

Tax Representation



TAXREP 47/09

Compulsory online filing of Company Tax Returns and electronic payment of Corporation Tax: draft legislation

Representations submitted on 31 July 2009 by the Tax Faculty of the Institute of Chartered Accountants in England and Wales in response to draft regulations published on 7 May 2009

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INTRODUCTION

1. We welcome the opportunity to respond to the draft regulations for the compulsory online filing of corporation tax returns, published on 7 May 2009, and the accompanying directions, published on 19 June 2009. The drafts are available at <http://www.hmrc.gov.uk/drafts/ct-online.htm>. The updated impact assessment (RIA) can be found at <http://www.hmrc.gov.uk/ria/carter-ia-final1.pdf>.
2. We have responded separately to the draft regulations on compulsory VAT and payroll online filing and electronic payment, but the comments in this memorandum apply equally to those taxes.
3. Details about the Institute of Chartered Accountants in England and Wales and the Tax Faculty are set out in Annex 1. Our Ten Tenets for a Better Tax System by which we benchmark proposals to change the tax system are summarised at Annex 2.

KEY POINT SUMMARY

4. Whilst in principle we continue to support the move to online filing and agree that in time the benefits it offers will enable information to be processed more quickly and more accurately, we have always opposed mandation.
5. We cannot currently see any compelling business case to support compulsory use of XBRL by taxpayers and agents. The only perceivable benefits accrue to HMRC. In the absence of HMRC's requirement, we do not believe that very many businesses would adopt XBRL at this point in time.
6. There are a number of practical issues that remain unresolved.
7. For us to be supportive of the move there must be no additional net costs or administrative burdens for businesses. There will, however, as things stand currently potentially be additional costs and additional administrative burdens with no additional benefits for some businesses from the compulsory use of XBRL.
8. We have been working – and will continue to work - very closely with HMRC, who are aware of our concerns and we know that they are actively pursuing solutions with the software industry.
9. If HMRC believe that no additional burden will be imposed on businesses as a result of the move to XBRL then we would urge them to make that case clearly.
10. We note that the impact assessment ignores the cost to business of buying or upgrading computers and associated software.

11. Alternative solutions to XBRL do not appear to have been explored.
12. Lord Carter in his report published in March 2006, states in Recommendation 23 that to be fit for purpose, online services should not be implemented unless rigorous testing at least a year before implementation is successful. Although the Self Assessment on line filing system now appears to be performing very well, we continue to receive reports of e-filing problems with both customer facing and also with back office systems.
13. To meet both the spirit and the letter of Lord Carter's recommendations, we consider that compulsory online filing of corporation tax returns incorporating XBRL accounts should only be implemented when:
 - The benefits to business at least equal the additional burden imposed by use of XBRL.
 - XBRL, and in particular iXBRL, has been incorporated into the software products currently used by companies to prepare their accounts and tax computations for at least 12 months.
 - A solution has been available for 12 months to enable those companies and associations which currently use proprietary or bespoke software or Word and Excel to prepare their accounts to make those XBRL compatible without the need to rekey data.
 - The joint filing facility with Companies House is built, fully tested and has functioned properly for 12 months.
14. There should be no penalties for failing to file online using XBRL unless and until these conditions are met.

DETAILED COMMENTS

Business case for XBRL not made

15. We cannot see any clear business case to support a compulsory requirement for all companies and their agents to use XBRL. We think that there are likely to be additional costs to business and additional administrative burdens with no additional benefits.
16. There is no logical reason for requiring the smallest companies to use XBRL while large partnerships do not even have to submit their accounts.
17. Whilst we can see benefits to HMRC of having financial information tagged, it is as yet unclear exactly how this will be used for analysis.

Use of XBRL – no products yet tested and available

18. At the time of writing this response, there are no products available which currently incorporate the XBRL standard. Lord Carter in his report published in March 2006, states in Recommendation 23 that to be fit for purpose, online services should not be implemented unless rigorous testing at least a year before implementation is

successful. Our support for the Carter Programme is conditional on this principle, which has become known as the Carter Principle, being honoured.

19. The proposed regulations require online filing of Company Tax Returns using the XBRL standard for all returns delivered after 31 March 2011 for accounting periods ending after 31 March 2010. Whilst the current proposals for data tagging relate only to post trial balance sheet figures, the transactions leading to accounts for a company's year ended 31 March 2010 will already have been ongoing for several months. If software is launched later this year to overlay that which is currently being used, it seems inevitable that there will be some problems.
20. We consider that compulsory online filing should not be implemented until XBRL and in particular iXBRL has been incorporated into the software products currently used by companies to prepare their accounts and tax computations for at least 12 months.

