



## ICAEW TAX REPRESENTATION

### REAL TIME INFORMATION

**Comments submitted in January 2012 by ICAEW Tax Faculty in response to the HM Revenue & Customs invitation issued on 14 November to comment on draft secondary legislation on Real Time Information and the closure of the Simplified PAYE Deduction Scheme**

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# REAL TIME INFORMATION

## INTRODUCTION

1. ICAEW welcomes the opportunity to comment on the draft secondary legislation on real time information (RTI) and the closure of the Simplified PAYE Deduction Scheme (SPDS) published on 14 November by HM Revenue & Customs at [http://customs.hmrc.gov.uk/channelsPortalWebApp/channelsPortalWebApp.portal?\\_nfpb=true&\\_pageLabel=pageLibrary\\_ConsultationDocuments&propertyType=document&columns=1&id=HMCE\\_PROD1\\_031738](http://customs.hmrc.gov.uk/channelsPortalWebApp/channelsPortalWebApp.portal?_nfpb=true&_pageLabel=pageLibrary_ConsultationDocuments&propertyType=document&columns=1&id=HMCE_PROD1_031738).
2. We should be happy to discuss any aspect of our comments and to take part in all further consultations on this area.
3. We are represented on HMRC's Customer User Group and on 13 and 14 December 2011 and 6 January 2012 attended other meetings with HMRC in which we were able to put forward some key comments and concerns and discuss aspects of the new process. We shall also be meeting HMRC on 13 January.
4. 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

5. ICAEW is a world-leading professional accountancy body. We operate under a Royal Charter which obliges us to work in the public interest. ICAEW's regulation of its members, in particular its responsibilities in respect of auditors, is overseen by the UK Financial Reporting Council. We provide leadership and practical support to over 136,000 member chartered accountants in more than 160 countries, working with governments, regulators and industry in order to ensure that the highest standards are maintained.
6. 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.
7. 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

8. RTI is an ambitious project with a demanding timetable which is being unduly rushed. The 'Carter Principle' (that new HMRC IT services should be capacity tested at least a year before implementation) is being ignored and scant regard is being paid to how in practice small employers and those without computers and/or broadband and those who will be eligible to file monthly on paper will be expected to comply. NPS and the online in-year filing regime need to have an opportunity to bed in and NPS output needs to become accurate. RTI (including the obligation to make more than one return annually and make nil returns) will increase rather than decrease burdens on and hence costs for employers. A de minimis for errors and items

returned late in payrolls is needed, definitions of earnings need to be clarified, the leavers and joiners process is unsatisfactory, the on or before payday deadline for submission of RTI returns will in many cases prove impractical for employers of workers paid on a daily basis, many international aspects are not catered for, and we question the assumptions and figures in the Tax Impact Assessment.

9. As noted in our evidence to the PAC (see Appendix 2), given that the former preferred strategic channel by which RTI reports are to be delivered, namely BACS, is unlikely to be ready until after April 2014, and will not be used in the pilot, we question whether RTI can meet the Government's objectives. We are also concerned about numerous practical issues such as adjustments to over-and under-payments of tax and NIC by employers, data security, employee identifiers, and end-of-year adjustments (particularly a risk with expatriates).
10. In order for employers and payroll software suppliers to plan and comply, we believe that HMRC needs to clarify its RTI plans. HMRC should publish:
  - a clear, robust and costed RTI strategy that clarifies how its proposals will meet the Government's objectives;
  - a clear timetable for developing the RTI channels, in particular the BACS channel, which we believe must be developed in parallel with the two other solutions and available and tested to a robust standard before RTI is mandated; and
  - a strategy to help all micro-employers, whatever their level of IT expertise and equipment to comply at minimal cost.

We do not think that the consultation document adequately addresses these concerns.

