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# INCOME TAX SELF ASSESSMENT REGISTRATION FOR THE SELF-EMPLOYED AND LANDLORDS

Response by Association of Taxation Technicians

## 1 Introduction

- 1.1 The Association of Taxation Technicians (ATT) is pleased to have the opportunity to respond to the HMRC call for evidence on Income Tax Self-Assessment ('ITSA') registration for the self-employed and landlords<sup>1</sup> ('the Consultation') issued on 30 November 2021. We and our volunteers also took part in all six workshops held during February.
- 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.
- 1.3 The Consultation asks if the taxpayer experience could be improved by changing the point at which taxpayers have to register for self-assessment. It is not clear to us that the proposed options for reform of the existing registration obligations would achieve significant improvements to taxpayer experience. However, we have received a large amount of feedback from members suggesting that improvements to the operation of HMRC's systems and processes for dealing with registration would significantly improve the user experience.
- 1.4 We would like to see a more integrated registration system which allowed agents to register all types of client for self-assessment online and which allowed taxpayers to authorise their agents at the same time. We would also like to see the long standing issues around the interaction of registration for self-assessment and for Class 2 purposes addressed. We have expanded our comments on the problems with the current systems and processes, including the interaction with Class 2 in section 14.

## 2 Question 1 – How simple and well understood are the current legislation and processes for notifying liability and registering for ITSA? What are the benefits and/or drawbacks of the current system?

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<sup>1</sup> <https://www.gov.uk/government/consultations/call-for-evidence-income-tax-self-assessment-registration-for-the-self-employed-and-landlords>

- 2.1 We received a range of feedback from members in response to this question. On the one hand, members commented that it was common place to find that taxpayers did not understand their obligations, while on the other hand it was reported to us that “The current system is brilliantly simple and exceptionally well understood by taxpayers even before they have become a client. They have never had to learn their reporting obligations from me.”.
- 2.2 It appears from the Consultation itself that most people *do* have, or are able to obtain early on in the process, an understanding of their obligation to report and pay their tax. Note 2 on page 8 of the Consultation highlights that of 310,00 new registrations in 2019-20, 215,000 of them were made within the year the taxpayer started to trade – i.e. almost 70% of taxpayers are already choosing to register well in advance of the 5 October deadline. (We suspect that there is a gap in understanding between the requirement to ‘give notice’ and ‘register for chargeability’, but in practice as long as the taxpayer is in the system and paying and filing online, the distinction is irrelevant.)
- 2.3 For those who have not registered early, it is difficult to know how much the 5 October deadline itself is understood. It was noted by HMRC during the workshops that there is not an obvious ‘spike’ in registrations prior to 5 October as is seen for other deadlines. This suggests that awareness of this particular deadline is low and that registration is not necessarily driven by the notification deadline. We suspect that registration is driven more by taxpayers’ wider understanding that ‘something’ needs to be done to bring themselves within the tax system and that these individuals will be working to 31 January, largely unaware of the 5 October deadline. Even if a taxpayer is not aware of the notification obligation, members report those who arrive at their offices for the first time in January are aware of the 31 January payment deadline.
- 2.4 The fact that the individual did at least understand their obligation to ‘do something’ to make a payment of tax by 31 January means that, even if they did not understand their obligation to notify fully (or at all), it they are still able to achieve the desired end result of getting into the SA system and paying their tax.
- 2.5 Under the existing system, since those registering after 31 October are given three months to file from the date of their notification, it is usually possible in these circumstances to file a return within this window. This avoids late filing penalties. Provided that a mechanism can be found to make payment by 31 January (whether or not the return has been filed at that point) it is then possible to avoid any possible late notification penalties as well as late payment penalties. The taxpayer can effectively be brought into compliance and avoid penalties for having missed the notification obligation by meeting the more important payment and filing deadlines. This has the benefit of avoiding penalties in the early years, which otherwise could drive resentment and disengagement if taxpayers view the late notification penalty as unfair when they have paid their tax on time.
- 2.6 We think it might be worth speaking with those who did not meet the registration deadline in previous years to explore the reasons for this. This might help to determine if there are common themes and if any specific groups would benefit from more tailored support to improve their experience. During the workshops a number of concerns were raised about the understanding and awareness of gig workers, particularly those who find themselves registered with HMRC by third parties. We do not receive much feedback on gig workers from our members, but this is perhaps an area that could be usefully explored by those who do.
- 2.7 For those able to appoint an agent, they may not understand the detail of their obligations prior to the appointment but, once they have approached an agent, it should soon be clear what actions are needed. Given the amount of clear and accessible information online about registration, it may be worth exploring whether awareness is lower amongst those who lack digital skills and/or the unrepresented. If so, then there may be opportunities to target these groups.

