



ICAEW TAX REPRESENTATION

8.1.14

HMRC Digital Strategy – legislative changes to enable Paperless Self Assessment

Comments submitted on 8 January 2014 by ICAEW Tax Faculty in response to HMRC consultation document Digital Strategy – legislative changes to enable Paperless Self Assessment published on 27 November 2013.

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INTRODUCTION

1. ICAEW welcomes the opportunity to comment on the consultation document [Paperless SA consultation for change to legislation](#) published by HM Revenue & Customs (HMRC) on 27 November 2013.
2. We should be happy to discuss any aspect of our comments and to take part in all further consultations on this area.
3. Information about the Tax Faculty and ICAEW is given below. We have also set out, in Appendix 1, the Tax Faculty's Ten Tenets for a Better Tax System by which we benchmark proposals to change the tax system.

WHO WE ARE

4. ICAEW is a professional membership organisation, supporting over 140,000 chartered accountants around the world. Through our technical knowledge, skills and expertise, we provide insight and leadership to the global accountancy and finance profession.
5. Our members provide financial knowledge and guidance based on the highest professional, technical and ethical standards. We develop and support individuals, organisations and communities to help them achieve long-term, sustainable economic value.
6. The Tax Faculty is the voice of tax within ICAEW and is a leading authority on taxation. Internationally recognised as a source of expertise, the faculty is responsible for submissions to tax authorities on behalf of ICAEW as a whole. It also provides a range of tax services, including TAXline, a monthly journal sent to more than 8,000 members, a weekly newswire and a referral scheme.

KEY POINT SUMMARY

7. We welcome HMRC's proposal to send communications to those Self Assessment online taxpayers who choose online rather than paper as a preferred means for communication.
8. We note and agree that the approach should be staged to allow adequate time to test the practicalities.
9. HMRC should consider providing the option for online or paper delivery for each type of communication rather than a blanket opt in or out.
10. We have concerns about the taxpayer distinguishing between genuine HMRC and phishing scam emails. The use of the secure mailbox will assist but we suggest that the email/SMS should not contain a link to the Government gateway or the secure mailbox as a matter of security and taxpayers should be advised of this.
11. We consider that the option for paper communication must remain in place for the foreseeable future, which is in line with Lord Carter's recommendation that the needs of those who are less able to cope with digital communication should be taken into account. This will accommodate those who are not IT literate or who do not have adequate broadband connections, as well as those who still cannot file their tax returns online for security reasons, such as Members of Parliament.
12. HMRC should take positive steps to cover situations where the taxpayer has not opened the email/SMS notification. We suggest that a reminder is sent to those who have not opened the notice in the secure mailbox or the original email/SMS within a given time and where there has still been no action taken after a given period, a letter is sent.

13. It is not clear whether the agent will receive an email notification of all the notices issued to each client individually, or if notification will only be posted on the client's account for the agent to see. We consider notification is essential with the client identified. Consultation should take place about the practicalities of identifying and viewing client notices within the Agent online service.
14. Some taxpayers may prefer other means of electronic communication as evidenced by HMRC's own research in May 2012. We therefore welcome HMRC exploring the use of social media channels as part of the new electronic service..
15. We are concerned that the one month period for consultation which spanned the Christmas holiday period is very short and does not allow adequate time for wide consultation with our members. We would therefore welcome the opportunity to provide further input on the practicalities of the proposals going forward.

MAJOR POINTS

16. We set out below a number of points for consideration in developing the proposals:

The opt in process

17. We welcome HMRC's proposal that a taxpayer will have to make a positive opt in before HMRC will change its method of communication with that taxpayer from paper to online. With the positive opt in mechanism taxpayers should be aware that in future they will not receive paper communications and will have to look at their secure mailbox to view messages from HMRC.
18. It is important that HMRC has an opt out process for the taxpayer who would prefer to change back to paper. We are pleased that this option is to be built into the process.
19. We understand that the process will be that the taxpayer will receive an email/SMS notification that a statutory notice has been delivered to the secure mailbox. This notification will be a deemed delivery of the notice.
20. It may well be that taxpayers may prefer to receive certain communication notices online and others by paper especially if there is a time sensitivity for response. HMRC should consider providing the option for online or paper for each type of communication rather than a blanket opt in.
21. It should be possible for an individual taxpayer to continue to receive notices on paper even if the agent has opted for electronic communication. We understand that this is the intention.
22. We consider that the option for paper communication must remain in place for the foreseeable future to accommodate those who are not IT literate or do not have adequate broadband connections
23. Some taxpayers prefer other means of electronic communication and we therefore welcome exploring the use of social media channels as part of the new electronic service.
24. HMRC's own research undertaken in May 2012 states a taxpayer preference for a multi-channel approach rather than just digital:
 - Their preference will be for 'multi-channel' rather than 'digital': that is, internet-led services available across a range of platforms, including using apps; supplemented by alerts across

a range of technologies (including SMS and Instant Messaging) and guidance in a range of formats (including videos and podcasts); and with 'real people' available (telephone, face to face or in 'online one-to-one chatrooms') for complex or sensitive problems, where online channels are not effective, or to resolve disputes.