## GENERAL COMMENTS

11. We believe RTI is being pushed onto employers, agents and indeed HMRC far too quickly. There should be a period of time to allow HMRC's new NIC & PAYE Service (NPS) to bed down and also deal with at least the first year of penalties arising from the in-year online submission of forms P45 and P46.
12. There also appears to be little or no regard for employers who do not use computers. Many do not do so because they have no day-to-day or commercial/business need to do so and/or do not have access to broadband. It appears to us that they will need to incur the costs of using a payroll agent to enable them to comply with the requirements of RTI.
13. We are still waiting for HMRC to let us have the P14 processing statistics from when the submission of forms online started. HMRC cannot apparently process online submissions quickly enough to enable penalty notices to be issued less than four months after the P35 due date, so we question HMRC's ability to process RTI data on a monthly basis.
14. We question Statement 1 in the background of the Technical Note that 'Real Time Information (RTI) will improve the operation of Pay As You Earn (PAYE) by making the system easier for employers...'. Replacing a system that requires one year end report with one that could require up to 53 or more reports does not appear to us to be making things easier.
15. RTI will mean employers will report deduction data throughout the year, but no simplifications are envisaged to the actual payment of PAYE tax/NIC deducted. Although the majority of employees are employed by a relatively small number of very large employers, there is a large number of employers with five or fewer employees, and in many instances only one employee. HMRC's use of computer literate employers for its pilot may suggest better results than the reality when mandation is extended to other employers.
16. On the face of it, not having to complete end of year forms P35 and P14 sounds like a

reduction in compliance. However, the P60, or an equivalent certificate, will still be needed. So employers are not really saving time at the year end.

17. There are also additional burdens for employers who are within new reg 67D (ie exempt from the obligation to submit RTI reports by computer but allowed to submit paper returns monthly). For example, if employees are paid weekly, fortnightly, or four-weekly, this will only coincide with the monthly reporting requirement at certain times. In practice, as inaccuracies – with potential penalty implications – may arise from calculating payroll and submitting real time reports early, those who pay more frequently than monthly are likely to submit real time reports more frequently than monthly.
18. Although HMRC uses words like ‘strike the correct balance between the need to enforce the reporting of information and collection of tax’, we anticipate that the additional opportunities for employers innocently to get things wrong will lead to numerous automated penalties and Tribunal cases from 2013/14 condemning HMRC for its harsh treatment of employers.
19. We suggest that there should be a de minimis for errors and adjustments, and that the marginal items of pay NIC easement published on 24 June 2010 at <http://www.hmrc.gov.uk/pay/payroll/day-to-day/marginal.pdf> should be (a) extended to take account of the practical difficulties of getting data to payroll in time, especially where there is a foreign element or it involves an item such as a securities payment, and (b) consolidated into the legislation.
20. Lord Carter of Coles’ report of 22 March 2006 <http://www.hmrc.gov.uk/budget2006/carter-review.htm> Recommendation 23 – the ‘Carter Principle’ – says that new IT services should be capacity tested at least a year before implementation. The Government accepted the report in full. Having the first pilots starting in April 2012 with employers starting to be mandated to join RTI from April 2013 with all having been mandated by October 2013 contravenes this Recommendation.
21. We endorse the recommendations <http://www.publications.parliament.uk/pa/cm201012/cmselect/cmpubacc/1565/156504.htm> of the Public Accounts Committee in its report *HM Revenue & Customs: PAYE, tax credit debt and cost reduction* published on 23 November 2011 at <http://www.publications.parliament.uk/pa/cm201012/cmselect/cmpubacc/1565/156502.htm> to whom we gave evidence, namely:

**2. Increasing the accuracy of PAYE data is fundamental to implementing Real Time Information and stabilising the administration of PAYE.** The introduction of Real Time Information (RTI) is designed to allow the Department to update records as soon as taxpayers' circumstances change, making PAYE administration more accurate and efficient in the long run. RTI will significantly increase the amount of PAYE data collected, but it is still not clear how the Department will manage this additional data. The Department must have a clear plan for how it will use the increased volumes of data under RTI to update PAYE records. RTI is also essential for the Universal Tax Credit to function, so efficient implementation of RTI is vital.

and

**3. We are concerned that the implementation of RTI should have proper regard to employers in small- and medium-sized enterprises.** Not all employers process their wages and salaries through the Bankers' Automated Clearing Services (BACS) system, and therefore providing the detailed information required under RTI could place an additional burden on them. The Department should take advantage of the pilot phase of RTI to assess the impact on small- and medium-sized employers, and ensure that the system can be introduced without placing unnecessary burdens on them.