Use of XBRL – companies which use Word, Excel and other products

21. Many companies and associations use Word, Excel or proprietary or bespoke software to prepare their accounts. They then give these to their accountant in hardcopy or pdf form and these are then used to complete the corporation tax return and computations for the year. The hardcopy (or pdf if the return is being e-filed) is then attached to the CT600 and submitted. Although we understand that a number of products are in development, there is no product currently on the market which can make these files XBRL compatible.
22. Without such products, the only solution is for the accountant to rekey the accounts data into another software package at the year end. The Impact assessment does not contain a cost for this, yet a large proportion of the 1.5 million companies affected by these rules will have to do this. These costs could be significant and represent an additional administrative burden to businesses.

Benefits of XBRL

23. The benefits of XBRL data tagging are undeniable in relation to financial analysis used by large groups, banks and financial analysts. However, this is largely irrelevant to smaller companies. The only possible benefit to these businesses is that HMRC will be able to process the data they submit electronically and with fewer errors, something which should be expected in any case.

Companies House

24. One of the promised benefits of compulsory e-filing using XBRL is that a joint filing facility with Companies House will be available. No date has yet been announced for when this will become available. It should be noted that the accounts required by HMRC and by Companies House are in many cases not the same.
25. As this is one of the only benefits to smaller businesses, compulsory e-filing using XBRL should be deferred until this is built, tested and been live for 12 months.

Security issues

26. We continue to receive reports of security problems. Not all of these are caused by HMRC systems failures, the business community also suffers regular breaches. However, the fact remains that a business which currently uses a stand alone computer to prepare its accounts, will need to upgrade its firewall and virus protection. This too carries a cost which is inadequately reflected in the impact assessment.
27. We remain concerned about business data security. Home computers used for purposes other than the business accounts are often insecure. Compelling small businesses to e-file will increase the likelihood of lost data or confidential business data accidentally being seen by others. Furthermore, those who are not wired up to broadband at their home or place of business might feel obliged to use a computer to file online in a public place such as an internet café or library. Physical data security then becomes an issue.

Lack of broadband

28. There remain large parts of the UK which do not yet have access to broadband. Even for those who are in broadband-enabled areas, having compulsorily to undertake business online with HMRC is going to cause hardship and/or difficulties to many businesses.

Lack of computer access

29. As noted in the research report commissioned by HMRC: [‘The Extent and Nature of the use of Computerised Accounting by Businesses to meet their VAT and Corporation Tax Obligations’](#) published in December 2008, 10% of businesses do not have access to a computer.
30. This is partly because the nature of some types of business, especially in the primary sector, means that they have no need for a computer. Many will rely on an accountant to submit returns for them. However there also remains a problem with computer illiteracy, particularly for smaller businesses often, but not exclusively, run by older individuals.
31. Such entities are either going to have to incur additional costs in buying a computer and training to use it to comply with HMRC online filing requirements, or pay agents to complete and file returns for them. The impact assessment does not include costs for the foregoing, but only registering on the website and HMRC customer support, thereby understating the cost to business.
32. Many of these are the very small businesses which can least afford additional costs, especially in a recession.
33. The cost of buying the simplest computer, without software or training, would be a minimum of £300. Assuming a three year computer life, a business broadband connection cost of at least £10 per month and a security package costing £30 per year, then the ongoing annual cost to just these businesses of just the computers, broadband connection and security will be £110 million. HMRC annual benefits are

estimated at just £64 million per year compared with a cost to businesses just for hardware, broadband and security of nearly double that amount.

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WHO WE ARE

1. The Institute of Chartered Accountants in England & Wales is a professional body representing some 128,000 members. The Institute operates under a Royal Charter with an obligation to act in the public interest. It is regulated by the Department of Trade and Industry through the Accountancy Foundation. Its primary objectives are to educate and train Chartered Accountants, to maintain high standards for professional conduct among members, to provide services to its members and students, and to advance the theory and practice of accountancy (which includes taxation).
2. The Tax Faculty is the centre for excellence and an authoritative voice for the Institute on taxation matters. It is responsible for tax representations on behalf of the Institute as a whole and it also provides services to more than 11,000 Faculty members who pay an additional subscription.
3. Further information is available on the ICAEW Tax Faculty website at www.icaew.com/taxfac or telephone 020 7920 8646.

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 TAXGUIDE 4/99; see <http://www.icaew.co.uk/index.cfm?route=128518>.