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Transfer pricing documentation

Response by the Chartered Institute of Taxation

1 Executive Summary

1.1 The Chartered Institute of Taxation (CIOT) is the leading professional body in the UK for advisers dealing with all aspects of taxation. We are a charity and our primary purpose is to promote education in taxation with a key aim of achieving a more efficient and less complex tax system for all. We draw on the experience of our 19,000 members, and extensive volunteer network, in providing our response.

1.2 We support the policy aims of increasing certainty for businesses around transfer pricing documentation, and can see a potential benefit to both HMRC and taxpayers from improved risk assessment by HMRC and, therefore, better focused enquiries. However, the proposed measures would inevitably be burdensome and costly for businesses. It is important that each of the measures is justified on the basis of the expected costs and benefits. But it is also important to maintain an overview of the whole picture: are all the measures required?

1.3 Each of these measures will present different compliance burdens for MNEs that may be more or less significant depending on the business. However, it is probably correct that most groups that are in Country by County (CbC) reporting already will have master files, so a requirement to produce a copy of this would not be onerous. Preparing local files may be helpful from a perspective of consistency, but it is harder to justify the additional compliance burden on the basis that HMRC can already obtain the relevant information, and a requirement to produce an evidence log in support of a local file could be disproportionate. An international dealings schedule (IDS) could improve HMRC's ability to spot and evaluate risks, which, in turn could be of benefit to taxpayers by leading to more efficiency in enquiries, provided this is carefully designed and implemented alongside clear commitments from HMRC on how the data will be used.

1.4 We welcome the early stage of this consultation and that there will be further consultations around the detail; time should be taken in the development and design of the IDS measure in particular to ensure that it does its job from the outset, as the implementation for multinational enterprises (MNEs) would be very expensive, even for relatively simple businesses.

1.5 Each of these measures would produce a large amount of additional information for HMRC; we would like to be convinced of HMRC's capacity to process the additional information they would receive to good effect, in order to justify the additional compliance burden for businesses.

1.6 These measures will be judged by whether and how useful the information received by HMRC actually is (and is seen to be by MNEs), particularly the extent to which it reduces the burden of enquiries.

2 About us

2.1 The CIOT is an educational charity, promoting education and study of the administration and practice of taxation. One of our key aims is to work for a better, more efficient, tax system for all affected by it – taxpayers, their advisers and the authorities. Our comments and recommendations on tax issues are made solely in order to achieve this aim; we are a non-party-political organisation.

2.2 The CIOT's work covers all aspects of taxation, including direct and indirect taxes and duties. Through our Low Incomes Tax Reform Group (LITRG), the CIOT has a particular focus on improving the tax system, including tax credits and benefits, for the unrepresented taxpayer.

2.3 The CIOT draws on our members' experience in private practice, commerce and industry, government and academia to improve tax administration, and propose and explain how tax policy objectives can most effectively be achieved. We also link to, and draw on, similar leading professional tax bodies in other countries.

2.4 Our members have the practising title of 'Chartered Tax Adviser' and the designatory letters 'CTA', to represent the leading tax qualification.

3 Introduction

3.1 We refer to the *Transfer pricing documentation* consultation document published on 23 March 2021 and also the discussion we had with HMT and HMRC on the proposals contained in that consultation document on 11 May 2021. Our comments below reflect our understanding of the proposals following those discussions.

3.2 Our stated objectives for the tax system include a legislative process that translates policy intentions into statute accurately and effectively, without unintended consequences, which in turn will give greater certainty, so businesses can plan with confidence. It is also important to maintain a fair balance between the powers of tax collectors and the rights of taxpayers and a responsive and competent tax administration, with a minimum of bureaucracy.