22. We should also welcome HMRC's reply to our evidence submitted to the Public Accounts Committee on 29 November 2011, published on 20 December 2011, at <http://www.publications.parliament.uk/pa/cm201012/cmselect/cmpubacc/1565/1565we05.htm> (reproduced in Appendix 2), subject to developments since November.
23. The consultation period for the draft regulations was from 14 November 2011 to 9 January 2012. Six weeks is insufficient consultation time on legislation that will affect virtually every person in the UK especially when that period not only includes the Christmas break but is at a time when most agents and advisers are dealing with time-sensitive declarations.

## **DRAFT REGULATIONS**

### **A Real Time Information**

#### **'Relevant payments' and 'General earnings'**

24. The draft PAYE regulations refer to 'relevant payments' (eg in draft Reg 47). The term 'relevant payments' is defined in Reg 4 Income Tax (PAYE) Regs 2003 (SI 2003 no.2682).
25. The draft NIC regulations (eg in draft Reg 11) refer to 'general earnings'. In the current NIC regulations 'general earnings' is defined in para 1(2) of Sch 4 Social Security (Contributions) Regulations (SI 2001 no.1004) by reference to a definition in ITEPA 2003.
26. The RTI report however requires details of non-taxable and non-NICable payments in order for HMRC to match the data they receive with payments made into the employee's bank account. We should welcome clarification as to how the regulations achieve this. HMRC should publish examples and provide a clear statement of what is and is not reportable.

#### **Deadline for submission of real time returns**

27. The requirement (in Reg 47 – new Reg 67B) that real time returns have to be submitted on or before pay day will make honest compliance impossible for employers who pay workers at the end of the day based on hours worked, often in cash. Sectors affected include farming, construction, catering and leisure. We should welcome clarification of how in these circumstances employers will be expected to comply with this rule without needing to lie about when the employee was paid if they are not to be penalised for being in breach of the rule. Given that many such employers prepare payrolls weekly, we suggest that a week's grace be allowed in such cases.

#### **Forms P45 and P46/leaver statements and new employees**

28. As, for cumulation to continue without a break, employers will continue to require year-to-date data for new employees, or in the absence of such data, will continue to need to ask the questions which are presently prescribed on form P46 in order to determine an appropriate code number, we question the wisdom of abolishing forms P45 and P46.
29. Unless RTI will be an instantaneous two way process enabling employers of new joiners to interrogate HMRC's systems and obtain year-to-date figures and code numbers for new joiners, which will in many cases be impossible as the previous employer may not have submitted the RTI report showing the employee as having left, the proposed abolition of forms P45 and P46 which respectively oblige the former employer to provide the data and the new employer to gather the data in a prescribed manner will be a retrograde step as cumulation will not be continuous. We note that HMRC has stated that RTI will ease compliance for

employers because they will no longer have to prepare forms P45, but this reduction in compliance burden is potentially far less than the compliance burden that will be imposed on employers of new joiners who will have to interpret non-standardised leaver statements and devise their own replacements for form P46. We consider that the provisions in new Reg 36ZA are insufficient and that, at least for the time being, both forms P45 and P46 should continue subject to the current statutory obligations including the HMRC-prescribed format.

