



ICAEW REPRESENTATION 52/16

TAX REPRESENTATION

MAKING TAX DIGITAL: DISCUSSION PAPER ON SIMPLER PAYMENTS

ICAEW welcomes the opportunity to comment on the discussion paper [*Making Tax Digital: Discussion paper on simpler payments*](#) published by HM Revenue & Customs on 14 December 2015.

This response of 6 March 2016 has been prepared on behalf of ICAEW by the Tax Faculty. Internationally recognised as a source of expertise, the Faculty is a leading authority on taxation. It is responsible for making submissions to tax authorities on behalf of ICAEW and does this with support from over 130 volunteers, many of whom are well-known names in the tax world. Appendix 1 sets out the ICAEW Tax Faculty's Ten Tenets for a Better Tax System, by which we benchmark proposals for changes to the tax system.

We should be happy to discuss any aspect of our comments and to take part in all further consultations on this area.

A number of our members have attended the recent HMRC key stakeholder consultations.

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ICAEW members operate across a wide range of areas in business, practice and the public sector. They provide financial expertise and guidance based on the highest professional, technical and ethical standards. They are trained to provide clarity and apply rigour, and so help create long-term sustainable economic value.

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MAJOR POINTS

Key point summary

Payment of tax

1. ICAEW welcomes any moves to simplify paying tax and to improve transparency for taxpayers. We are concerned that the tax rules underlying the income tax calculation in particular are becoming more complicated. While the new allowances for interest and dividends from April 2016 will make some tax calculations simpler, the rules for taxing interest and dividends overall will add greatly to the complexity of the tax system.
2. ICAEW recommends that any changes to the current regimes for the payment of taxes covered by income tax self assessment and corporation tax self assessment should be a matter of choice by the taxpayer and should not be made mandatory. Taxpayers should be allowed to continue to pay on the current basis or move to any proposed new basis.
3. Taxpayers who choose to move to a new payment basis should be incentivised to both bring forward the time at which they pay tax and to make more regular payments.
4. ICAEW accepts the general premise that the current payments on account system for unincorporated businesses can be difficult for taxpayers to understand, particularly for new businesses where the owner may not appreciate that their early profits can be used to calculate taxable profits for more than one year in the early years of the trade. We note however that this discussion document is much broader in scope and considers the possibility of changing payments for corporation tax, income tax, VAT, Class 4 NIC and other taxes collected through self assessment.
5. The existing option of paying tax using a budget payment plan is not well publicised and these plans could be used more widely without any need to change the law.
6. We welcome the suggestion in the document that construction industry scheme (CIS) deductions may be offset against other liabilities.
7. The only area of corporation tax outside of the scope of the discussion document is quarterly payments made by companies with profits of £20m or more. Those companies will have to pay their tax in the third, sixth, ninth and twelfth month of their accounting period for accounting periods beginning on or after 1 April 2017. The consultation document includes an example referring to corporation tax payments for companies with profits below £1.5m, contrasting their payment date with the dates for quarterly instalments required by large companies. If it is to be inferred that the government would like to achieve a similar payment pattern for all of the taxes covered in the discussion document, we would strongly oppose any attempt to make this mandatory. While, for example, increasing the number of payments on account under income tax self assessment, basing the rules on the existing prior period tax liability, could work for some taxpayers, making it compulsory would be very problematic for others.
8. The research ([*Understanding the impact of taxation cycles: Business experience and compliance behaviour of Small and Medium Sized Enterprises*](#)) used to support the discussion document is based on a very small sample size of 40 businesses, only 13 of which were unincorporated sole traders. This too small a sample size on which to conclude, "...that many small businesses saw that this could enable them to better plan their finances and avoid shocks, especially for taxes currently paid annually." The discussion document focuses on the quotes that were in support of more frequent payments from the research, rather than those that raised any objections or perceived difficulties with moving to a new regime. We consider it is imperative for HMRC to hear from more businesses, taxpayers and their agents in designing systems.

Cost to business of making tax digital

9. Paragraph 1.289 of the Autumn Statement 2015 announced a new target to reduce the costs to business of tax administration by £400 million by the end of 2019/20. Our members have told us that implementing Real Time Information for employment taxes has increased costs for businesses (especially small ones). We would like to see clear evidence of how it is proposed that the Making Tax Digital programme will deliver savings for business and consider that this evidence is vital before a decision to implement can be taken.
10. Starting with the smallest businesses in terms of the roll out of quarterly reporting is incongruous as these are the businesses that will suffer the greatest proportional administrative burden. We understand that HMRC perceives that £6.5bn is lost through error and failure to take reasonable care and predominantly from this group (see [Measuring Tax Gaps 2015 edition](#)), but we consider that HMRC needs to produce evidence to support that assertion before imposing any additional burden on small businesses. Many will consider that this group has been chosen on the basis that it is easier for HMRC to deliver a reporting mechanism as their tax affairs are relatively simple from HMRC's perspective.

General comments

11. Although not specified in the discussion document, it is understood from the meetings attended by members that three options are being considered for the payment of income tax, corporation tax, VAT, Class 4 NIC and other taxes collected through self assessment:
 - A pay as you go scheme based on quarterly reporting;
 - Changing the statutory payment dates for unincorporated businesses;
 - Alignment of the income tax and corporation tax payment date with VAT and other taxes.

