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The Tax Administration Framework Review – Information and Data[1]

HMRC consultation document

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 HMRC making better use of third party data. As we move towards increased digitalisation of the tax system and the economy in general, a taxpayer should not have to give HMRC information that HMRC already have in their possession if they have received that data from elsewhere.

1.3 It will be important that the data provided to HMRC by third parties is accurate, and any scope for error in either the figures provided or in matching the data to the correct taxpayer is minimised. Clear guidance will need to be provided so the taxpayer knows that they need to check the data, and that they understand how to correct it if it is inaccurate. If there are discrepancies or misallocations, it should be easy for the taxpayer to correct any inaccuracies in the data.

1.4 We support retaining the principle that UK taxpayers are responsible for the overall accuracy of their own tax return(s), including supporting information and data.

1.5 HMRC should consider, with input from external parties, the interaction between third party data provision, and Making Tax Digital (MTD). MTD for Income Tax Self-Assessment (ITSA) will require those in scope to maintain digital records and submit quarterly updates to HMRC. If third party data can fulfil part of those requirements – particularly in relation to income – there might be scope to relax some of the requirements of MTD.

[1] https://www.gov.uk/government/consultations/the-tax-administration-framework-review-information-and-data/the-tax-administration-framework-review-information-and-data

1.6 We do not necessarily agree that the increasing use of data is a reason for broadening HMRC's information powers as suggested in the consultation document (with the associated risks of weakening of taxpayer, and particularly third-party, protections). While a less prescriptive and more flexible approach might be acceptable for the Schedule 23 bulk data gathering powers, generally, there are reasons for the restrictions in the UK legislation that empowers HMRC to obtain information, including restricting information to what is reasonably required and not exposing third parties to unnecessarily burdensome information collection obligations. In our view, for the Schedule 36 type information powers in particular, a prescriptive approach is best to allow sufficient parliamentary oversight and ensure adequate legislative safeguards.

1.7 Simplification and modernisation of tax related processes should accompany any changes to HMRC's information and data-gathering powers. The CIOT, like the Government, is keen to see tax simplification embedded in the UK's tax policy process and administrative design of the tax system and has identified several processes which we think the Government should introduce to deliver on its promise and demonstrate its commitment to tax simplification[2].

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 This consultation document is seeking views on how HMRC's information and data-gathering powers could be updated to enable digital transformation of taxpayer services, improve HMRC's compliance capabilities, and reduce administrative burdens.

3.2 The consultation document is split into three parts:

[2] See the joint professional bodies' letter to the FST dated 5 April 2023: https://assets-eu-01.kc-usercontent.com/220a4c02-94bf-019b-9bac-51cdc7bf0d99/1568f452-e94d-4147-91f3-0465df636f5f/230405%20Joint%20professional%20bodies%20letter%20to%20the%20FST%20re%20tax%20simplification.pdf

a. Section 2 is an overview of international approaches to data-gathering, information and inspection powers. Question 1 asks for other examples, as well as drawbacks or advantages in those approaches.

b. Section 3 and questions 2 – 8 are concerned with HMRC's data gathering powers, primarily under Schedule 23 Finance Act 2011. The consultation document discusses opportunities to update these powers. It considers the use of third party data by HMRC, pre-population of tax returns, who is responsible for the accuracy of the data, what processes should be available to challenge and resolve discrepancies in the data and it discusses HMRC's 'Unique Customer Record' programme to help assist data-matching. It also covers standardisation of information and data provision by third-party data holders.

c. Section 4 and questions 9 – 13 are concerned with HMRC's information powers under Schedule 36 Finance Act 2008. This legislation provides for the issue of information notices requiring a taxpayer or third-party to provide HMRC with information, data, and documents, which allow HMRC to check an individual's tax position. The consultation document considers current challenges that have been identified by HMRC and discusses various suggestions which they consider might help to improve and update the process.

3.3 The CIOT's stated objectives for the tax system relevant to this consultation document include:

- A legislative process that translates policy intentions into statute accurately and effectively, without unintended consequences.
- Greater simplicity and clarity, so people can understand how much tax they should be paying and why.
- Greater certainty, so businesses and individuals can plan ahead with confidence.
- A fair balance between the powers of tax collectors and the rights of taxpayers (both represented and unrepresented).
- Responsive and competent tax administration, with a minimum of bureaucracy.