30. We attended on 6 January a joint bodies meeting with HMRC to discuss P45/leaver statements. At the meeting it was noted that a possible ultimate outcome might be that employees who start a new job will not have to notify their code number and provide year-to-date figures to their new employer, as these data, including a new code number, will be provided by HMRC to the new employer once the new employer has sent in an RTI report showing the new employee. Presumably in the first pay period the employer would have applied an emergency code to the earnings, and the question arises of whether this code would be based on P46-type questions or the same code for all new employees (we would suggest that the former is likely to give a less inaccurate outcome for the employee although the latter is less burdensome for employers). We would also question how this system would work accurately for employees who are taken on for a single shift as casuals.
31. We recommend that at least for the transition (ie up to 5 April 2014) forms P45 and P46 continue to be used, as now, and then after 5 April 2014, ie, once all non-exempt employers are in RTI, leaver statements are issued instead, but only to employees if the solution referred to above is adopted.
32. We suggest that the leaver statement should show as a minimum the same data as a P60 but also include pension contributions (distinguishing amounts paid by employer and employee and whether out of net or gross pay – needed for self assessment purposes following the FA 2011 reductions in pension allowances) and student loan repayment data, and that HMRC should make available an example leaver statement to obviate the need for employers to have to design their own.
33. Leaving aside the speed at which HMRC can provide data to a new employer, the ability of HMRC to provide to the new employer data which enables cumulation to continue does depend on whether the old employer has stated on an RTI report that the employee has left. The fact that many employers presently delay issuing forms P45 may suggests that there are differing interpretations of when employees leave – is it when the employee stops work or the date on or in respect of which he receives his final regular salary or wage, or, in more complex circumstances, his bonus or redundancy payment, or when he was marched off the premises or finishes gardening leave? We should therefore recommend that for RTI the definition of when an employee is treated as having left is clarified.
34. We would comment that the leaving/joining process will work satisfactorily only if all payrollers are computerised and have access to the internet and HMRC processes the data and sends accurate code numbers etc to employers in as near as possible real time.

### ***New joiners***

35. An employer who is given a leaver statement by a new employee has to be satisfied that it is correct. We should welcome clarification of how the employer can be so satisfied.
36. A non-RTI employer who is given a leaver statement has to complete a blank form P45 part 3. This illustrates why it would be better to keep form P45 for all, at least until all employers are within RTI.
37. Code 0T has to be operated when the new employee fields are not completed with data verified by the employer. Will employers be aware of this and will they have sufficient checks

in place in time for the introduction of RTI? Some employees who are not highly-paid but are taxed under OT code will be disadvantaged by the early over-deduction of PAYE. There is likely to be serious disquiet over this once taxpayers realise what this means, so HMRC must have systems in place to issue a correct code before the next payday.

### **International aspects**

38. The regulations do not cover the Appendix 5 net of foreign tax schemes (ie PAYE schemes where credit for foreign taxes is given against the PAYE due). We should welcome clarification of how these are to be dealt with. Similarly the regulations do not appear to deal with Appendix 7A or 7B schemes (where there are modified NIC obligations).
39. It is not clear how payments should be reported when a s.690 ITEPA 2003 determination is in place. The regulations do not appear to refer to such cases. We should welcome clarification of how payments made under these schemes should be reported.
40. Many employers of employees assigned from the UK use an NT code merely to get their software to give the correct result. The software requires a code but there are no taxable/PAYEable earnings because the individual is non-resident with no UK duties. We should welcome confirmation that the RTI report will not be rejected owing to the inclusion of such an NT code, ie which has not been issued by HMRC.
41. We would also welcome clarification of how the system will work where an employee is paid by a non-UK employer, especially where the cash is paid into a non-UK account and there is no obligation on the employer to operate PAYE.

### **HMRC reference numbers**

42. Employers are required to supply both the employer and the accounts office references. Why are two references still required? They cause confusion, particularly for new employers.