- 2.8 We also have concerns over the gap between what the legislation requires and when HMRC asks individuals to register for self-assessment. This may also drive confusion and/or late registrations. While the legislation requires anyone who is chargeable to income tax or Capital Gains Tax (CGT) and has an actual liability to register, HMRC guidance in their 'Check if you need to send a Self-Assessment tax return' tool<sup>2</sup> sets out slightly different, non-statutory requirements. For example, the tool states that a return is not required if savings/investment income is under £10,000, regardless of any liability on those amounts. It also highlights that a tax return is not required when any other untaxed income, such as commission or money from renting out a property is between £1,000 and £2,500.
- 2.9 While this is intended to be a simplification, pushing individuals towards calling HMRC to report small amounts of income rather than completing a return, and/or relying on pre-population of bank and building society income, it does mean that HMRC's view of who should be in self-assessment is not the same as who the legislation establishes as in scope. As discussed at the workshops, we agree that it would be helpful for HMRC to first define and clarify exactly who they want in self-assessment, and bring the legislation in line with that, before proceeding to make any changes to the registration process.

#### 2.10 *Benefits and drawbacks of the current system*

The benefits of the current system include:

- The notification deadline is the same for all taxpayers and is linked to the tax year. Since income tax is a periodic tax, assessed on a tax year basis, it is appropriate to tie notification obligations to the tax year.
- The taxpayer can determine if they do, in fact, have any tax to pay - and therefore an obligation to notify - *after* the tax year, at the point at which all facts are known.
- As all ITSA taxpayers have the same deadline it would be possible – if HMRC wished - to carry out campaigns or marketing around this date to alert people.
- The current penalty arrangements provide a route for taxpayers to avoid a penalty for failing to notify where they have notified late, provided that they pay their tax by 31 January. This is beneficial as it gives taxpayers at the start of their self-assessment journey an opportunity to regularise their affairs and get going on the right foot with HMRC, rather than for their initial experience to involve being penalised for an obligation of which they were not aware. While obviously those deliberately evading their responsibilities should be penalised, if a taxpayer who is otherwise acting in good faith finds that their first experience of the tax system is to be told that they are late and to receive a penalty, it does not start them off on a good footing and creates resentment – which is unlikely to encourage willing compliance in the future.
- Registration and the process of notification in advance of filing a return does provide a certain formality to the process, so that a sole trader has the opportunity to make a 'formal statement' of intent. Given that there is some delay between starting a business and filing the first return we consider this can be helpful for individuals to know that they are 'in the system' ready for a future return.
- The current obligations have been in place since 1995-96 and are thus well established and well-known.

2.11 Drawbacks of the current system include:

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<sup>2</sup> <https://www.gov.uk/check-if-you-need-tax-return>

- While the 31 January payment deadline appears to be well understood, we suspect that the 5 October notification deadline is not as well understood by all groups of taxpayers.
- 5 October is arguably a somewhat arbitrary date, presumably selected when HMRC operated with paper-based systems and needed time to process an application and issue a UTR.
- It is not clear that providing a notification and registering early results in any additional taxpayer support or prompting by HMRC in respect of their obligations.
- It is not uncommon for a taxpayer to be registered for self-assessment for income tax as a result of either a voluntary return or addition of new self-employment source to an existing self-assessment record. While this is effective for income tax, they will not be registered as self-employed on the NIC system. The interaction between income tax and NIC registration is not always clear to taxpayers and can result in gaps in their Class 2 record, which has implications for state pension and other entitlements. HMRC's systems are unable to identify when people have failed to register correctly for NIC as well as income tax and simply refund Class 2 NIC. We have expanded our comments on this in section 14.