4 Question 1: Do you have any other examples of international approaches to data-gathering, information and inspection powers you think it would be helpful for HMRC to explore? Are you aware of any drawbacks or advantages in the international approaches mentioned within the examples that you would like to draw our attention to?

4.1 We have no examples of other international approaches.

4.2 With regard to the international approaches mentioned in the consultation document, we would be cautious in deciding whether any of the various powers might be suitable for use in the UK's tax administration system. As a general point, we think it is hard to make international comparisons because no tax system is the same.

4.3 It will be important to minimise any unforeseen consequences from implementing powers in the UK that appear to work well elsewhere in the world. The tax systems in overseas jurisdictions will be different to the UK's so it could be risky to adopt powers they use – even those that sound potentially attractive - without

fully understanding how they fit into the rest of their tax administration frameworks, what similarities there might be to the UK's system or establishing first what changes or improvements will be required to make the UK's framework work better.

4.4 There is sometimes a lack of clarity over the rights and obligations of various parties in the UK tax return process, whether they are the taxpayer, HMRC, an agent, or another third party. Mapping out things in much the way one does for Senior Accounting Officer compliance could be a useful way to establish what these should be (as in Slovenia).

5 Question 2: UK taxpayers are responsible for overall accuracy of their return(s), including supporting information and data. This reflects practice in OECD partner countries, which pre-populate taxpayer return(s):

A. What are your views on retaining the principle that taxpayers are responsible for accuracy of their return(s)?

5.1 The UK should retain the principle that taxpayers are responsible for the accuracy of their returns.

B. What process(es) should be available for challenging and resolving discrepancies in information and data pre-populated in taxpayer return(s)?

5.2 If there are discrepancies in the data that has been pre-populated into a return, the taxpayer should not have to 'challenge' that. A taxpayer should be able easily to correct inaccurate data in their return themselves. It should be a simple process for them to provide HMRC with the correct figure, for example by overtyping the incorrect figure. To minimise taxpayer error, the taxpayer could be asked whether they agree with the pre-populated data. An optional box could be provided for taxpayers to use to give HMRC an explanation or further information if they disagree with the pre-populated data. Warning prompts and nudges in tax return software could be utilised to warn the taxpayer of the consequences of submitting incorrect information. However, we consider that HMRC should only introduce these if they are to be available to all taxpayers regardless of whether they use HMRC's system or engage an agent who uses proprietary software to prepare the return – the agent needs to see what pre-populated figures/data HMRC hold. HMRC's systems should similarly be designed to identify whether a taxpayer has amended pre-populated amounts. If HMRC need further information or disagree with the overtyped figure, they can make further enquiries.

5.3 Represented taxpayers will expect their agents to sort out discrepancies with third party data, so agents must be able to overtype incorrect data too, and deal with any subsequent enquiries from HMRC under s9A TMA 1970 (or the equivalent).

C. Are there any specific alternative approaches to accountability HMRC should consider?

5.4 So long as it remains the taxpayer's responsibility for the accuracy of their tax returns, it would be illogical and improper to require them to contact third party data providers to resolve discrepancies. This would be extremely onerous for the taxpayer and could cause a great deal of stress and worry, particularly if the discrepancy is large. It would be more burdensome than the current regime where it is the taxpayer's responsibility to enter the correct figure onto their tax return. The impact on third party data providers would also be significant, increasing their costs which would ultimately be passed on to their customers. Further, a statutory obligation may need to be placed on those third parties to require them to resolve queries within a

specific timescale and subject to specific rights of appeal etc. This would seem rather excessive, particularly at a time when the Government has committed to simplifying the tax system. Of course, a taxpayer may wish to understand why incorrect figures were pre-populated, and this might necessitate contacting the third party (and HMRC), but this should be voluntary, rather than mandatory.