### **Additional information about payments – ie nil returns and employees for whom P11 not needed**

43. New Reg 67F in draft Reg 47 provides that an employer ‘may’ make a return for a tax period in which no relevant payments were made. Presently, aggressive debt enforcement action by HMRC is rendering it necessary for employers to make nil returns to ensure that they are not pursued for payment of PAYE/NIC where none has been remitted owing to no liability having been incurred in the month. This is despite there being no obligation in the regulations to make a return where no liability to tax or NICs arises. In the light of this, we should welcome clarification of why the regulations will not make the making of a nil return obligatory. Hand in hand with this is needed a streamlining of the process both under which employers register with HMRC as nil, quarterly, annual, etc payment schemes and inform HMRC of nil payment liability and within HMRC so that HMRC DMB records are updated. Employers affected include sole-director companies where a salary is paid at or below the level at which any tax/NIC is payable or is paid periodically, eg at the end of the year, and employers of seasonal or casual workers.
44. We should also welcome clarification of whether employers will be obliged to make a real time return when they pay employees below the limit at which a P11 needs to be completed. It seems that this will have to become a requirement if the RTI system is to support the universal credit system, where correct weekly earnings are a prerequisite for the correct payment of benefits. This will be another new burden on employers that is not required under the current regime, rather than a simplification.

### **Failure to account for deductible tax**

45. New Regulation 75A(5)(b) in draft PAYE Reg 55 contains a notice period of seven days from the date of issue. This is wholly unrealistic, given the delays that HMRC experience in dispatching post, as evidenced by the time lags between dates cited on letters and dates of delivery, and the inherent delays in HMRC's postal arrangements. Is HMRC to start issuing email warnings and notices? If so, how are non-computerised employers to be handled?

#### **Information specified in Real Time return**

46. In Schedule A1 (New Regs 67B and 67D) after item 46 we suggest that the information on the cessation of employment include the fact that the employment has ceased by reason of death, as happens presently on form P45, as we are unclear how HMRC will become aware of the change in status of the taxpayer where the death is one which does not have to be reported to the UK Registrar of Deaths.

#### **B Closure of Simplified PAYE Deductions Scheme (SPDS)**

47. The proposal here implies that the affected employers are happy with the change (we should be interested to see HMRC's evidence of this) and have the necessary equipment and online access to implement this (the same point applies). This seems at odds with HMRC's proposal to allow these employers access to monthly paper filing under RTI.
48. As a supplementary point, once RTI is bedded in, how will HMRC be able to distinguish such employers from those who are not within the SPDS?
49. We should also welcome clarification of how HMRC will capture data submitted on paper in less than the usual six or so weeks that it currently takes to deal with post.

#### **TAXES IMPACT ASSESSMENT**

50. We note that the Exchequer Impact and Economic Impact are expressed to be, broadly, neutral although reduced fraud etc is likely to save money for the Exchequer. We should welcome clarification of where the estimates of savings came from; we are not convinced that these outweigh the potential adverse cost and compliance impact on employers for the setting up and implementation of RTI. We should also like to see HMRC's response to the recent HM Inspectorate of Constabulary (HMIC) report at <http://www.hmic.gov.uk/publication/hmrc-tax-credits-report-20111216/> that suggested that HMRC's tax credit systems can combat only error rather than fraud, and a detailed explanation of how the claimed reduction in fraud is to be achieved by using RTI.
51. We should welcome clarification of the statement by HMRC that business savings will only be partially offset by the new requirements under RTI. We believe that, particularly initially, costs to businesses will far outweigh any potential savings. The costs to micro-employers, which the government regularly claims to support, should be the subject of a detailed study, since these are the very businesses (and non-businesses) whose obligations are more likely to be costly, as they will need to engage agents or acquire software and skills in order to comply.

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**APPENDIX 1****THE 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 <http://www.icaew.com/~media/Files/Technical/Tax/Tax%20news/TaxGuides/taxguide-4-99-towards-a-better-tax-system.ashx> ).

**HC 1565 PUBLIC ACCOUNTS COMMITTEE****WRITTEN EVIDENCE FROM THE INSTITUTE OF CHARTERED ACCOUNTANTS IN ENGLAND AND WALES (ICAEW)****Real Time Information – Evidence for the Public Accounts Committee**

Submitted on 29 November 2011

*[Paras 1-6 Introduction and Who We Are omitted here]*

**Detailed Comments and Concerns*****The RTI Channels***

7. We understand that employers will submit data using RTI through one of three “channels”, namely:

- The preferred “strategic channel” using the BACS system, once that channel is ready (although this appears to be the preferred channel, we understand that BACS itself will not be ready when RTI becomes mandatory);
- An “interim channel” using the Electronic Data Interchange (EDI) system; and
- An alternative channel using the Government Gateway (the Gateway).