2.12 The result of having a fixed notification date for all new self-employed individuals and landlords not currently in self-assessment is that some individuals can leave registration for longer after starting their business than others. We do not consider this a disadvantage but merely a consequence of the system. At the end of the day all self-employed taxpayers must pay their tax by the same deadline.

### 2.13 *Systems and processes*

Most of the feedback from our members focused not on the nature of the obligation, but on the systems and processes through which notification is made to HMRC. There are a number of practical problems (also covered in section 14) including:

- Accessing the correct forms - agents do not always have the same access to online forms as taxpayers and have to resort to paper forms.
- Online forms not operating as expected - for example failing to submit, failing to save and losing data.
- A lack of clarity over when an agent can use their agency's Government Gateway credentials to access forms.
- It is not always possible to save and return to partially completed forms.

2.14 Over recent months there have also been significant delays in obtaining UTRs for individuals registering for 2020-21 as a result of the impact of Covid-19 on HMRC performance standards. Even for taxpayers who met the 5 October deadline, delays of weeks or months in issuing UTRs have not been uncommon – and this has created challenges for taxpayers and their agents.

2.15 We have highlighted some further specific issues in our answer to question 4.

## 3 **Question 2 – If you have experienced registration processes across different UK taxes or internationally please tell us more about how they compare. What works well and what could be better?**

3.1 As noted in the Consultation, ITSA and Corporation Tax (CT) are unusual in requiring a taxpayer to supply a notification of their liability to tax prior to HMRC issuing a notice to file. However, both ITSA and Corporation tax are periodic taxes, with a period of (generally) one year and therefore an inevitable time period between the start of trading and the requirement to file the first return. In contrast, VAT registration occurs within 30

days of exceeding the VAT threshold, while other obligations to notify where there is, for example, an intention to promote bingo, brew beer or make amusement machines available must be done 14 days before starting those operations. Given that ITSA and CT operate on such different timescales to these other obligations there is a logic in requiring registration in advance of filing as part of a process of bringing people into the system.

- 3.2 The notification process for CT generally works well as a notification of the formation of a new company is made directly to HMRC unless the applicant specifically opts out. Companies issued with a UTR which have not started to trade then have the option of registering as dormant and do not have to file corporation tax returns –i.e. there is a process to deal with the position where a company has been registered upfront with HMRC but it is known (or subsequently established) that there is no need for a tax return. It is not possible to replicate the same sort of automatic process for the self-employed population. Firstly, there is no central registry of landlords and/or self-employed individuals and secondly, even if there was, it does not follow that an automatic registration process at the start would be helpful in the context of self-assessment registration because it could subsequently be found that a registration was not required because no taxable income resulted. Unless there was a similar option to opt out at a later date, it could bring more people into self-assessment than needed to be there.
- 3.3 We do not have any specific experiences of non-UK tax registration processes to report.

#### 4 **Question 3 - What are your experiences of closing an ITSA record of self-employment or property income? Is it easy to understand and complete?**

- 4.1 We had limited feedback to this question, but most members who responded noted that in general they found it a very easy process to understand and complete.
- 4.2 However, some members did highlight problems with cessation for the self-employed as it is necessary to report the cessation separately to the tax return. If this is not done, and cessation is only reported on the tax return, then HMRC will issue amendments to demand a full year's Class 2 as opposed to the part year calculated on the return. It is not helpful that an unnecessary and incorrect amendment is issued automatically, rather than asking why the taxpayer might have scaled down their Class 2 contributions.
- 4.3 Some wider concerns were reported to us around cessation as noted below. These cases do not relate to self-employment or rental income, which is the focus of the consultation, but pension and investment income. However, we are including these examples here as they relate to our earlier comments about identifying who HMRC want in or out of self-assessment.