5.5 HMRC will need to raise awareness among taxpayers so they know they must check pre-populated figures and not just assume they are correct. The more information that is provided by HMRC to explain where the pre-populated figures have come from the easier it will be for the taxpayer to check them (for example, the name of the third party data provider, account number (if relevant), and so on). It would be helpful if the pre-populated data was split out per account or income stream, rather than simply a total amount. Consideration should also be given to introducing a legal requirement for all third party data holders to provide their customers with a copy of the information they send to HMRC, at the same time that they send it to HMRC. This would have the advantage of giving taxpayers more time to resolve queries with the data. Third party data holders should be legally required to correct data submitted to HMRC if they become aware (for any reason) of mistakes in it. We recognise that this could all potentially place additional costs on the data holders so we would recommend that this is consulted on.

6 Question 3: In considering potential reforms by HMRC's of its information and data-gathering powers, and applicable safeguards:

A. What are your views on the prescriptive framing of HMRC's current information and data powers?

B. What are your views on HMRC adopting a flexible approach to its powers, such as that used by Australia and Estonia?

C. What are your views on alternative approaches, such as the Slovenian approach set out above?

6.1 These are various references in the consultation document to the UK's rules being 'prescriptively defined', which suggests an interest in moving towards more flexible legislation and broader information powers. While a more flexible approach might be acceptable for the Schedule 23 bulk data gathering powers, generally, there are reasons for the restrictions in the UK legislation that empowers HMRC to obtain information, including not exposing third parties to unnecessarily burdensome information collection obligations. In our view, for the Schedule 36 type information powers in particular, a prescriptive approach is best to allow adequate parliamentary oversight and ensure adequate legislative safeguards.

6.2 Being a stage one consultation, it rightly does not set out specific options for consideration but gathers general feedback. However, we feel it would be appropriate to look more closely at HMRC's existing powers, and outline where they are considered to be deficient, and where there are gaps which need filling. Therefore, any changes can be directed at a specific need, rather than simply accepting the broadening of information powers in the name of modernity.

6.3 With regard to the international comparisons with Estonia and Slovenia, we note that the introduction of a more flexible approach to information and data-gathering powers appears to have been accompanied by a simplification and modernisation of tax related processes. Simplification should go hand-in-hand with any changes to HMRC's information and data-gathering powers. The CIOT, like the Government, is keen to ensure that tax simplification is embedded in the UK's tax policy process and administrative design of the tax system

and has identified several processes which we think the Government should introduce to deliver on its promise and demonstrate its commitment to tax simplification[3].

D. Would it be beneficial to taxpayers for HMRC's current, and/or reformed powers to be consolidated into a single piece of legislation?

6.4 We can see merit in consolidating powers in a single piece of primary legislation, with secondary legislation used to flesh out the detail (providing greater flexibility for changes to reflect developments, while retaining a degree of Parliamentary and judicial scrutiny). It will be essential for taxpayer protections to be in primary legislation (not only in guidance or regulations).

7 Question 4: What are your views on aligning data-holder requirements and considering a mandatory requirement for data-holders to collect and provide HMRC with common information and data fields to support better matching?

7.1 In principle we agree with this, provided the information and data remains necessary to determine a person's tax liability, and that existing safeguards remain in place. It should help HMRC process the data more efficiently. However, we have no insight into what additional costs and burdens this (and the other proposals in the consultation document) might impose on third party data holders. Targeted consultation with this sector should be undertaken.

8 Question 5: What are your views on:

A. The advantages, disadvantages, or any specific considerations of HMRC introducing unique taxpayer identifier(s) to enable more accurate information and data-matching to improve tax administration, including fuller pre-population of taxpayer returns?

8.1 We agree that a robust method for accurate identification and matching of taxpayer information and data is required and concur with HMRC that National Insurance numbers (NINOs) are not suitable for the reasons stated. However, we are not convinced that a completely new unique taxpayer identifier(s) is desirable.

8.2 A taxpayer identification number already exists exclusively for use when individuals transact with the UK tax system / HMRC (the 10-digit Unique Taxpayer Reference[4] (UTR)). Whilst not all taxpayers have a UTR it would surely be better to give all taxpayers one rather than issuing another number to everyone. However, we recognise that there may be challenges with this approach since identity is proved for the NINO but the UTR is simply an allocation by HMRC which they can only do because they have the individual's NINO to rely on. If the UTR were to become the default, then HMRC would need identity verification which would duplicate the NINO verification. Likewise, there may be unintended consequences and / or criminal exploitation of UTRs if they are used as a unique identifier for more accurate data matching, so a change the law may be required to make the third parties keep the UTRs secure.

