



Chartered  
Institute of  
Taxation  
Excellence in Taxation

## **Making Tax Digital for VAT: legislation overview Response by the Chartered Institute of Taxation**

### **1 Introduction**

- 1.1 We refer to the above document, published on 13 September 2017.
- 1.2 Whilst we understand that draft Regulations will be published by HMRC later this year, we have taken the opportunity to highlight a small number of important issues which arise from the above document.
- 1.3 We should note at the outset that it was not at all clear from the document that responses were being sought. This might impact the number and quality of comments which HMRC receive and we would caution against presuming the low number of responses indicates approval or consent of the document's contents.
- 1.4 As an educational charity, our primary purpose is to promote education in taxation. One of the key aims of the CIOT 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.
- 1.5 We would be happy to discuss any of the points we raise if you feel this would be helpful.

### **2 Executive summary**

- 2.1 Annex 1 of the overview document sets out “electronic record-keeping requirements” and in particular the level of data to be recorded for supplies made and received. This is significantly more than businesses are currently required to record and will result in additional costs and complexity. We recommend that these requirements are relaxed.
- 2.2 HMRC propose to allow businesses to provide ‘supplementary data’ to HMRC, which HMRC envisage will include summary totals for the data required to be kept as per Annex 1. We recommend that HMRC consider allowing provision of more ‘ad hoc’ data, such as a ‘white space’ (for example, to explain fluctuations in VAT return figures), together with the ability to upload or submit copy invoices (for example, in

relation to capital expenditure). This will prevent unnecessary and unproductive interventions by HMRC in relation to matters for which there is a straight-forward explanation.

- 2.3 As the revenue benefits for Making Tax Digital for VAT are expected to be modest, HMRC should only mandate what is reasonably achievable by businesses within the relatively short timescale to April 2019. For example, it is welcome that HMRC are not mandating a digital link between software / spreadsheets etc, and only mandating that the VAT return is submitted digitally via software, including spreadsheets.
- 2.4 Communications around Making Tax Digital for VAT (and indeed Making Tax Digital generally) are critical; both in terms of timeliness and clarity, and any ambiguity will lead to unnecessary concerns. For example, the list of adjustments in Annex 1 included partial exemption *annual* adjustments, but not partial exemption *quarterly* adjustments, leading many readers to believe that the full calculation (not just the total) would need to be undertaken in software. We continue to be willing to work with HMRC on its communications around Making Tax Digital.

### 3 Annex 1: electronic record-keeping requirements

- 3.1 Annex 1 of the legislation overview sets out "*Further information required in addition to the VAT account*". In relation to supplies made and received, the following data is set out as being required:
  - ...
  - *the invoice total broken down into sub-totals for each rate of VAT chargeable*
  - *the VAT charged at each rate on the invoice* [our emphasis]
- 3.2 In many instances it will not be possible to capture this level of information. Even if that level of information is available, for many businesses it will be more burdensome to record, with limited or no benefit for the business or HMRC. This is illustrated below.
- 3.3 Contents of an invoice
- 3.4 The requirements for the contents of a VAT invoice are set out in Regulation 14 of the 1995 VAT Regulations.
- 3.5 In relation to the VAT element, the only requirement is to show
  - *for each description, the quantity of the goods or the extent of the services, and the rate of VAT and the amount payable, excluding VAT, expressed in any currency.*
  - *the total amount of VAT chargeable, expressed in sterling.*
- 3.6 There is no requirement to state the **VAT charged at each rate** on the invoice.
- 3.7 Further, retailers are entitled to provide simplified or modified invoices, which contain less information than full VAT invoices. Indeed, simplified invoices do not need to disclose **any amount** of VAT charged.
- 3.8 Therefore in many instances businesses (both as seller and as purchaser) would be required to undertake significant additional work to identify the total VAT charged at each rate, if this level of detail was required to be recorded in digital records.

### 3.9 Data capture by purchasers

- 3.10 In addition, VAT registered purchasers will only currently capture the level of data that they are required to do so in order to accurately prepare their VAT returns. For example:
- A 'fully taxable' organisation will not separately record VAT incurred at different rates of VAT because (save for input tax specifically blocked) all the VAT it incurs is fully reclaimable.
  - A heavily partially exempt organisation might have a low rate of VAT recovery on its overhead costs and therefore simply record such expenditure 'gross' ie it will not separately capture the VAT it incurs as it simply forms an element of the cost of the overall goods or services it acquires.
- 3.11 So, even if the detailed VAT information is available, many businesses would incur additional costs in complying with what is proposed by HMRC. We question whether the benefit to businesses or HMRC warrants this additional cost.
- 3.12 Indeed, for those businesses who have to make the greatest behavioural change (ie from manual to digital records), HMRC's proposals will increase the cost and difficulty of making that change.
- 3.13 For the above reasons, we consider that the data capture proposals set out in Annex 1 are too onerous and the mandatory content of digital records should be no more than what businesses are currently required to maintain.