3.3 We understand that the current requirements around transfer pricing documentation are being looked at due to the passage of time since the government adopted the minimum standard relating to the CbC reporting regime, which came out of the G20/OECD Base Erosion and Profit Shifting (BEPS) Action Plan and, specifically, Action 13. The government is considering whether to introduce a requirement for MNEs to keep documents in a standardised form as encouraged by the Action 13 Final Report and later incorporated into Chapter 5 of the OECD's Transfer Pricing Guidelines (2017) (TPG), and also to file an annual return summarising their cross border transfer pricing transactions with associated businesses. It is considered that this will ensure that the UK is more in line with the requirements of comparable jurisdictions.

3.4 We understand that the measures proposed are intended to serve different policy aims. The first, around the keeping and production of (if required) specific documentation (the master file and local file – including an evidence log) is intended primarily to have a behavioural impact, perhaps increasing the focus of transfer pricing throughout the year within the business, which will feed into the tax return. The second measure around keeping, and including with their annual return, details about material cross border transactions with associated enterprises (the IDS) is intended to provide HMRC with better data to inform its risk assessment and profiling.

3.5 We support the overall policy aims of all the measures of increasing certainty for businesses around transfer pricing documentation, and can see a potential benefit to both HMRC and taxpayers from improved risk assessment by HMRC and, therefore, better focused enquiries. However, the proposed additional compliance requirements would inevitably be burdensome and costly for businesses, particularly in the initial setting up or adaption of existing accounting and record keeping systems. It is important therefore, that, as well as reflecting on the responses received around the detailed design points of the measures, each of the measures is justified on the basis of the expected costs and benefits.

3.6 Each of these measures will present different compliance burdens for MNEs that may be more or less significant depending on the business. However, it is probably correct that most groups that are in CbC reporting already will have master files, so providing that would be significantly less onerous than, say, preparing a Profit Diversion Compliance Facility (PDCF) style evidence log – which would be a huge administrative burden. Broadly, though, compiling any information in a new format will be a significant additional burden at a significant cost for businesses, as almost invariably this information will not, in reality, be readily accessible in the format required through the businesses' existing systems.

3.7 Whilst we agree that preparing local files would be helpful from a perspective of consistency, and we also agree that MNEs should have sufficient records to be able to comply with the OECD's standardised approach, since, as we understand to be the case, HMRC is able to obtain the information it needs in the event of an enquiry, it is harder to justify the additional compliance burden of producing a local file. This is particularly the case if there is a requirement to produce and file an IDS, which will also serve to ensure the behavioural incentive around appropriate focus on transfer pricing within the business.

3.8 In our view the suggestion of a requirement to support a local file by some kind of evidence log (along the lines of what is required in the PDCF) could be disproportionate. This would result in a material amount of additional work, which would be particularly disproportionate in relation to the expected benefit for smaller groups. While it is not unreasonable for groups to gather evidence to support the facts included in their transfer pricing documentation, in reality this evidence may come from different sources and – as the relevant facts will be different for each group and the evidence available may have different weight depending on what is available – it will be challenging to legislate a regime that is consistent and useful that groups will be able to comply with if it is too prescriptive.

3.9 With regard to the proposed IDS, we can see how something along these lines could improve HMRC's ability to spot and evaluate risks, which, in turn could also help avoid as much corporate time being taken-up answering very basic questions, or on wild goose chases. It would be important to explore how this objective could be achieved in practice, in order to ensure that any new information requirements have a benefit, as well as being an additional burden, for taxpayers.

3.10 As a general point, we note that the result of each of these measures would be a large amount of additional information for HMRC. Therefore, throughout the development of any of these measures, we would like to be convinced of HMRC's capacity to process the additional information they would receive to good effect, in order to justify the additional compliance burden for businesses. It is important to focus on what HMRC would do with the data as part of the consideration and detailed design of any measure to ensure that an appropriate level of detail is required. The detail of the information that is required should have a purpose beyond being simply information that is routinely asked for during an audit.

