

# MAKING TAX DIGITAL FOR VAT: LEGISLATION OVERVIEW

Response by the Association of Taxation Technicians

## 1 Introduction

- 1.1 The Association of Taxation Technicians (ATT) is pleased to have the opportunity to provide comments on the consultation paper *Making Tax Digital for VAT: legislation overview* published by HMRC on 13 September 2017 (the paper).
- 1.2 The primary charitable objective of the ATT is to promote education and the study of tax administration and practice. We place a strong emphasis on the practicalities of the tax system. Our work in this area draws heavily on the experience of our members who assist thousands of businesses and individuals to comply with their taxation obligations. This response is written with that background.

## 2 Timetable of Making Tax Digital for VAT

- 2.1 Our main observation is that the short timescale proposed for legislating and introducing Making Tax Digital (MTD) for VAT is likely to be problematic for taxpayers, software providers and HMRC.
- 2.2 As at the date of this response, only limited primary legislation (clause 62 of the September 2017 Finance Bill) has been published in respect of MTD for VAT, and no secondary or tertiary legislation. The paper indicates that draft regulations will be published for consultation shortly, with the intention of laying final regulations by April 2018.
- 2.3 We believe it will be difficult for HMRC to undertake a meaningful consultation on draft regulations if these are not released shortly. If draft regulations are not published until late 2017, this will not only limit the time available for consultation and for HMRC to process and respond to any concerns raised, but also coincide with the busiest time of the year for agents dealing with self-assessment returns.
- 2.4 We would also question whether a twelve-month period between making final regulations and mandation is sufficient for software developers to finalise their products and for HMRC to conduct full scale pilots. There needs to be sufficient time for the outcome of those pilots to be assessed and any necessary amendments to regulations and processes to be implemented and incorporated in software.

- 2.5 Given the limited nature of the primary legislation released to date, the content of secondary and tertiary legislation will be critical to understanding the requirements of and implementing MTD for VAT.
- 2.6 We would therefore recommend that draft regulations for MTD for VAT be published for consultation at the earliest opportunity. We see this as critical to the successful launch of MTD for VAT from April 2019. If this is not possible then consideration should be given to delaying the introduction of MTD for VAT.

### 3 Relationship between the paper and primary legislation

- 3.1 In some places, the position set out in the paper does not accord with our reading of the primary legislation included in Clause 62 of the September Finance Bill.
- 3.2 For example, the paper states in the *Primary legislation* section that Clause 62, amongst other things, “e) Ensures that, once a business is required to keep digital records, the requirement remains in place even if that businesses turnover falls below the threshold and that person remains registered for VAT”. We are unable to identify any provision within Clause 62 which has this effect.
- 3.3 Similarly, clause 62 subparagraph (3)(b) appears to provide for a *period of grace* whereby a business will not have to keep digital records for the first month in which they exceed the VAT threshold. This exemption is not mentioned in the *Primary legislation* section of the paper, but is referred to as being covered in future regulations in the *Secondary legislation* section. We would also note that, if this is the intention of subparagraph (3)(b), one month is a short amount of time for businesses first exceeding the VAT threshold to source appropriate software for digital record keeping and reporting.
- 3.4 This lack of clarity underlines the importance of draft regulations being released for consultation as soon as possible so that the full requirements of MTD for VAT can be understood.

### 4 Provision of supplementary information

- 4.1 The paper sets out that under MTD it will be possible for businesses to voluntarily supply additional VAT data to HMRC. The nature of this supplementary information will be set out in legislation, but will broadly be the summary totals of the information required to be kept and preserved electronically as detailed in Annex 1 to the paper.
- 4.2 This strict, legislative, definition of what constitutes acceptable supplementary information seems to be at odds with the concept of its provision being voluntary. We recommend that HMRC consider the potential to accept wider types and sources of information where a taxpayer believes these may provide valuable insight into their VAT position.

- 4.3 For example, the information listed in Annex 1 is quantitative in nature, but we believe it would be of mutual benefit to HMRC and taxpayers for some form of qualitative data to also be acceptable, such as an explanation as to why figures in a return may appear unusual compared with prior periods. This could range from a drop down box allowing businesses to select from a standard explanation (e.g. one off capital purchase, bad debt claim etc.) to the ability to make a *white space* disclosure.

## 5 Contact details

- 5.1 We would be pleased to join in any discussion relating to this consultation. Should you wish to discuss any aspect of this response, please contact our relevant Technical Officer, Emma Rawson, on 07773 087111 or at [erawson@att.org.uk](mailto:erawson@att.org.uk)

Yours sincerely

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## 6 Note

- 6.1 The Association is a charity and the leading professional body for those providing UK tax compliance services. Our primary charitable objective is to promote education and the study of tax administration and practice. One of our key aims is to provide an appropriate qualification for individuals who undertake tax compliance work. Drawing on our members' practical experience and knowledge, we contribute to consultations on the development of the UK tax system and seek to ensure that, for the general public, it is workable and as fair as possible.

Our members are qualified by examination and practical experience. They commit to the highest standards of professional conduct and ensure that their tax knowledge is constantly kept up to date. Members may be found in private practice, commerce and industry, government and academia.

The Association has over 8,000 members and Fellows together with over 5,700 students. Members and Fellows use the practising title of 'Taxation Technician' or 'Taxation Technician (Fellow)' and the designatory letters 'ATT' and 'ATT (Fellow)' respectively.