- It is unlikely that many customers will want (or put up with) a 'digital-only' approach, though examples such as Amazon show that very high customer satisfaction can be combined with a very high proportion of transactions being digital. In any case, developing digital channels that integrate with traditional channels or features (notably call centres) would allow improvements in service levels to be shared with non-digital users, so minimising the 'digital divide' effect, as well as enhancing the digital offer.
- See Digital Customer Insight, published May 2012 at www.hmrc.gov.uk/research/report199.pdf.

Verification process

- 25.** We welcome the verification process to ensure email addresses and contact telephone numbers are valid before electronic communication is used. We suggest that alternative contact details for both email and telephone should be held by HMRC to cover possible contact problems.

Email/SMS notification

- 26.** We consider that the taxpayer should be made aware of the importance of each communication and the need to log into the secure mailbox to read the email and take appropriate action. The content of the email/SMS notification should give this explanation. Our initial thoughts are that the following content should be included:
- 27.** The name or UTR of the individual it relates to. It may well be that individuals share an e mail address or receives the e mail in another capacity eg where there is a Power of attorney in place.
- 28.** The notification should also indicate the type of notice, the time limit for replying to the notice and should highlight any urgency for attention. For example, a taxpayer will need to be aware that the notice to file a tax return has been issued but may not need to look at it urgently. This compares to notice of opening an enquiry which will require urgent attention.
- 29.** The email/SMS notification should also cover reminders about changes of taxpayer information eg address, and contact email and telephone numbers. A paper notice to file will generally be redirected but an old email address will generally continue to receive emails even if it is defunct.
- 30.** It should explain the process and say what will happen if no action is taken, ie, we will send a reminder and write.
- 31.** We have serious concerns about the taxpayer distinguishing between genuine HMRC and phishing scam emails. The use of the secure mailbox will assist but we suggest that the email should not contain a link to the Government gateway or the secure mailbox as a matter of security and taxpayers should be advised of this.

Effective delivery

- 32.** We note in paragraph 20 that HMRC proposes that the statutory notice or reminder delivered to the secure mailbox will be legally valid even if the taxpayer does not open it or view the email or SMS message.

33. We understand the need for certainty of delivery of the statutory notice. However not all individuals open emails daily and we consider that HMRC should ensure that any new process takes the needs of these taxpayers into account. This is most relevant for the notices that require urgent action. It could be that the deemed date of delivery is a certain number of days after the notification date or alternatively more time could be given for dealing with the notice.
34. We consider that HMRC should take a positive step to cover situations where the recipient has not opened the email/SMS which may be for a variety of reasons. For example, it may not be solely because the email/SMS has been overlooked, but may be that the email or telephone number has changed or the email has been sent to the recipient's spam folder and therefore not seen. Will HMRC be able to recognise the out of office notices and if they continue divert contact back to paper? It may also be that the person does not conduct their daily life through electronic media and so, for example, only checks their email at weekends.
35. We therefore suggest that a reminder is sent to those who have not opened the notice in the secure mailbox or the original email/SMS within a given time and where there has still been no action taken after a given period a letter is sent. Maybe a requirement for acknowledging receipt through the secure mailbox would suffice. Each type of notice will need to be considered separately as the urgency and importance will vary.
36. We consider this area needs further consideration and would be willing to discuss the options here with HMRC after further consultation with our members.

In and out of SA.

37. A process will need to be considered for taxpayers coming out and then going back in to SA. Will these taxpayers automatically receive online only communications, or would they receive HMRC communications by post in the first instance? How would their agent receive such communication?

Storage of emails in the secure mailbox.

38. The emails posted to the secure mailbox should be kept for an agreed period of time, which needs to correspond with the period for which a taxpayer is required to keep tax records.

The agent's role and the implications

39. We welcome the separate option for agents to receive copies of their client's communications either online or by paper and that these notifications will be available to view by the agent via HMRC's or third party software depending on which service the agent uses.
40. It is not clear whether the agent will receive an email notification of all the notices issued to each client individually or if it will only be posted on the client's account for the agent to see. We consider notification is essential with the client identified and consultation should take place about the practicalities of identifying and viewing client notices within the Agent online service.
41. In some cases a taxpayer may prefer to leave the agent to deal with all tax issues and would not require or want to have access to the online SA system. If this is the case how would the process work if the client opted for online communications? Would the client be able to sign up to receive notification online, receive notification but allow the agent to deal with matters rather than access the secure mailbox? Will the secure mailbox be accessed through the SA online service log in or will there be the facility for a separate log in for the taxpayer to the secure mailbox only?
42. Where an agent allows certain staff access to certain notices only, some way of differentiating these would need to be built in to the system.