The timetable proposes that a pilot exercise will begin in April 2012 and that RTI will be mandated for large employers by April 2013 and all employers by October 2013, with a power for HMRC to mandate for specified employers before October 2013.

***The timetable for implementation***

8. RTI is an ambitious project with a very demanding timetable for implementation. In light of this, and based on past experience with other IT-based projects, most recently with the mandation of iXBRL accounts, we are concerned as to whether this demanding timetable can be met and whether RTI will be ready by the date when employers are mandated to use it. We are concerned in particular with the impact on those least able to comply, in the micro-employer category (according to DBIS figures in October 2011, over 750,000 private sector enterprises have no more than 4 employees, and there are also several hundreds of thousands of single-director companies and non-business employers).

9. In relation to meeting the DWP timetable, we understand that DWP does not intend (or will not be able) to use the data for current claimants until April 2014, and the full migration process is scheduled to take until 2017. Given that DWP will not be in a position to use the data until April 2014 we would have thought mandation of RTI should be delayed until that date.

***The RTI pilot exercise***

10. Although HMRC has stated that the preferred strategic channel for the delivery of RTI will be BACS, HMRC has acknowledged that this channel will not be available during the pilot exercise. Instead, RTI delivery will only be delivered through the two other “solutions” referred to above, namely EDI and the Gateway. The BACS route will only become available from a later date which has not yet been decided but which we understand will be April 2014 at the earliest, and possibly later. Thus, the BACS channel will not be available even when RTI is mandated, even though this is the preferred strategic channel.

11. We would welcome clarification of the statement that 90% of employees are paid by BACS, as our understanding is that the proportion is in fact much lower. While 93% of salaries and pensions are paid by BACS direct credit, the figure for wages is reportedly much lower, around 58% (BACS Payment Schemes Ltd figures), and we doubt that many of the 750,000-plus small or micro-employers use credit transfer rather than cash to pay wages.

12. If our understanding is correct, then all employers using EDI (usually larger businesses with sophisticated IT) will first have to adopt the interim channel and then later a final channel; even the minority of employers who use BACS currently for paying employees will have to invest in an interim solution. It is inevitable that this approach will increase costs for some employers, the software industry and HMRC.

13. The continued availability of the Gateway for submission of RTI information will be welcomed by many smaller employers.

### ***Delivery of the Government's objectives***

14. More generally, we are concerned whether RTI will deliver on the Government's objectives. We understand these are as follows:

- To minimise employee over-and under-payments by enabling correct PAYE code numbers to be issued on the basis of up-to-date information.
- To help HMRC to monitor and improve employer compliance.
- DWP will have correct and current data on employment income when assessing means-tested benefits such as the new universal credit.
- Submitting data using RTI should not impose undue burdens on business.

15. We have concerns as to how, without extensive manual input, the three separate channels for delivering RTI will interface with:

- The employee and pensioner/annuitant records on HMRC's NIC & PAYE Service (NPS)
- HMRC's systems within their Debt Management and Banking (DMB) section for accounting for PAYE tax and NIC paid by employers, and
- DWP's systems for means-testing and paying universal credit

16. If the RTI solutions over the next few years do not interface automatically with payments actually made, to employees and to and from HMRC in respect of tax, NIC, statutory payments and student loan deductions, and pension contributions, we do not see how HMRC will be able to make use of the data for compliance checking without referring back to employers, thus increasing burdens on business.

17. Given the above comments we are not convinced that the proposed solutions, in particular the interim solutions, will satisfy the first three of the Government's objectives set out in paragraph 14 above. We understand that technically BACS should be able, in due course, to deliver information from employers that meets the Government's objectives. However, unless and until HMRC release more information about how this channel will operate we do not know for sure if this will be the case.