Members reported:

- HMRC refusing to take individuals who did not have income tax to pay out of self-assessment;
- Clients taken out of self-assessment incorrectly. For example, we have had a number of reports of directors of owner-managed businesses who receive variable dividend income, being removed from self-assessment. (Similarly, it has also been reported to us that individuals with dividend income have been rejected for self-assessment, despite needing to be within SA);
- Clients who are liable for self-assessment under s7 TMA 1970 and find it easier or preferable to manage their affairs via self-assessment (rather than rely on P800 calculations generated by HMRC) are taken out of self-assessment by HMRC when they wish to stay in it.

## 5 Question 4 – What difficulties do taxpayers new to ITSA face in complying with their obligation to notify liability? What are the causes of these issues?

- 5.1 The feedback we have received suggests that there is generally little or no difficulty for many taxpayers, particularly those who have set out with serious intent to become self-employed, but there are some specific groups who may struggle and need further support. For example, those within the gig economy who may not have intended to set out to be self-employed are frequently cited, especially those who are not earning enough to engage an agent. Other groups who may struggle include those who have multiple income sources, those who are moving frequently in and out of self-employment and employment and those who are digitally excluded or digitally challenged and who struggle to access online help and advice.
- 5.2 Specific examples of where the process of notification itself causes issues include:
- Individuals who do not have a NINO, for example workers from abroad. We receive regular reports of notifications being rejected unprocessed for lack of a NINO, despite there being a valid reason for the individual not to have one. It is impossible to chase the progress of applications without a NINO, as this is the primary identifying reference. Problems may be further exacerbated where English is not the taxpayer's first language.
  - Applications made by a Court-appointed deputy on behalf of a vulnerable individual. While this may not be related to self-employment, it could relate to other sources of income and members have reported that applications are rejected because of issues with address matching (even if the Deputyship Order is registered elsewhere within HMRC) and because certified Deputy Orders submitted with an SA1 will be returned before the SA1/64-8 are processed. When the SA1/64-8 are later processed, a copy of the Deputyship Order does not appear to have been retained as these will be subsequently rejected for the lack of the certified order.
- 5.3 Some concerns have been expressed to us about the confusing selection of forms and paperwork and a lack of clarity in HMRC signposting – particularly where the individual needs to register as a partner in a partnership rather than a sole-trader. We suggest that a checklist or step by step guide to routes to registration would assist those who struggle. It would also be helpful if there could be a single, online route for everyone who needs to be in self-assessment. A set of initial tailoring questions (in the similar way to completing a tax return online) could then establish the reasons for registration and the appropriate information required.

## 6 Question 5 – How do customers new to self-employment or property income learn about the ITSA registration process and associated tax obligations? What are the issues with this?

- 6.1 As might be expected, taxpayers learn about the ITSA registration process from a range of sources ranging from GOV.UK and HMRC directly, to third party websites including those of agents, advisers and tax charities such as LITRG, family and friends, social media, local business support organisations, banks on opening business bank accounts etc.
- 6.2 The obvious risk is that with more informal sources there is a greater risk of information being incorrect. We do not see there is much that HMRC can do about this issue other than ensure that its own guidance is as clear and accessible as possible. If the registration system is changed then details of changes will need to

communicated to a wide range of voluntary organisations and local business support organisations to ensure the correct information is widely disseminated.

## **7 Question 6— What challenges do taxpayers experience as a result of the delay between a business starting and the deadline for notification?**