3.11 In the long-run, these measures will be judged as to their success and reasonableness by whether and how useful the information actually is (and is seen to be by taxpayers). It would be useful, therefore, if there were clarity on how it would be used to determine whether it is likely to reduce the burden of enquiries. For example, would there be a re-thinking of how HMRC deals with transfer pricing enquiries and sufficient

resource invested in training compliance officers so that enquiries become more focussed as a result of the analysis of the additional data provided?

3.12 One way to explore these questions may be to run a pilot scheme with volunteer businesses and evaluate that before making any changes along the lines proposed compulsory for all businesses. This would enable HMRC to assess the new requirements and ensure that they achieve useful outputs, without overburdening business.

3.13 We welcome the early stage of this consultation and the confirmation during our discussions that this is the start of a process: any of the measures that are taken forward, will be the subject of further consultations around the detail. In particular it is recognised that the different measures may require different amounts of time to develop and design, and thus may be introduced in different time scales. In due course, time should also be allowed for businesses to develop their systems to produce what is required. Beyond a straightforward requirement to produce to HMRC a copy of a master file if one has already been produced within the MNE group, implementing the systems or means to comply with the other suggested measures will be very expensive, even for relatively simple businesses.

3.14 Throughout this ongoing process we would encourage HMRC to be specific and transparent in precisely what they are trying to achieve and how it will lead to more streamlined tax audits in order to get the right input from businesses on what information is appropriate, particularly with regard to an IDS.

3.15 We would also like to take this opportunity to suggest that due consideration is given to repealing UK to UK transfer pricing rules. Particularly following the UK leaving the EU it should be possible to repeal tax measures that were introduced solely to put beyond doubt that UK law complied with the then understanding of EU law; UK to UK transfer pricing is one such measure that warrants consideration for repeal. The consideration of imposing additional burdens in respect of transfer pricing documentation strengthens the case for the repeal of these rules.

4 Fairness across the taxpayer population within scope

4.1 It is suggested that any new master file requirement (and by implication local file requirement) should apply only to MNEs within CbC reporting groups. It is also suggested that the IDS could be required from all businesses in scope of UK transfer pricing legislation. Although this would exclude small and medium sized enterprises (SMEs), it would bring into scope of both measures businesses that are above the SME threshold, but are not large enough within the UK's corporate tax compliance framework to be within the Customer Compliance Manager (CCM) regime.

4.2 This introduces a significant disparity between businesses. Those without a CCM do not have access to the same level of help and guidance from HMRC as those who can speak to their CCM.

4.3 We appreciate that HMRC is not able to give tax advice, but it is very difficult for businesses that do not have a CCM to find someone within HMRC who is able to provide an answer to questions that the largest businesses could legitimately raise with their CCM. It seems unfair to impose additional burdens on taxpayers without the same level of support.

4.4 We suggest that consideration should be given to ensuring fairness as between taxpayers. This is an issue which is arising in relation to a number of different proposed compliance obligations; for example a similar issue arises in relation to the proposed requirement for large businesses to notify uncertain tax treatments to HMRC. One solution would be to set the cut off for these additional compliance burdens at the same level as that at which businesses become entitled to a CCM.

4.5 Alternatively, we suggest that the government should consider expanding the CCM regime so that all businesses which are generally considered to be 'large' for the purpose of additional compliance burdens are treated the same. We recognise that this would present a resource issue for HMRC and it may not be cost effective for these businesses to have a dedicated CCM. Therefore, at the very least, HMRC should ensure that there is a dedicated contact point to either a 'roving' CCM or, for the purposes of these particular compliance measures, to transfer pricing specialists so that groups without a CCM are able to ask practical questions that a CCM would answer, even if this were time limited for twelve to 24 months after the introduction of the measure.

4.6 We are aware that the government is currently conducting a *Review of tax administration for large businesses* with a view to considering what improvements can be made as HMRC continues to progress its 10-year *Tax Administration Strategy* and wider *Tax Administration Framework Review*. We suggest that the disparity between large businesses in relation to compliance burdens such as this are considered as part of that review.