[3] See the joint professional bodies' letter to the FST dated 5 April 2023: https://assets-eu-01.kc-usercontent.com/220a4c02-94bf-019b-9bac-51cdc7bf0d99/1568f452-e94d-4147-91f3-0465df636f5f/230405%20Joint%20professional%20bodies%20letter%20to%20the%20FST%20re%20tax%20simplification.pdf

[4] A UTR is issued by HMRC when a person registers for Self Assessment.

8.3 If the taxpayer identification number's only purpose is to help streamline taxpayer identification and data matching 'behind the scenes' between third party data holders and HMRC (rather than issuing it to the taxpayer), then a new number might be more suitable. However, limiting its purpose in that way could reduce its usefulness, for example in matching data provided by the taxpayer directly to HMRC. It depends on the extent of the functionality the number will be required to cope with in the long term, so it needs to be fit for purpose from the outset.

8.4 If there is a desire to move towards a new identifier, we can see benefits in making this a cross-government one. For example, during COVID, many people had to become familiar with their NHS number, as well as their NI number, and of course taxpayers need to know their UTR and so on. A single identification number, while requiring strong levels of security, would vastly increase the prospect of accurately matching data. Further, as access to the use of government services is increasingly centralised, a single identification number might be beneficial.

B. Similar approaches used by partner OECD countries?

8.5 We do not have any insight into approaches used by partner OECD countries. All we would say is that it makes sense for data formats and schemas, and unique identifiers, to be as consistent as possible across different tax authorities to avoid duplication of effort and make data-matching easier.

C. Alternative unique identifier(s), or data-matching mechanisms which could be utilised to improve tax administration, including fuller pre-population of taxpayer returns?

8.6 No comments.

9 Question 6: What are your views on the advantages and disadvantages of adopting a set of 'schema' like the OECD model, to standardise information and data reporting from third parties? If HMRC were to explore this further, how should any new obligations in this area be structured?

9.1 Standardisation is a good plan and will hopefully facilitate some form of process automation by the third parties providing the bulk data and HMRC in processing what it receives, which would help drive efficiencies and reduce costs and burdens in the long run. OECD schema may be a good starting point.

9.2 Schema are not suitable for Schedule 36 information requests which tend to be more ad hoc and focussed on compliance, compared to the bulk data gathering powers in Schedule 23.

10 Question 7: What are your views on adopting a different approach for submitting information and data on a regular basis to HMRC, including alternatives to the current notice regime?

10.1 The proposals outlined seem reasonable. If the law could simply provide that (for example) financial institutions always needed to supply interest data in the prescribed format, rather than HMRC needing to give them a notice annually to supply the data, that would in principle modernise and simplify the current rules. However, any new rules should be consulted on to ensure that these standing reporting obligations are reasonable and proportionate and contain adequate safeguards for third parties and taxpayers.

11 Question 8: What are your views on the frequency with which information and data should be reported to HMRC, particularly with a view towards the increasingly real-time nature of tax reporting, and other taxpayer services?

11.1 It will depend on the type of information being reported to HMRC. Rather than introducing common rules which apply to all types of information and data, consideration should be given to individual types of data, and the purpose, benefits and costs of its collection. For example, with the proposed introduction of Making Tax Digital (MTD) for Income Tax Self Assessment (ITSA) prompt quarterly reporting of trading and rental income, such as from online digital platforms, would be useful (see paragraph 11.2 below). On the other hand, information to complete an annual tax return for those outside MTD, such as bank interest, might only be needed annually (albeit promptly if to be of most use).

11.2 Consideration should be given to the interaction with other initiatives. For example, MTD for ITSA is due to be introduced from April 2026. This requires those in scope to keep digital records and provide updates to HMRC at least quarterly. There is merit in exploring the interaction between third party data and MTD, as many of the objectives of MTD might be met through the provision of third party data. We note, however, that it is unlikely that systems to pre-populate third party data in this way would be ready by April 2026.