- 7.1 While we agree that some taxpayers will experience the issues identified in the Consultation – for example the payment ‘pinch point’ identified in paragraph 3.11 and confusion over payments on account in the early years of a business - we are not clear that these issues can be solely linked to, or resolved by, the choice of date of deadline for notification.
- 7.2 Members report that those serious about starting a business will take the time and trouble to inform themselves on how to manage their tax affairs – although this does take a lot of time, effort and patience especially when the individual may have more than just income tax to register for as well as any industry-specific registration/authorisation requirements and registration with the ICO. Despite all this, HMRC’s own evidence already suggests that the vast majority of people *are* registering within the year of commencement. We acknowledge that there are challenges around the process of registration, but suggest these are faced by a smaller group of people, and point to the digitally excluded who will find it harder to access trustworthy information online and may be more inclined to rely on friends or family, those unable to afford professional advice, and potentially gig workers who may not be clear over their self-employed status, as people who may have less confidence in engaging with HMRC earlier in their self-employment journey.
- 7.3 We do not think that the example provided in box 2 of the Consultation is relevant to a discussion around registration. In the example, Arif has registered on time, but in the absence of professional advice, or personal research about his tax obligations or how tax was calculated, he has been caught out by the unexpected payment on account and amounts due. Any taxpayer who engages late with their tax affairs, whether they are established within self-assessment or not, will have a less pleasant experience than one who plans ahead. There is no guarantee that an earlier registration date would have solved any of these issues. Firstly, Arif would need to have been aware of earlier deadline in order to comply with it, and secondly it might still have required encouragement or prompting to get him to either carry out his own research or submit his tax return sooner to avoid the resulting issues.

## **8 Question 7 – Are taxpayers clear on what trading is, and when they started or stopped trading? What factors about trading make it difficult to decide whether or not to register?**

- 8.1 In many cases, taxpayers taking the deliberate step to commence in self-employment in order to provide their main income source will have some understanding of the nature of trading, or at least a sufficient understanding that there is an income source which will need to be taxed, to ensure they take action to report this.
- 8.2 While there is no ‘bright line’ test of whether someone is trading or not, it is usually possible to determine the position in retrospect, after the year end. In some situations, it is necessary to test the position by considering the badges of trade. In those cases, a decision is reached having balanced up the various factors.
- 8.3 Determining the precise start date of a trade is harder than looking back over the year to determine that a trade exists. Complications may arise for those engaged in ‘hobby’ businesses or gig work, those who are

testing the water with a possible side line, or those where there is a long period of preparatory work before significant income starts to come in. In those situations, it is helpful that registration is determined by looking back on the tax year as a whole when it is generally easier to determine that there is a trade which needs to be reported and taxed.

8.4 An individual taking on ad hoc pieces of work on the side may not always be of the view that they are pursuing the activity with sufficient commitment to make it a taxable business. For these individuals there may be a reluctance to register early in case the venture does not prove successful, or they may be concerned about taking on tax obligations before they have formalised their venture into a business. Again, reviewing the position at the end of the tax year can provide clarity on how any untaxed income needs to be dealt with, whether as miscellaneous income or the start of a trade.

8.5 For landlords, there is generally little issue determining the start of letting.

## 9 Question 8 - What are taxpayers' experiences of interacting with different government departments when starting self-employment?

9.1 We have not responded to this question.

## 10 Question 9 – Do you agree that chapter 3 sets out the challenges presented by the current registration system? Are there others?

10.1 We agree in general that some taxpayers will experience the challenges with moving into self-employment identified in this section, including unexpected payments on account on top of their first bill and a lack of knowledge about helpful HMRC services. However, we don't consider these elements are universally challenging for all entering the tax system. Those with advisers, or who are able to access online guides and support, will be able to familiarise themselves with the issues relevant to their situation. However, there will always be groups – such as the unrepresented who cannot afford advice, the digitally excluded, and those on low incomes but with complex affairs - who may struggle to access the necessary information.

10.2 The challenges identified are not specifically confined to the registration aspects of income tax but reflect a more general lack of awareness of how the tax system works. A sole trader who has been registered for some years and trading successfully may be equally as unaware of the support through Time to Pay arrangements as the newly registered trader experiencing cash flow issues. It is not clear that changing the registration process in and of itself would address the challenges raised and create a more informed taxpayer population, unless HMRC chooses to use this point as an opportunity to provide relevant information. That we have a registration system for ITSA does give HMRC the opportunity to flag to newly registered individuals guidance and advice which they may find helpful. For example, HMRC could proactively provide guidance on record keeping, calculation of tax, and payments on account following registration.