5 Master file and local file

5.1 **Question 1: Do you agree that most MNE groups within the CbC reporting regime will already routinely be preparing master files to comply with the OECD's standardised approach and to comply with transfer pricing documentation requirements in other countries?**

5.2 Whilst it may be true that most MNE groups within the CBC reporting regime will already be routinely creating a master file, as is acknowledged, this is not necessarily the case. Thus whilst we agree with paragraph 26 of the consultation document that, if a group is routinely creating a master file, it will not be a significant additional compliance burden for a copy of this to be provided to HMRC, a new requirement to produce one for the UK's transfer pricing documentation rules would be a significant additional compliance burden. Clearly there would also be a cost to this.

5.3 **Question 2: In the event that a MNE reports that the group does not maintain a master file or that the master file is not within the power or possession of the MNE, what steps could be taken to ensure equality of treatment?**

5.4 In the event that an obligation is imposed on businesses that are not already producing a master file (and indeed with regard to what is required from those businesses which are), consistency with what is required by other jurisdictions in respect of master files, and clarity about what information is required, will be the most important factors in ensuring equality of treatment between businesses. In addition, within those parameters, careful consideration should be given to the level of detail expected. We would urge HMRC to encourage standard requirements internationally wherever possible. In addition, HMRC should not impose new rules requiring additional pieces of information that may be considered to be 'nice-to-have' but are of marginal importance, particularly if they add disproportionately to the administrative burden. We would prefer to see a UK master file requirement to follow as closely as possible the TPG. We recognise that some tax authorities have included additional information requirements and some flexibility may be desirable. However, the greater the divergence amongst jurisdictions, the harder it becomes for businesses to fulfil their compliance obligations and overall MNEs lose the benefit of the OECD's proposed consistent approach.

5.5 With regard to master files that are not in the power or possession of the UK entity of the MNE, as a practical matter, we would generally expect these to be made available to the UK entity in response to a specific compliance obligation. Perhaps to the extent that this does not transpire to be the case, this could be taken into account in the determination of whether reasonable care had been taken in the preparation of the tax return. That is to say that the inability to provide a master file compiled by the MNE group, but outside of the power or possession of the UK entity, should not be considering to imply a lack of reasonable care.

5.6 **Question 3: Do you agree that any new master file requirement should apply only to MNEs within CbC reporting groups?**

5.7 We agree that any new master file requirement should apply only to MNEs within CbC reporting groups. This would limit the compliance burden, at least initially, and enable proper assessment of what, if any, benefits arise for HMRC from receiving the additional information. This would help to determine whether changes for other groups would be worthwhile and proportionate to the compliance burden.

5.8 **Question 4: The government would welcome observations on the extent to which local file requirements align with transfer pricing documentation which MNEs already routinely maintain.**

5.9 The level of alignment between local file requirements and transfer pricing documentation which MNEs routinely maintain will vary greatly from business to business and also with respect of the various jurisdictions in which the MNE operates.

5.10 It is noted in the consultation document that the MNEs should already have sufficient records to demonstrate compliance with the OECD's standardised approach. However, we caution that HMRC should not over-estimate how well equipped MNE systems are to gather data, or how much work would be involved for the largest businesses to produce summaries of prescribed information in a prescribed manner.

5.11 In addition, if the assumption around the MNEs having the information is correct, then it is harder to see why a requirement to produce a local file will add value to the compliance process. For a long time the view has been that HMRC do not need local files because they can get this information elsewhere and the consultation document does not suggest that this is no longer considered to be the case. Inevitably, producing a UK local file will be an additional administrative burden. This burden is ongoing because businesses are large, diverse, dynamic and always changing. Further thought should be given as to whether a requirement to maintain a record of this information in a standardised format of a local file is proportionate to either the benefit that HMRC expects to derive from this or the compliance burden on the business to produce it.

5.12 **Question 5: The government invites comments on the possibility of issuing further practical guidance about local file documentation, including the possible requirement to maintain an evidence log or similar appendix**.