ICAEW's comments on each of these options are set out below.

12. The discussion document also states that quarterly reporting will apply to employees and pensioners with an annual secondary income of £10,000 or more from self-employment or property. From the meetings, it is understood that this £10,000 limit will be based on turnover rather than taxable profits. Therefore, a property business which could be in a net loss making position after interest payments would have to report quarterly if its rental income was £10,000 or more. As the rules for tax relief for interest are changing, individuals with income over £10,000 but high interest payments will be drawn into the quarterly reporting system for very little tax due.
13. It is unclear how the £10,000 limit will apply to those with fluctuating income. For example, a pensioner may have a self employment as they transition into retirement (this could be driven by financial or psychological reasons), but as they grow into retirement, the income will diminish. Once they have triggered the requirement to report quarterly, will they have to continue to report quarterly until the income source has ceased, even if income falls below the £10,000 limit? Similarly, a landlord may have periods where a property is unlet. Would they dip in and out of quarterly reporting?

A pay as you go scheme based on quarterly reporting

14. We consider that any such payment plan should be optional and taxpayers should be incentivised to move onto such a plan. For example, utility companies give customers the option of paying based on actual usage, or offer discounts for the option of paying monthly by direct debit.
15. There are also a number of practical considerations. For example, how will businesses cope with the transition to such a payment plan? They will be paying two (or more) amounts of tax in one year eg, payments based on the current regime based on historic figures as well as payments based on real time information? Take an unincorporated business with a year end of 30 April. If the accounting year started on 1 May 2013 and ended 30 April 2014, the year end

would fall in the 2014/15 tax year. Assuming it is in the payments on account regime, they would have paid their self assessment liabilities for that year on 31 January 2015 (estimate based on previous year), 31 July 2015 (estimate based on previous year) and any balance on 31 January 2016. How do you move such a business to paying in real time when there is currently such a lag? How do you deal with overlap profits?

16. Also, how accurate will quarterly reporting be for the payment of tax, eg adjustments for capital allowances, prepayments and accruals? We understand that this has been a common theme at the stakeholder meetings. One business quoted in the research ([*Understanding the impact of taxation cycles: Business experience and compliance behaviour of Small and Medium Sized Enterprises*](#)) questioned how their valuations of stock and work in progress would be reflected in terms of using quarterly reporting as a means of calculating their tax:
- “If it is a CT system then the interface would have to collect all our accounting data including raw material valuations, work in progress valuations & finished goods valuations (we are a manufacturer). This is a lot of raw data and would require integration with more than one system here. Would that really be feasible for HMRC to create [?]” (10-49 employees, £1-39million, CT and VAT)
17. How will payments be calculated for seasonal businesses? The research ([*Understanding the impact of taxation cycles: Business experience and compliance behaviour of Small and Medium Sized Enterprises*](#)) said:
- “Whilst the majority of the businesses in this research kept money aside for taxes, those with fluctuating or unpredictable incomes typically ‘dipped’ into this money when required. These businesses saw more frequent payments as reducing this flexibility, and they raised concerns about potentially being left in financial difficulty over their leaner months- they would need flexibility in payment timings for this to work for them. As well as losing access to money, these businesses were also more likely to see financial loss also, in the form of interest accrued on the money kept in a savings account. Some felt that they would need to be compensated in some way, either financially or through some other benefit e.g. allowances in relation to payment timings, for this.”
18. As stated above, many taxpayers already put money aside for their tax liability (sometimes in a separate bank account). Why should HMRC act as a bank, even if it does pay a commercial rate of interest for amounts overpaid? Many will foresee issues with obtaining refunds for overpayments of tax. This is money that the business could otherwise be using. See also paragraph 22 below.

Changing the statutory payment dates for unincorporated businesses

19. We appreciate that there is a time lag with the payment of tax for the opening period of an unincorporated business, but is it worth changing the whole procedure just to accelerate the collection of relatively low amounts of tax? Accelerating payment means that the business will have fewer funds to invest in the business in the early start-up phase. As set out at paragraph 15 above, it is also difficult to see how the transition could be made without causing financial hardship.
20. It is difficult to see that alignment of payments with the accounting period would help as other income (eg, from employment, savings and investments) would be assessed on a tax year basis. How could you apply the correct rates and allowances?
21. The discussion document comments that UK companies pay tax later than their G20 counterparts. However, in the G8, UK companies also have a faster rate of growth. Could accelerating payments hamper that growth?
22. A business in the research paper ([*Understanding the impact of taxation cycles: Business experience and compliance behaviour of Small and Medium Sized Enterprises*](#)) said:

"If we're paying more frequently, then this means that money is leaving the business and we're not making the most of this asset...while it's with us we have option of what to do" (1-9 employees, £500-1million, CT)

Alignment of the income tax and corporation tax payment date with VAT and other taxes

23. We do not consider this to be a sensible option. Many businesses would struggle to pay all of their taxes on the same date and we understand that this has been a common issue raised at the stakeholder meetings.

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 via <http://www.icaew.com/en/about-icaew/what-we-do/technical-releases/tax>).