



TAXREP 50/13

(ICAEW REP 133/13)

ICAEW TAX REPRESENTATION

SHARING AND PUBLISHING DATA FOR PUBLIC BENEFIT

Comments submitted on 30 September 2013 by ICAEW Tax Faculty in response to HMRC consultation document *Sharing and publishing data for public benefit* published on 17 July 2013

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INTRODUCTION

1. ICAEW welcomes the opportunity to comment on the consultation document Sharing and publishing data for public benefit https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/223931/130717_Data_sharing_condoc_final_v2.pdf published by HM Revenue & Customs (HMRC) on 17 July 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. It is absolutely vital, in our view, that private data, submitted to HMRC by taxpayers, should be kept confidential and we note the criminal sanctions in Commissioners for Revenue and Customs Act 2005 if individual officers of HMRC breach that confidence.
8. One of the key Rights set out in Your Charter is that HMRC will respect your information and respect your privacy.
9. So it is going to be extremely important if some HMRC data is to be put into the public domain that the protection afforded to individual data is robust and that it must be made available in an aggregate or anonymised way without danger that the data could be disaggregated to reveal details of individual taxpayers.
10. Our members were much less convinced about the benefit of the controlled release of VAT registration data. As there is a data release research project which is being undertaken at the same time as the current consultation it would surely be appropriate to await the results of that project before any firm proposals are put forward.

RESPONSES TO CONSULTATION QUESTIONS

Q1 Do you agree that the legal constraints on sharing general and aggregate information should be removed, on a permissive basis, in respect of:

(i) HMRC making information generally available through publishing?

(ii) HMRC sharing information with specific third parties to deliver public benefits wider than HMRC's functions?

Please give reasons for your answers.

11. While we agree in principle that aggregate data from which it would not be possible to identify specific taxpayers should be able to be disclosed we feel that a better case needs to be made as to the public benefit from so doing which is specific to the type of data that is held by HMRC.

Q2 Do you agree with the proposed safeguards on the proposal to share general and aggregate data? Should any further controls be considered on what can be shared, with whom or how?

12. We are extremely concerned that with sophisticated modelling techniques it would be open to outside organisations to use aggregated data to identify individuals. These techniques are going to become ever more sophisticated and we would want to be convinced that sufficiently robust outside monitoring was in place to make sure that any release of data can only proceed once it had been reviewed against the latest modelling techniques available in the market place.

Q3 Do you agree that HMRC should be able to share anonymised individual level data for the purposes of research and analysis to deliver public benefits wider than HMRC's own functions? Please give reasons for your answer.

13. In theory we agree.

Q4 Do you agree with the proposed safeguards on the proposal to share anonymised individual level data? Should any further controls be considered on what can be shared, with whom or how?

14. We think that the safeguards that currently exist would appear to be adequate.

Q5 How should the generation and release of anonymised or aggregated data be funded? Please give reasons for your answer.

15. If there is a requirement to demonstrate a public benefit before such data is released, and that public benefit has been demonstrated, then we believe that the cost should be publicly funded.

Chapter 3 Publication of VAT registration data

Q6 What potential uses and benefits do you think would arise from publishing VAT registration data?

16. Our members did not come up with any potential uses and benefits and thought that, in practice, it would increase the ability of sales organisations to cold call etc.

Q7 Do you believe that the proposed safeguards are sufficient to mitigate any risks arising from publication? What, if any, additional impacts may arise and what further safeguards should be considered?

17. We think that the safeguards look, at first glance, to be acceptable.

Q8 Do you agree with the core proposal (Option A) to publish the VAT registration number, trading name and industry classification? Please give reasons for your answer.

18. Our members did not perceive any great benefit. If you need to check a VAT Registration Number (VRN) there is already the possibility to do this through the European Commission VEIS (VAT Exchange Information System).

Q9 What are your views on the proposal to allow exceptions or opt-outs to publication (Option B)?

19. The opt-out is unlikely to be exercised by a large number of businesses and we believe consideration ought to be given to an opt-in system.

Q10 What are your views on the proposal to publish additional data fields on a voluntary basis (Option C)?

20. We are not in favour.

Chapter 4 Controlled release of VAT registration data

Q11 Do you agree with the proposal for controlled release of the full set of VAT registration data to qualifying parties? Please give reasons for your answer.

21. The case has not in our view been made as to the benefit from this.

Q12 What uses do you see for VAT registration data (see full list at Annex C) that would generate sufficient public benefit to justify controlled release? Please describe the uses and benefits in as much detail as possible.

22. At the moment we cannot foresee the uses which would generate sufficient public benefit to justify controlled release.

Q13 What factors should be considered in determining the uses and parties that would qualify for release of the full VAT registration data set?

23. No comment.

Q14 Do you believe that the proposed limits and safeguards are sufficient to mitigate any risks arising from controlled release? What, if any, additional impacts may arise and what further safeguards should be considered?

24. No comment.

Q15 How should a controlled data release be funded? Please give reasons for your answer.

25. As in our answer to question 5 there is a case for not charging for the release of data that has a demonstrable public benefit.

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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)