12 Question 9: Do you agree that these are the main challenges with the information notice process as set out in Schedule 36 Finance Act 2008? In your view, are there any additional challenges HMRC should consider?

12.1 Yes, the challenges listed in the consultation document exist. There are others, which generally concern the way in which HMRC apply their Schedule 36 powers, not the way in which the legislation is formulated.

a. HMRC will often issue a formal Schedule 36 information notice despite the taxpayer trying to respond on time to an informal request for information, often with their agent's help, but despite best efforts they are unable to meet the deadline set by HMRC. This can often be because of the need to involve a third party, eg a bank, to obtain the requested information - but the third party is not responding quickly enough. Issues with deadlines can arise for various other reasons including due to the volume of information being requested. Whilst Schedule 36 notices can be helpful if a taxpayer is ignoring HMRC's requests, if there are genuine difficulties in meeting deadlines then it would be helpful if HMRC avoided issuing a notice so early in the process.

b. This has a knock-on effect as the taxpayer is perceived as 'not having worked with HMRC' and it can impact / prevent a potential reduction of the penalties applied (under Schedule 24 FA 2007). This is because if a Schedule 36 notice is issued the reductions for 'telling', 'helping' and 'giving access' may be restricted. If the notice was issued despite the taxpayer doing their best (eg because a third party has let them down) then they will face extra penalties (a real cost) due to no fault of their own.

c. HMRC usually specify 30 days to reply to a Schedule 36 notice, but often this is not realistic or achievable. Sometimes a lot of information is requested that will take time to obtain. HMRC's notices can often take two weeks to arrive, so the recipient then only has two weeks to gather the information, write the response and submit it to HMRC, including seeking professional advice if needed. More thought should be given about appropriate deadlines that take account of a taxpayer's

circumstances, the extent and nature of the information being requested and external factors (Christmas, year ends, postal strikes). That would reduce the number of calls for extensions.

d. If apparently unreasonable deadlines are set, particularly where the information requested is voluminous and / or irrelevant, then taxpayer may feel that the HMRC officer lacks an understanding of the case and / or lacks an appreciation of what they are asking them to do. This can undermine the taxpayer's trust in HMRC and increase the chances of the taxpayer challenging HMRC's decisions later in the compliance check.

e. A 30 day deadline may be appropriate in cases where the notice is underlining previous requests. Demanding information in 30 days from first mention of it is unreasonable, but demanding information in 30 days when HMRC first asked for it three months ago and have sent a couple of reminders is not. HMRC should be mindful of its Charter commitments, particularly 'treating you fairly'. We also note that HMRC are currently struggling to meet their commitment to 'being responsive'. HMRC should not be requiring taxpayers to comply with voluminous information requests within 30 days, when they are typically taking many months to responses themselves.

f. Information requests can be vague, unfocussed and onerous, particularly early on in a compliance check. If HMRC ask for a lot of information (eg thousands of emails) then this will impact on the duration of the compliance check, the costs for the taxpayer to deal with it and the time and resources required to manage it (both for the taxpayer and for HMRC).

g. The information does need to be reasonably required to check the taxpayer's UK tax position. In addition, the Litigation and Settlement Strategy (LSS) sets out that a collaborative approach should be used and the risks set out at the earliest opportunity. HMRC should aim to narrow their requests to address the tax risks they are concerned about in line with what they are statutorily permitted to ask for. This would help compliance checks run more efficiently which is in everyone's interests.

13 Question 10: What are your views on HMRC exploring the introduction of a more graded information and data power to reduce administrative burdens and delays for taxpayers and HMRC? Do you have any suggested alternative approaches that could help to improve the process for taxpayers and HMRC?

13.1 We are not in favour of a more graded information and data power. In our view having different grades of power and different rules for each would increase complexity, not simplify the process or reduce delays as HMRC suggest. There is effectively a graded system already because the majority of cases are dealt with informally without HMRC resorting to using their formal powers. In addition, HMRC already have the power to deal with taxpayers who are non-cooperative through the penalty system.