## 4 **Supplementary data**

- 4.1 The legislation overview states that "*HMRC will permit, and functional compatible software will provide for, the voluntary submission of supplementary VAT data as part of a VAT return or a voluntary update...The legislation will describe the information that would be required but, broadly, this will be summary totals of the information required to be kept and preserved electronically as detailed in Annex 1.*"
- 4.2 Our understanding from discussions with HMRC is that businesses would be expected to 'commit' to providing this data on a quarter-by-quarter basis, so that whilst such a commitment is still voluntary, the intention is that this becomes a regular occurrence.
- 4.3 Whilst we see benefits in such an approach (HMRC being able to identify trends and patterns in the business' information, and risk / de-risk accordingly), an ongoing commitment might act as a disincentive to businesses, and we would encourage HMRC to allow businesses to submit supplementary data on an ad-hoc basis too.
- 4.4 Indeed, this is an ideal opportunity to develop functionality that can help drive down unnecessary delays in processing, and enquiries into, VAT returns which can be easily explained. Many VAT inspections are carried out as a result of 'pre-credibility' checks, where a VAT return is identified by HMRC's systems as being out of the norm; for example where a business that is normally a payment trader, submits a VAT return claiming a repayment.

- 4.5 Upon submitting the VAT return, businesses could be given the opportunity to explain and evidence the reason for the fluctuation, perhaps in a white space and / or through uploading copy invoices etc. This would enable HMRC to quickly review this supplementary data in relation to returns which are flagged by its systems, to see whether an adequate explanation has been provided. This would speed up processing of the return, and save HMRC and businesses time and money dealing with an unnecessary VAT inspection.

## **5 General comments**

- 5.1 Whilst we will provide comments on the draft Regulations (and guidance / notices) when they are published, we would at this stage wish to make one further general point.
- 5.2 Making Tax Digital is predominantly aimed at reducing the tax gap caused by failure to take reasonable care, and error. Around 80% of those mistakes arise in businesses who trade below the VAT registration threshold, and so compulsorily VAT registered businesses are clearly not the central focus of MTD. Indeed, HMRC recognise that the revenue benefits of MTD for VAT will be relatively modest. In conjunction with businesses, agents and other stakeholders, we suggest that HMRC seek to explore the medium to longer term benefits of how increased digitisation can help reduce other areas of the tax gap, particular that in relation to illegal behaviour.
- 5.3 When submitting quarterly updates from digital records for Income Tax purposes, no adjustments will be required and it will simply be a case of pressing 'send'. Indeed, provided digital records have been maintained these quarterly updates cannot be 'wrong' as they are simply intended to reflect the totals of income and expenditure for that quarter.
- 5.4 In contrast, many adjustments are often necessary to what is recorded in the underlying records when preparing a VAT return, and there are important (and costly) consequences of submitting an incorrect VAT return.
- 5.5 HMRC should not, therefore, seek to over-engineer the VAT return process by requiring unjustified or impractical levels of automation or digitisation. We are pleased, in particular, that HMRC have confirmed to us that they will not mandate the automation of links between software and spreadsheets etc, and that only the submission of the return itself needs to be undertaken digitally (either from software, or via linking software if from a spreadsheet).
- 5.6 Many other adjustments are required over and above those set out in the legislation overview (fuel scale charges being a simple example) and we would suggest that, provided the day to day transactions are recorded digitally, adjustments required in order to prepare the VAT return can be done in a manner chosen by the business.

## **6 Acknowledgement of submission**

- 6.1 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.

## **7 The Chartered Institute of Taxation**

7.1 The Chartered Institute of Taxation (CIOT) is the leading professional body in the United Kingdom concerned solely with taxation. 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. 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.

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. The CIOT's comments and recommendations on tax issues are made in line with our charitable objectives: we are politically neutral in our work.

The CIOT's 18,000 members have the practising title of 'Chartered Tax Adviser' and the designatory letters 'CTA', to represent the leading tax qualification.

The Chartered Institute of Taxation  
10 November 2017