a user-friendly format) – and HMRC will find it hard to identify non-compliance in these cases.

Question 4: Do you have any comments on how you would like the interactions of the model rules and DAC 7 to operate in practice?

19. We have no detailed comments on this question. However, we agree with the comments in the introduction to the consultation that a fragmented approach to reporting across different

jurisdictions would be burdensome and inefficient for platforms. It would therefore make sense to align with DAC 7, which would allow UK platforms within DAC 7 to report to HMRC.

Chapter 3 (Due diligence)

Question 5: Do you have any comments on the practical application of the rules on collecting the required information about sellers and rental property?

20. The data that platforms will be required to collect about sellers includes information which could be useful to criminals for fraud and identity theft purposes. It is therefore very important that stringent security measures are in place to protect data. Existing reporting requirements like the ISA regime or CRS, apply to financial institutions, which are heavily regulated and will have good security and controls to prevent inappropriate access in place – but that will not be the case with platforms covered by these reporting rules. There may also be issues with other jurisdictions with whom data will be exchanged.
21. Where information is being provided largely for the purposes of tax authorities, any breaches of security and resulting problems for individuals arising from identity theft, fraud, or inappropriate access to data have the potential to undermine trust in the tax system. Robust standards and controls for all parties involved would need to be in place, policed and enforced – but it is unclear how this could happen in the context of the parties involved in this reporting regime.

Question 6: Which number, or combination of numbers, would be appropriate to use as a Tax Identification Number (TIN)? Please give reasons to support your view.

22. As noted in our response to Question 5 there are security and access risks arising from mandating the provision, storage and transmission of confidential identifying data relating to platform users – particularly where it is unclear how, or whether, robust standards and controls could be enforced. The more items of confidential identifying data are collected, stored and transmitted, the greater the risk arising from any breaches of security – either in the databases of the platforms or in the process of transmission to HMRC or other jurisdictions.
23. Paragraph 3.12 of the consultation notes that NINOs can be used to match data to an individual's tax record, so they would be a useful TIN from that perspective. However, they are sensitive information (as also noted in paragraph 3.12), particularly when held alongside other data about individuals, as would be the case in this context. We therefore have reservations about them being used as the TIN unless appropriate security standards could be enforced on all the entities involved. Similar issues would arise with the use of UTRs for individuals. Not all individuals would have a NINO so an alternative would have to be available anyway.
24. We therefore broadly agree with the suggestion in paragraph 3.16 of the consultation (explored further in paragraphs 3.25 and 3.26) that it would be helpful to introduce a new 'verification' service (GVS) for the purposes of the reporting rules, which sellers could use to generate a bespoke code or reference number to be used as a TIN. HMRC is already developing the 'tax check' service mentioned in paragraph 3.25 - it therefore seems sensible to adapt this for use in the reporting regime for platforms. However, it is essential that the service is available from the start of the reporting regime for platforms and that it is properly resourced so that it works effectively.
25. Concerns have been raised with us that in practice there could be problems arising from a lack of adequate HMRC resources to implement the GVS and run it effectively on an ongoing basis. Due to the pandemic there have been significant delays in issuing both NINOs and UTRs – reports we receive from members suggest these are ongoing. The GVS process for generating an alternative TIN would potentially be subject to similar delays, if HMRC resources are under pressure.
26. Paragraph 3.27 of the consultation suggests that the GVS service might not be available in time for the implementation of the reporting regime for platforms. Given the security and trust issues identified above, we do not believe that the reporting regime should be launched until a workable process for generating an alternative TIN is available.

Question 7: Do you have any comments on the practical application of the rules for collecting and verifying the data?

27. See our responses to Questions 5 and 6.

Question 8: Would stakeholders (both sellers and platforms) find a Government Verification Service useful if one was available? Please give reasons for your view.

28. As set out in our response to Question 6, a GVS service would be useful to address important issues with security and access to data. However, it would need to be ready in time for implementation in 2023, and adequately resourced on an ongoing basis to ensure that it works effectively for platforms and sellers.

Question 9: Do you have any comments on the practical application of the rules in relation to the timing, active seller option and third party due diligence requirements?

29. Paragraph 3.33 discusses mechanisms for prohibiting undocumented sellers (and enforcement measures) and paragraph 3.35 discusses contractual arrangements between platform operators and third party providers of due diligence services. However, there is no mention of any requirement on platforms to put in place adequate security measures or controls over access to data. As set out in our responses to Questions 5 and 6 this is a significant issue – particularly if the GVS is not introduced, and sellers will have to provide sensitive data like NINOs to platform operators.

30. We gave an example in our response to Question 1, where we consider that an exemption should apply. If an exemption is not put in place for these platforms, it will be important for HMRC to work with the affected platform operators in the UK financial services sector to ensure that due diligence obligations are aligned with those required by existing regulatory processes. Digital platform operators in this sector are already subject to significant FCA mandated legislative obligations, and adhere to industry best practice codes for collecting and verifying information about the ‘sellers’ using their platforms, prior to allowing them access to the platforms.

Chapter 4 (Reporting)

Question 10: What are your views on the government only offering the option to submit reports directly in an XML file format and removing the manual reporting option? Would you use an API to share info with HMRC if it was available? Please explain your answer.