### ***Increased admin burdens and costs***

18. As for the fourth of the Government's objectives set out above, we think that RTI will impose administrative burdens and extra costs on employers. Regardless of what channel is adopted, the fact remains that employers will now be required to submit extra information to HMRC on a monthly basis rather than at the end of the year. This requirement is bound to increase the burdens

and costs on businesses.

19. The Taxes Impact Assessment, published on 14 November 2011, states that “RTI provides HMRC with an opportunity to support the Government initiative to expand digital inclusion ... to include those who have not yet been part of the digital revolution.” We do not think that mandating e-filing obligations on those who do not have a business need to e-file “supports” digital inclusion: it does however impose extra burdens and costs on businesses with no clear benefit to them.

20. It is also far from clear whether RTI will produce any cost benefits for HMRC. The Taxes Impact Assessment shows no Exchequer savings before 2014/15 and expresses only an expectation that RTI data will “create opportunities for HMRC to improve its enforcement and compliance activities” and that “neither the resource impacts of any changes in this activity nor the resulting impacts on tax receipts and expenditure have yet been quantified”.

### ***Detailed concerns about how RTI will work in practice***

21. We are also concerned about how RTI will work in practice. We have summarised our concerns below:

- How adjustments to over-and under-payments of tax and NIC by employers will be dealt with in practice;
- Data security (both computer security and confidentiality risks, given that data will be available to other parts of HMRC and DWP, and that numerous employers will have to use computers in public places such as libraries and internet cafes to make monthly RTI reports online, although we acknowledge the availability of a paper return for a small number of cases);
- Employee identifiers (NINOs always take time to reach employers, and foreigners are supposed to provide passport numbers or equivalent details);
- End-of-year adjustments (owing to data received by payroll too late to be captured by when RTI data was originally submitted – this is particularly a risk with expatriates);
- Employers who are outside broadband coverage;
- Employers who do not use payroll software and/or are not computer literate, perhaps because they have no business need for a computer;
- exempt micro-employers taking the option to file on paper – we have not seen any draft returns, but the data required in an electronic return in respect of each payment can occupy over 100 fields in the BACS record, and this return is to be required monthly.

22. We suspect that there are many other practical problems that need to be addressed.

23. Regarding new joiners’ data (as RTI will not be providing data **to** employers, an HMRC provided standard format through which employers ascertain new employees’ year-to-date data will continue to be needed), we welcome the fact that, presumably in response to concerns previously expressed, the draft regulations published on 14 November 2011 do provide a “leavers statement” to replace the form P45 as tangible evidence of earnings and tax to date that employees can take to a new employer.

24. We should welcome confirmation that HMRC will provide a standard recommended layout on the lines of the current form P45 (and P46 for those who do not provide their new employer with a leaver statement) that every employer can follow, which will save all employers from having to design their own templates and ensure consistency of data transfer.

25. Abolishing the P45 will not obviously save employers any effort if they have to prepare and issue an alternative. Employers will no longer have to file a P14, but they will still be obliged to prepare a P60 end of year certificate for each employee, which is almost a carbon copy of the P14

that is to be abolished. Therefore, abolition of the forms P45 and P14 is not likely to save costs.

***Clarity about HMRC's RTI intentions***

26. In order for employers and the multitude of payroll software suppliers to plan and comply, we believe that HMRC needs to clarify its RTI plans.

27. HMRC should publish:

- a clear, robust and costed RTI strategy that clarifies how its proposals will meet the Government's objectives set out in paragraph 14 above;
- a clear timetable for developing the RTI channels, in particular the BACS channel, which we believe must be developed in parallel with the two other solutions and available and tested to a robust standard before RTI is mandated; and
- a strategy to help all micro-employers, whatever their level of IT expertise and equipment to comply at minimal cost.

We do not think that the consultation document published on 14 November 2011 adequately addresses these concerns.

28. We understand that it is the intention that the interim EDI channel is to be withdrawn at some stage in the future, but that the Gateway channel will remain available for the many employers who do not pay their employees via BACS. We should welcome an assurance that the Gateway channel will be permanent, once tested and judged reliable, and that HMRC will make available free software to enable any employer not using BACS to comply at minimal cost.