43. As the notices must be delivered to the taxpayer an alternative may be for taxpayers with agents not to have the option for online communications and continue to receive paper notifications.

Taxpayer consent

44. We agree that the taxpayer should agree to opt for the new service for receiving the statutory notifications rather than the agent on the taxpayer's behalf.
45. If the agent is already authorised to act for the taxpayer for the appropriate service, is there any reason why the agent cannot make an automatic online or paper option for copies of all these notifications for its clients through the agent online service, either individually or on a block basis, irrespective of whether the client has been verified or opts or not?

RESPONSES TO CONSULTATION QUESTIONS

Question 1: HMRC intends to make available electronically the Self Assessment products listed at paragraph 9 to those who have opted in to Self Assessment Online. Views are sought on the suitability of those products being made available online.

46. We have no issue with those SA products suggested in paragraph 9. As mentioned above we consider that there should be an option to make a separate decision about paper or online for each type of communication.
47. It would be useful to add to the list
- withdrawing a penalty notice where it has been issued incorrectly, and
 - email communication for client PAYE codes(P2),
 - it would be useful to build into the system a facility to send an automatic appeal where the notice is incorrect or has been issued in error. This would avoid the need for telephone or paper communication.

Question 2: Many customers registered to use the Self Assessment Online service do not personally access the system, but allow their appointed agent to file on their behalf (see paragraph 22). HMRC welcomes suggestions on how customer consent can be best achieved in circumstances such as these.

48. We agree that the taxpayer should be required to agree to opt for the new service for receiving the statutory notifications rather than the agent on the taxpayer's behalf.
49. If the agent is already authorised to act for the taxpayer for Self Assessment is there any reason why the agent cannot make an automatic online or paper option to receive copies of all these notifications for its clients through the agent online service either individually for each client or on a block basis irrespective of whether the client has been verified or opts for online or not. There should also be an option built in for agents not to receive a notice.

Question 3: Comments are sought on whether the draft legislation set out in Annex A works as intended and facilitates HMRC's electronic interaction with its customers. In particular HMRC welcomes views on the definition of 'secure mailbox', the deemed delivery provisions and conditions and the provision and withdrawal of consent.

50. The definition of secure mail box should recognise that in addition to the individual it can be accessed by the agent acting for the individual.
51. We consider that a taxpayer may require communication by e mail and SMS so the option should be 'and/or' instead of just 'or'.

Question 4: HMRC welcomes comments on the assessment of the impacts of these proposals in the Tax Impact and Information Assessment on page 12 including but not limited to the equalities impacts, impacts on individuals and burden reductions.

52. The transfer from paper to online communication should provide cost savings for HMRC from the reduction in bulk mail deliveries. We expect that there will be additional support required for taxpayers in the transition following which savings should be realised. We would be interested to know what the expected savings to be.

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APPENDIX 1

ICAEW TAX FACULTY'S TEN TENETS FOR A BETTER TAX SYSTEM

The tax system should be:

1. Statutory: tax legislation should be enacted by statute and subject to proper democratic scrutiny by Parliament.
2. Certain: in virtually all circumstances the application of the tax rules should be certain. It should not normally be necessary for anyone to resort to the courts in order to resolve how the rules operate in relation to his or her tax affairs.
3. Simple: the tax rules should aim to be simple, understandable and clear in their objectives.
4. Easy to collect and to calculate: a person's tax liability should be easy to calculate and straightforward and cheap to collect.
5. Properly targeted: when anti-avoidance legislation is passed, due regard should be had to maintaining the simplicity and certainty of the tax system by targeting it to close specific loopholes.
6. Constant: Changes to the underlying rules should be kept to a minimum. There should be a justifiable economic and/or social basis for any change to the tax rules and this justification should be made public and the underlying policy made clear.
7. Subject to proper consultation: other than in exceptional circumstances, the Government should allow adequate time for both the drafting of tax legislation and full consultation on it.
8. Regularly reviewed: the tax rules should be subject to a regular public review to determine their continuing relevance and whether their original justification has been realised. If a tax rule is no longer relevant, then it should be repealed.
9. Fair and reasonable: the revenue authorities have a duty to exercise their powers reasonably. There should be a right of appeal to an independent tribunal against all their decisions.
10. Competitive: tax rules and rates should be framed so as to encourage investment, capital and trade in and with the UK.

These are explained in more detail in our discussion document published in October 1999 as TAXGUIDE 4/99 (see icaew.com/en/technical/tax/tax-faculty/~media/Files/Technical/Tax/Tax%20news/TaxGuides/TAXGUIDE-4-99-Towards-a-Better-tax-system.ashx)