10.3 A number of concerns are raised in the Consultation about record-keeping and the importance of an individual starting off on the right foot with their tax affairs. Where an agent is assisting a client and then taking on the ongoing compliance work it would be a normal part of that process for the agent to seek to understand their client's accounting and record keeping plans. It is in the interests of the agent to advise clients on a suitable approach, not just as a matter of good service, but in order to help manage the agent's future workload. It is much easier to assist a client who can be encouraged to maintain a good set of records - and fees will need to



be higher if the client is not able to do so. Even if there is an element of retrospective accounting in the first year of trading before anything formal is set up, most self-employed individuals are conscious of the outflows and inflows relating to a new venture and it is usually possible to gather a fair picture of the opening months of trade.

10.4 In response to concerns that the right habits need to be ingrained from the start and might otherwise be hard to change, research HMRC commissioned in 2014 on Business Record Checks<sup>3</sup> reached the following conclusions:

- *Customers are quick to make changes to their record keeping practices following recommendations received from HMRC or trusted others*
- *Customers may benefit from communications prompting them to review their practices and challenge assumptions about the simplicity of record keeping and correct practice*
- *Different approaches to record keeping communications may be needed with customers depending on the length of time their business has been established. **Newer businesses in particular are much more likely to be receptive to communications on record keeping responsibilities than are more established businesses [our emphasis]***

10.5 This suggests that HMRC's concern around changing record-keeping habits is overstated, and also that the registration process itself is a prime opportunity to provide additional support to new businesses.

10.6 We would also like to comment on some of the examples included in this section of the Consultation.

10.7 In the example in Box 2, it is asserted that when Arif registers before the 6 October, this does not give him sufficient time to consider his obligations and prepare for paying tax. Depending on the complexity of the business and how Arif has kept his records, three months could well be ample time to prepare. Looking at this example, the issue appears to us to be that Arif has not sought advice/guidance on the calculation process. This problem is not obviously related to the registration process but a wider lack of knowledge about the tax system.

10.8 The example of Ryan provided in Box 3 is unhelpful and misleading in the context of the proposed changes to registration. The primary issue for Ryan appears to be that they are not fully declaring their tax by omitting some of their income. This is not an issue with registration, but one of evasion.

## 11 Question 10 – Are these the right options for changing the obligation? Which is better? Are there others?

11.1 The consultation proposes two main options - either reducing the deadline of the current registration period from 6 months to 2,3 or 4 months, or creating a new obligation triggered by the start of a new self-employed or property income source or when a threshold of £1,000 of gross income received is passed.

At the workshops we discussed four possible options:

1. Do nothing – keep the obligation as it is
2. Modify the current obligation to move it closer to either 5 April or 31 January.
3. Abolish the existing obligation and create it in a new form, tied to the start of the business or achieving a minimum amount of income.

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<sup>3</sup> <https://www.gov.uk/government/publications/business-records-checks-and-attitudes-towards-record-keeping>

4. Abolish the obligation completely and do not replace it.

- 11.2 Of these options we would prefer option 1, keep the obligation as it is. None of the other options obviously improves on the current position.
- 11.3 We do not think there is merit in removing the obligation to register altogether as this would have a much wider knock on effect on other parts of the legislation including in the area of penalties. The registration point provides an opportunity for HMRC to prompt individuals with further relevant information if it wishes.
- 11.4 There is potentially some merit in moving the registration deadline to 31 January so it ties in with the widely known payment and filing deadline. This retains the option to penalise those who go some years without registering, but means that those who file and pay by 31 January are not penalised. We don't see any specific benefit in moving the deadline earlier, particularly if there is a concern that the 5 October is not widely known. This will just increase the number of people who fail to meet the deadline.
- 11.5 We don't consider that restructuring the deadline to a new form would be any simpler or be more easily understood. Tying to the start of the business will cause issues for those who are transitioning from a hobby to a more formal business in identifying the precise date on which they started to trade.
- 11.6 Rather than looking at changing the deadline, we think it would be helpful if there could be more research by HMRC into exactly where the gaps in registration are – i.e. which groups of taxpayers are struggling. This could then lead to clearer signposting about registration to any specific groups which appear to have issues.