13.2 In the consultation document HMRC say that they could deploy greater flexibility in the timescales, scope and format of the information and data they request where taxpayers engage in a collaborative way. We agree that it would be better for HMRC to adopt a more flexible approach to gathering information, but we would suggest that they can do this anyway within the framework of the LSS without needing to change the existing legislation. For example, they could engage more frequently and promptly with taxpayers (and agents) early on in the compliance process to explain their areas of concern and the risks identified, to agree the extent of the information they require and why, to understand the taxpayer's situation (and any special circumstances they should be aware of) and by setting more realistic deadlines. HMRC should reserve their formal

information powers for cases where there is evidence of a lack of cooperation and compliance, such as lengthy delays in the taxpayer responding with little or no explanation, incomplete or irrelevant responses or no response at all.

13.3 The suggestion that HMRC could use more flexibility where taxpayers 'engage in a collaborative way' seems inappropriate. Sometimes HMRC ask for information which is not reasonably required or relevant and the taxpayer is within their rights to refuse to provide such information. This should not result in a taxpayer being viewed by HMRC as uncollaborative.

13.4 There is the suggestion in the consultation document that HMRC could apply a different set of penalties or even bypass the internal review process in cases where the taxpayer has a history of non-compliance with previous information notices or there is evidence of deliberate non-compliance. As mentioned, the penalty system already provides scope for dealing with uncooperative taxpayers, so there is no need to introduce different penalties which would only increase an already complex penalty system. We are concerned at the suggestion that taxpayer protections, such as internal review, should be watered down in certain cases where there has been non-compliance. We cannot see how restricting their rights would improve a taxpayer's collaboration. It would also be difficult for HMRC to target this appropriately. Just because a taxpayer might have been non-compliant for a previous notice (for potentially legitimate reasons) does not mean they will not comply in future.

14 Question 11: Are there cases where a more coordinated approach to issuing information notices (for example, issuing one notice to a class of taxpayer and/or to a third-party about a class of taxpayers) could improve the experience for taxpayers and third parties? What challenges could this present and how could taxpayer safeguards mitigate these challenges?

14.1 It is not clear that sending one letter will save that much time because it is managing the whole process that takes the time, for example selecting who will be on the list, dealing with responses and chasing up non-responses. It seems that any benefits could be limited.

14.2 The example provided suggests a blanket information notice could be issued to cover the promoter, all users and beneficiaries of the same avoidance arrangements, but surely HMRC may need to ask different questions of them so one notice covering them all may be inappropriate. Similarly, not all parties to the arrangement will hold every piece of information regarding the arrangements, so a blanket notice may be asking for information that a party is unable to provide. Also different deadlines may be needed depending on individual circumstances eg if one of the individuals is vulnerable. Equalities Act/Public Sector Equalities duty means HMRC should continue to make reasonable adjustments eg allowing more time where a person is ill.

14.3 Whereas HMRC need permission from the taxpayer or the First Tier Tribunal to issue a third party notice (eg to a promoter), they do not need permission to issue notices to taxpayers. Consequently if they wish to issue a notice to the promoter and users then that would already only involve one hearing (for the promoter's notice) so we do not follow the suggestion that there would be a reduction in the number of hearings needed.

15 Question 12: What are your views on creating a category of information notice that covers connected persons or third parties (this could cover the 'person with significant control', in the case of a company)?

15.1 We can envisage several risks with this approach, chiefly that it could spread the compliance check more widely than the person originally under investigation so it would need care to ensure appropriate taxpayer safeguards were provided. The safeguard in paragraph 21 Schedule 36 FA 2008 should not be circumvented if this proposal goes ahead. Terms like 'connected persons' would need to be clearly defined and the intended uses would need to be carefully spelt out.

16 Question 13: What are your views on updating Section 114 Finance Act 2008 to take into account the issues set out above?

16.1 In principle, we agree that section 114 should be updated and 'future-proofed' given the way technology has advanced and will continue to advance. The rules should focus on the purpose of the data, not the location of it. The consultation document does not explain how the legislation will be changed so HMRC should consult on that.

17 Acknowledgement of submission

17.1 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

18 July 2023