5.13 Clear and practical guidance from HMRC is always welcome. However, the production of guidance should also always reflect clear underlying legislation that translates policy intentions into statute accurately and effectively, without unintended consequences. Thus, compliance requirements on taxpayers should be clear even without guidance.

5.14 We are not convinced that a prescriptive evidence log is necessary and think that a requirement for one could be disproportionate as it would be difficult to legislate in such a way that would recognise the diversity in information and evidence that businesses will have, and without flexibility this would inevitably turn into a compliance exercise. In the event that one is required to be kept, the local file would provide a very detailed set of data and explanation that should be sufficient to provide HMRC with an indication of whether or not they believe the transfer pricing rules are being adhered to. Completion of an evidence log would be a significant additional burden and for the majority of taxpayers, who are compliant, this seems unduly burdensome.

5.15 We recognise that the concept of an evidence log is found within the PDCF in relation to diverted profits and tax and profit diversion more generally. While it may have some purpose within the context of that specific compliance facility, in our view it would be disproportionate to require all businesses to keep something similar for the purposes of transfer pricing documentation more generally. Outside of the context of a formal enquiry, in our view an evidence log would be disproportionate to any perceived benefit. Accordingly, it may

be more useful for HMRC to outline what evidence they would expect would be required to support the facts underlying transfer pricing analyses, without a prescriptive legislative requirement.

5.16 To the extent that the purpose of this consultation is to ensure that the UK has requirements around transfer pricing documentation that are similar to other similar international jurisdictions, and in accordance with the OECD's TPG, an evidence log is not required. This requirement is going beyond those of the OECD and other countries. We also recognise that there is a desire to be consistent with, what is expected for diverted profits tax investigations and PDCF reports. However, we suggest that it is reasonable that there should effectively be, and remain, a different level of requirements for standard documentation, especially for lower risk transactions, compared to documentation required for enquiries or compliance checks. Requiring documentation to be levelled-up to enquiry standard across-the-board would potentially lead to a lot of unnecessary and wasted effort.

5.17 **Question 6: Do you think that requiring MNEs within the scope of the CbC reporting regime to maintain [a] local file is proportionate?**

5.18 We understand that the policy intention behind this measure is a behavioural one: the requirement to maintain a local file would improve businesses' focus on how transfer pricing is conducted generally and in relation to the documentation it is maintaining for the purposes of compiling its tax return. Without a requirement to maintain an evidence log, maintaining a local file would be a more reasonable compliance burden on businesses that are already within CbC reporting regimes.

5.19 However, given that the intention is that a local file would only be required to be provided to HMRC in the event of an enquiry, we are not convinced that it is proportionate to place this significant additional compliance burden on all businesses, regardless of their current behaviour and standards in relation to transfer pricing compliance. If businesses are keeping the necessary information, and can produce this to HMRC in the event of an enquiry, why is it necessary to require standardised record keeping in the format of a local file as best practice in this regard? It seems a disproportionate burden on businesses if the majority of them are already maintaining good transfer pricing records, complying with the law and will never have to produce it.

5.20 Therefore, we are not convinced that any benefit to HMRC or to taxpayers from a requirement to maintain a local file would be proportionate to the compliance burden, particularly given our experience that HMRC have always considered that they are able to obtain sufficient information in the event of an enquiry.

5.21 The question of proportionality is more pronounced in relation to smaller businesses – would smaller groups be expected to collate and analyse as much evidence as larger groups? Similarly, what levels of detail would be required to be evidenced by, and in standardised documentation, in respect of low risk transactions?

5.22 In addition, we suggest that as well as considering the justification for and purpose of each proposed measure on its own, it is also important to maintain an overview of the whole picture. If an IDS is required, would that not also serve the policy intention of ensuring that there is sufficient ongoing focus on how transfer pricing is conducted within a business? Although a local file is more descriptive and an IDS more about providing numbers, even given these conceptual differences, HMRC should consider carefully whether both measures are required.