31. As noted in our responses to earlier questions, security considerations are critical. It will also be essential for the reporting schema to be finalised and made available to platforms as soon as possible, and well in advance of implementation.

Question 11: How could platform operators provide information to sellers about their income at an earlier point to make it more useful?

32. One advantage of the introduction of these rules should be that the seller receives information about their transactions, as well as HMRC – this may avoid some of the problems which have arisen with CRS data, where only HMRC receives the information.

33. When HMRC issues ‘nudge’ letters based on CRS data it can be difficult for agents and taxpayers to provide explanations for apparent inconsistencies, or to point out inaccuracies in the third-party data because they do not have the data which has been sent to HMRC. There will still be scope for reconciliation difficulties with the platform data because reports will not relate to the UK tax year but to the calendar year – as is the case with many CRS reports. However, if the data is provided to both HMRC and sellers in a useful format, some unnecessary ‘nudge’ letters could be avoided, or queries more efficiently resolved.

34. As set out in the consultation, the 31 January deadline for providing the information is not helpful for sellers now - and will be even less helpful once quarterly reporting (under Making Tax Digital

for ITSA) comes into effect. The consultation concentrates on the self assessment deadlines – but for traders filing VAT returns an annual report will already often be inadequate.

35. Paragraph 4.18 points out that platform operators will have to report the amount of consideration paid to each seller during each quarter of the reportable period – and we understand that in practice some platforms do provide data to sellers more frequently than annually. It is therefore difficult to see why platform operators could not report to sellers at least quarterly.
36. It will be important for the information provided to sellers to be in a user-friendly format. We understand that on some platforms data is difficult to access. Also, detailed transaction details can sometimes be downloaded on a daily or monthly basis, but the format of the information makes it very difficult to use (particularly where low value transactions are involved). It would be useful if HMRC could put in place reporting templates which used a format for the information which both HMRC and sellers would find helpful for tax purposes – and raised this issue with other jurisdictions wherever possible.

Question 12: How can HMRC and platform operators work together to provide appropriate information to sellers to help them understand and comply with their tax obligations? What guidance would sellers find useful?

37. We agree that some sellers may be unaware of their tax obligations, as set out in paragraph 4.20 of the consultation, and may not realise that they should be reporting income (particularly if it relates to assets held abroad (such as a rental property)). The requirement to provide a TIN to the platform might in itself prompt taxpayers to consider tax – and to look at any information about tax obligations provided by the platform.
38. In some respects the £1,000 trading and property income allowances mentioned in paragraph 4.20 may not have been helpful in encouraging compliance. Individuals who are compliant from the beginning, when their activities are on a small scale, are more likely to remain compliant. The allowances may mean that individuals are less likely to keep proper records – and may not even realise that they have crossed the threshold. They also may not understand the detailed rules – for example, that the allowances relate to gross income, not profit.
39. As noted in paragraph 4.22, some platforms do provide guidance about tax obligations and potential tax liability – but we agree that it would be very useful for all of them to do so. As suggested in the OECD model rules it would be helpful if platforms advised sellers of their responsibility to meet their tax obligations – and signposted sellers to information provided by their jurisdiction of residence.
40. We suggest that HMRC could consider compiling a list of signposts to useful information on GOV.UK, which platforms could provide to UK based sellers. This could include, for example, links to content on GOV.UK about:
- [Working for yourself](#)
 - [Check if you need to tell HMRC about additional income](#)
 - [Tax-free allowances on property and trading income](#).
41. Historically HMRC also [posted guidance](#) (now archived), including some useful examples, on ‘Selling items online through classified advertisements and at car boot sales’ – this had the advantage of pulling together in one place examples covering moving from a hobby to trading, situations where capital gains tax would be likely to be relevant rather than trading – and the difference between clearing out unwanted items and trading.
42. We appreciate that it would be impossible to produce a comprehensive list of information which would cover every possible scenario, but the most common situations could be covered. To some extent it might be possible to tailor lists for different platforms – the signposts for use on a property rental platform would not be the same as those for sites selling goods or services.
43. It has also been suggested to us that HMRC could consider paying to post advertisements on some platforms to raise awareness of tax obligations and how to contact HMRC.

Question 13: Do you have any comments on the practical application of the rules relating to the reporting requirements?

44. We have no comments on this question.

Chapter 5 (Administration and enforcement)

Question 14: Does the proposed penalty approach meet the government's objectives of being reasonable, proportionate and effective in ensuring compliance with the model rules?

45. We have no comments on this question.

Chapter 6 (Assessment of impacts)

Question 15: What additional one-off or regular costs do you expect to incur to comply with the requirements of the model rules? Please provide any information, such as costs, staff time or number of sellers/platforms affected which would help HMRC to quantify the impacts of this measure more precisely.

46. We have no comments on this question.

##



Contact us

CA House, 21 Haymarket Yards, Edinburgh, UK, EH12 5BH

+44 (0) 131 347 0100

connect@icas.com | [icas.com](https://www.icas.com)



@ICASaccounting



ICAS – The Professional Body of CAs