**12 Question 11 - What is the right period after the start of the new self-employment or property income for the obligation to be triggered?**

- 12.1 There is no clear 'right' period for the obligation to be triggered, although there is merit, as noted in our response to question 7, in ensuring that this is after the tax year on a look back basis when the facts are known.
- 12.2 If the primary objective is for the taxpayer to pay their tax on time, then the 31 January deadline is one of the most widely understood dates within the tax calendar. However, if the registration point is viewed primarily as an opportunity to engage with the taxpayer to encourage good behaviours, then any date is probably largely arbitrary as those who HMRC are most likely to want to engage with are probably those least likely to be aware of any registration deadline. On this basis there is as much merit in retaining the existing, well known, date as any other.
- 12.3 Moving the registration deadline back to a shorter window – say three months after 5 April – will likely only increase the number of people who miss the deadline. We understand there is no pre-5 October 'spike' but that registrations occur reasonably evenly over the period from April to January which suggests there is no obvious, more suitable, alternative.

**13 Question 12 - Do these ideas for using intermediaries and third party data to improve tax registration merit further exploration? Are there others?**

- 13.1 The Consultation already identifies a number of sources which could prompt individuals to consider if they need to register for tax, although we note that some of the more obvious platforms which individuals might use to sell goods or services such as AirBnB, Amazon, Ebay etc have been excluded. (We see that all of these

already have pages about tax on their sites but these would be obvious candidates to include on a list of potential sources of prompts.)

- 13.2 We think it is unlikely that any of the intermediaries identified (other than tax agents, accountants or similar) should be actually engaged in assisting with registration as they will not have the relevant knowledge, but we can see that it may be helpful if such third parties could prompt people to consider it. Members report that in some instances (for example letting agents) this already occurs. We expect though that many such businesses might find it burdensome to be obligated to prompt their customers in this way and it could also be irritating for taxpayers if, say, a new landlord is informed by their conveyancing solicitor, buy-to-let mortgage provider, insurance company and letting agent that they need to register for tax. While taxpayers can ignore any irrelevant prompts, too many unnecessary reminders can undermine the value of future prompts as some taxpayers may start to overlook HMRC prompts in general. Again, it comes back to identifying which groups of tax payers are missing or struggling with their obligations and would therefore most benefit from a prompt.
- 13.3 It is also unclear from the comments in the Consultation about keeping taxpayers' data secure whether HMRC is envisaging that third parties/intermediaries would be providing a nudge to their customer that tax registration might be needed or providing data to HMRC to enable them to check if there is a registration requirement. We consider that it would be inappropriate to request data sharing of potential registration issues from commercial, third party businesses as there is no guarantee that the information provided would be relevant or useful to HMRC. For example, not everyone selling on Ebay is in business – some will be clearing their attics. Such a move could therefore result in a large number of unnecessary prompts or registrations. This is a very different situation to data-sharing specific information such as bank or building society interest where income is all potentially taxable.
- 13.4 That said, we can see that there may be a relevance for data sharing between other Government departments, particularly around Universal Credit or National Insurance. It is difficult to comment further without understanding what data HMRC is envisaging sharing and for what purposes. Any data shared should be carefully managed and limited to the specific purpose and taxpayers should be able to consent to its use.
- 13.5 We note that a form of data sharing has recently been introduced by the tax checks on licence renewal applications in England and Wales which takes effect from 4 April 2022 and requires applicants for licences required by:
- taxi drivers
  - private hire drivers
  - private hire vehicle operators
  - scrap metal dealers carrying on business at a site
  - scrap metal dealers carrying on business as a mobile collector

to confirm they are aware of or compliant with their tax obligations. It is too soon to assess how effective this measure is, but there was presumably evidence to support the need for checks in this area. Before extending data checks further, HMRC should first review how helpful this checking process has been at bringing new people into compliance and addressing what concerns prompted the introduction of this measure.