5.23 **Question 7: Do you agree that 30 days is an appropriate timescale for production of the master file and local file?**

5.24 On the basis that the measures would be a requirement on the MNE to produce a master file (if the MNE does not already have one) and maintain a local file throughout the year, and as part of its overall record keeping, the production of a copy of the same to HMRC within 30 day of a request to do so, is reasonable.

We understand that it is not the intention that the MNE is expected to produce the master file and local file within 30 days.

5.25 That said, it would be more reasonable to introduce an approach which could incorporate some flexibility, in particular for taxpayers which have a non-UK MNE group parent. It would be reasonable to allow companies to request a later deadline in certain circumstances to allow more time where, say, the production of the master file may not be within the control of the UK companies in the group (see paragraph [5.5] above).

5.26 **Question 8: What metrics would be appropriate to determine de minimis thresholds?**

5.27 We would welcome appropriate de minimis thresholds and thresholds around materiality in order to reduce compliance burdens. For example, we would encourage consideration thresholds using absolute limits (transactions over £x) or relative limits (transactions more than x% of group turnover) or general limits (material transactions), ensuring the requirements are proportionate to the size of a group and its intercompany transactions, which is the case in at least some other jurisdictions.

5.28 It may also be sensible to consider different thresholds for different types of transaction. For example, the risks to the Exchequer of an intragroup loan of £10m are likely to be small. But there could be significant questions about a case where services are being provided in an amount of £10m and they are not, say, simple back office services.

5.29 **Question 9: If a MNE considers all its transactions to be not material, should that mean the MNE is (i) required to submit an annual declaration to that effect or (ii) obliged to provide a short form local file upon request?**

5.30 We suggest that there should not be any 'simpler' reporting requirement or requirement to maintain 'simpler' standardised documentation (such as a short form local file). If all of an MNEs transactions are below a determined threshold that HMRC is comfortable with, why is it necessary to nonetheless impose additional compliance burdens?

5.31 We refer to our general comments encouraging HMRC to ensure that there are standard requirements internationally wherever possible. In addition, as we have commented above, in our view, HMRC should not impose new rules requiring additional pieces of information that may be considered to be 'nice-to-have' but are of marginal importance, particularly if they add disproportionately to the administrative burden. We also refer again to our general observations around requiring a case to be made as why an additional compliance burden is necessary in respect of information that HMRC can obtain in the event of an enquiry. It seems a disproportionate burden on businesses if the majority of them are already maintaining good transfer pricing records, complying with the law and will never have to produce.

5.32 **Question 10: With regard to the proposals in this chapter the government would welcome any other observations, comments or suggestions.**

5.33 We do not have any other observations, comments or suggestions.

6 International Dealings Schedule

6.1 The IDS concept is new in UK law and as such it would represent a significant change for MNEs and for HMRC in how transfer pricing compliance is approached. We understand that the intention is to allow HMRC to move towards a more automated risk assessment process. We can see that such a detailed report would give HMRC a clearer picture of the detail behind certain items in the tax return, making it much easier to identify transfer pricing issues that are not always clear from a set of accounts or corporation tax returns. We also understand that the lack of visibility of transfer pricing is a particular issue in the mid to lower end of large size of businesses

where there is not a strong CCM relationship; in this regard we refer to our comments at paragraph [4] above regarding the disparity between taxpayers with and without a CCM.

6.2 We also think that an IDS could be useful to businesses, particularly if the aim of allowing HMRC to better focus resources on problem areas translates into more focussed transfer pricing enquiries which would help to minimise the amount of corporate time taken-up answering very basic questions, or on wild goose chases. This would ensure that there is a benefit to taxpayers as well as an additional compliance burden.

6.3 However, as previously stated, as a general point we caution that HMRC should not over-estimate how well equipped MNE systems are to gather this data, or how much work would be involved for the largest businesses in producing an IDS. We welcome the acknowledgement from HMRC that further consultation would be undertaken in relation to the precise nature and scope of the proposed IDS, if the government is minded to take this proposal forward. Rather than comment specifically on all of the detailed questions posed in this chapter, we encourage HMRC to consult (as they are no doubt doing) specifically and directly with businesses and business groups about what data can easily be marshalled by MNEs, and how it could be presented most efficiently and effectively.

6.4 We have found in the past that HMRC's assumptions about how easy it is for MNEs to extract information from systems not designed to produce the specific data are unrealistic (for example, our discussions about obtaining HR data for reports for the Profit Diversion Compliance Facility). Although in theory everything in the IDS will be information that has necessarily fed into the tax return, it is not correct to assume that an MNE's systems already breaks the information down into the level of detail being considered for the IDS; for example accounting systems do not necessarily routinely break down sales figures between countries or identify related party transactions. In addition for a variety of reasons, MNEs usually have a large amount of different accounting systems across divisions or group companies.

6.5 To maximise its potential usefulness, the IDS should be carefully and slowly designed with businesses to ensure focus on things that really matter and will make a material difference. The data that would be required should be limited to what would be useful for transfer pricing purposes. For example, referring to paragraph 42 of the consultation document, we are not clear why details of 'Compensation, Receipts and payments of a non-financial nature' are considered useful to transfer pricing analysis. It will also be important to get the level of detail right – if the information is too granular, the amount of additional work will be disproportionate to its usefulness. We would encourage HMRC to seek to ensure rules that are consistent with what is done in other countries so far as possible, recognising that there is already divergence between jurisdictions. Members suggest that something along the lines of what is required by Denmark would be preferable to that which is required by Australia.

6.6 We would welcome thresholds and materiality limits to reduce the compliance burden. In particular, we suggest that there should be exemptions for transactions below a certain aggregate value, at least certain types of transactions, so that these are not reportable either on a standalone basis or as an aggregate. A lot of time could otherwise be spent chasing details of tiny, incidental flows of goods or services. That is not helpful for HMRC or the taxpayer.

6.7 Given the level of work that would be required by MNEs to put systems in place to produce an IDS, we strongly urge HMRC to work with businesses to identify the additional information that really would add value to HMRC's risk assessment capability and enable risks that are not currently identified to be dealt with. It would be very detrimental for MNEs confidence in the UK tax system and HMRC if the compliance requirements around an IDS are introduced, and then modified in subsequent years due to lack of careful design – as this would likely result in a significant duplication of cost for MNEs. The aim must be to build a good IDS from the outset, that is useful to HMRC and can demonstrate benefits to the taxpayer too. In addition, it will be important that there is transparency around the greater degree of automated risk assessment carried out by

HMRC because of receiving IDS. Algorithms that are used for this risk assessment should be made public as these are, in effect, the digitalisation of HMRC manuals, reflecting HMRC's position on any issue. Taxpayers need to understand that in order to comply and to avoid disputes.

6.8 Once designed, it will also be important to allow sufficient lead in time to in order to allow businesses to prepare their data-sets and investigate automation. With regard to submission (question 17), we suggest that the IDS takes the form of a stand alone schedule that can then be submitted under the Government Gateway. This would be preferable to having a supplemental page on the CT600 to accommodate groups with less sophisticated accounting systems. It would allow those groups to still use Excel to prepare the data and that could then be submitted in Excel or as a PDF. The IDS could be submitted with the tax return. It could be linked to the CT600 by a box where the taxpayer ticks to say whether or not an IDS is being submitted with the return (which allows small and medium businesses to say 'no'). The CT600 box would also need to allow the taxpayer to say 'no, but being submitted by X'. ie on behalf of the entity whose return is being submitted.

7 Acknowledgement of submission

7.1 We would be grateful if you could acknowledge safe receipt of this submission, and ensure that the Chartered Institute of Taxation is included in the List of Respondents when any outcome of the consultation is published.

The Chartered Institute of Taxation

2 June 2021