## 14 Other comments

14.1 The primary feedback we received from members in respect of this consultation concerned the operation of HMRC's systems and processes. The sorts of problems that have been reported to us include:

- Lack of access to online forms and the need to resort to (slower) paper options– for example agents cannot register a partnership online via their Government Gateway, but must use a paper SA400. Agents must also register the partners other than the nominated partner via the paper SA401.
- Lack of ability to check the progress of online registrations for sole traders. Once submitted it is not possible to see the registration on the agent portal or the resulting UTR.
- Difficulties in applying for UTRs for clients without NINOs.
- Difficulties and delays in obtaining authorisation to act as the 64-8 requires a UTR but a UTR is not available until the client is registered. Without a UTR it is not possible to use the online application process for a 64-8s without a UTR.
- Significant delays in obtaining UTRs for 2020/21.
- Reports of online applications simply being lost, failing and requiring data to be re-entered or not being processed.
- Issues registering clients online via the SA1 if they already have a UTR. If it is indicated that the individual already has a UTR, members tell us that the system throws them out and they have to resort to a paper application.

14.2 It would be helpful if it was possible to combine the 64-8 and registration process (SA1/CWF1) into a single online process to reduce postal registrations.

14.3 We would also like the application process to make it much clearer whether it is the agent or the taxpayer completing the request.

14.4 Following any application, a copy of the whole form, containing all the information supplied, should be available to print or save so that taxpayer can keep a record of what they have supplied to HMRC. This needs to be allocated with a reference number that is can be used in any future correspondence or acknowledgement from HMRC so that the agent/taxpayer can link the correspondence and the application. This is especially key to agents who may be making a number of applications on the same day.

### 14.5 Class 2 issues

Also connected with registration are the significant issues around Class 2 registrations and collection. As HMRC's ITSA and NIC systems are not joined up, a voluntary tax return or a new self-employed source added to an existing tax return will result in a registration for income tax but not for National Insurance.

14.6 Members report to us that adding a new source of self-employed income to a pre-existing SA return for employment, rental or other income is not uncommon. Where the correct registration process has not been carried out, HMRC will, on the one-hand, accept the new source of self-employment and the income tax from that via self-assessment but on the other hand, remove the Class 2 from the tax computation as not due. Unless the individual challenges the correction and acts to retrospectively register for self-assessment (not an obvious course of action based on the receipt of a simple correction letter removing 'unnecessary' Class 2 payments) then it is possible that the individual could consider themselves self-employed for tax purposes – and have been paying Class 4 NIC - but find that there are significant gaps in their NIC record when they come to retire

due to lack of Class 2 payments. This could have serious implications for an individual's state pension entitlement.

- 14.7 HMRC's systems are not able to identify mismatches and either correct them or alert the taxpayer to the need to clarify their position and correct it. This is because there are two systems
- The Self-Assessment (SA) system - which calculates income tax for those in self-assessment.
  - The NPS (National Insurance and PAYE Service) – which calculates income tax for those not in self-assessment, but also holds the master record of an individual's self-employment status. Completing a CWF1 form updates both the SA and NPS systems with the start date of self-employment.
- 14.8 HMRC can check the NPS record against the SA-system and identify from that anyone who is registered as self-employed on the NPS system but who is not registered as self-employed on the SA-system and needs to be registered. However, it is **not** possible for HMRC to run the test the other way and identify anyone submitting a tax return with self-employment which is not flagged up on NPS. We and other bodies have previously asked for this functionality but we understand it was considered too costly, especially given that the intention was to abolish Class 2. However, the abolishment of Class 2 is not looking imminent and if it is to be retained this gap needs to be filled.
- 14.9 There is also a historical aspect to this issue, although one with on-going consequences, as a result of the shift in 2015 from the separate payment of Class 2 via Direct Debit to self-assessment. Full details of the issue are available on the ATT website<sup>4</sup>.

## 15 Contact details

- 15.1 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 us on [atttechnical@att.org.uk](mailto:atttechnical@att.org.uk).

## The Association of Taxation Technicians

### 16 Note

- 16.1 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.

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<sup>4</sup> <https://www.att.org.uk/class-2-nic-computers-refunded-contributions>

The Association has more than 9,400 members and Fellows together with over 5,000 students. Members and Fellows use the practising title of 'Taxation Technician' or 'Taxation Technician (Fellow)' and the designatory letters 'ATT' and 'ATT (Fellow)' respectively.