The Construction Industry
Joint Taxation Committee

JTC

JTC NEWSLINE

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What actually is MTD?

The bigger picture

Under Making Tax Digital (MTD) HMRC aims to join up its internal systems and so create one account for each taxpayer, for all their different taxes within HMRC. Via their 'digital account', taxpayers will be able to view all their payments and offset overpayments in one tax against underpayments in others.

MTD will impose new quarterly filing and potentially payment obligations for businesses and landlords.

- The first phase of MTD affects VAT registered traders only from April 2019.
- It was to have first affected small un-incorporated businesses and landlords but that has been delayed. They will start in 2020.
- The third phase will affect companies, although not until 2020 at the earliest.
- A new late filing and payment penalty system will eventually apply to quarterly returns and annual declarations.

Accounts and returns?

Although HMRC claims that the annual tax return will go, businesses will still need to prepare year-end accounts in order to reconcile their quarterly payments and claim various reliefs and make accounting adjustments.

- Taxpayers will be required to file a year-end declaration, instead of a Self-Assessment (SA) return/Corporation Tax (CT) returns.
- The key difference between the year-end declaration and a tax return, other than in name, appears to be that HMRC will pre-populate some of the return figures, e.g. bank interest, income from employment, pensions, etc.
- For the self-employed, it is assumed that HMRC might attempt to pre-populate the year-end declaration with data submitted in the quarterly return figures. This is unlikely just yet and, as is already the case with VAT, businesses will still need to reconcile their quarterly returns to their year-end accounts and so all must reconcile to the end of year declaration.
- All taxpayers will need to check that pre-populated data is correct.
- HMRC is consulting on changing the way that tax assessments interact with accounting basis periods. Its systems may not cope if 5 million taxpayers all pressed 'send' at once.
- HMRC is also reviewing simplification of cash accounting for both businesses and landlords.
- Businesses that do not use smart phones, software or computers may be obliged to do so.
- HMRC will be providing free software for very small businesses (below the VAT threshold).
- MTD is likely to be expensive for many micro and small businesses. Some 2 million businesses are not represented by agents and they will have to learn the new systems.
- Exemptions: To be announced but, it is already indicated that some 1.3 million nano businesses with turnover below £10k will be exempt from the new regime. They may be brought into the regime later.
- HMRC expects that apps will 'prompt' taxpayers when they purchase goods and services so that taxpayers will learn the tax deduction rules on a day-to-day basis.
- HMRC expects taxpayers to obtain their guidance online, not via the telephone. It will be developing online resources to reduce human integration by telephone. ■

MTD Timetable is confirmed – it will not be delayed

- From April 2019: VAT registered business are mandated into MTD: with the exception of the digitally excluded.
- 2019/2020 all businesses may try MTD on a voluntary basis.
- From April 2020: non-VAT registered unincorporated business and landlords must join MTD.
- 2020+? Companies and Large Partnerships to join MTD.

From April 2019, MTD for VAT is mandatory for businesses whose turnover is above the VAT registration threshold (currently £85,000). Those businesses will have to keep records digitally and use MTD compatible software to submit their VAT Returns to HMRC. It will remain voluntary for VAT registered businesses below the VAT threshold until at least 2020.

- When you sign up to MTD you will need MTD-compatible software that allows you to send regular Income Tax updates and submit VAT Returns to HMRC.
- Before your accountant can access MTD services, they need to set up a new Agent Services Account (ASA).
- Any UK-based accountancy service provider who has an Anti-Money Laundering supervisor can set up an ASA. Non UK-based agent firms/ agent firms without a UK address cannot set up an ASA.
- The ASA does not replace any of the existing HMRC online services. Your accountant will operate one ASA for all their clients. ■

Updating Basic PAYE Tools

When Basic PAYE Tools is first installed the automatic update setting defaults to 'Yes': HMRC recommend that this setting is not altered. Check that your automatic update setting is set at 'Yes' for automatic. ■

Making Tax Digital - What's New in the last month?

In July 2018 HMRC published **VAT Notice 700/22: Making Tax Digital for VAT.**

- Highlights of the notice include the requirement to use 'functionally compatible software'.
- From 2020 the use of 'copy and paste' is to be banned! Software must electronically link from other bookkeeping records such as spreadsheets into MTD software. This is to allow HMRC to interrogate the underlying records such as the spreadsheet.

Finance Bill 2019 contains proposals for three new tax penalty systems:

- Late filing: a points based system,
- Late payment: no penalties if tax is paid within 15 days, increased penalties as further time elapses,
- Late payment interest supplement (VAT):

HMRC also published policy papers and this follows consultations: MTD: sanctions for late submission and payment and consultation, MTD: interest harmonisation and sanctions for late payment. ■

Welsh rates of Income Tax

From 6 April 2019 the Welsh Government will set the rate of income tax for Welsh resident taxpayers but this will continue to be collected by HMRC. People living in Wales could pay a different rate of Income Tax compared to people in other parts of the UK.

- From April 2019, Welsh resident taxpayers employed or in receipt of a pension will have a tax code beginning with C.
- Those completing a Self-Assessment tax return will be asked about country of residence on their return. ■

Construction Industry Scheme

HMRC have prepared some further hints and tips for employers who also operate as a subcontractor under the Construction Industry Scheme (CIS):

- When you receive payment from a contractor and a deduction is made, the contractor must provide you with a Payment and Deduction Statement (PDS) no later than the 19th of the month following the month of payment.
- The PDS can be in electronic format, providing both you and the contractor agree to this, and you are able to store and print it.
- A contractor is not obliged to provide a PDS if you have been paid gross, but many do as it is good practice. If you receive payments from a contractor with no accompanying reconciliation then ask for one; payment with no explanation is an indication of poor practise and should raise suspicion.
- HMRC can charge a penalty for inadequate records; if you lose a PDS or it is mislaid you should ask the contractor for a copy which should be marked 'duplicate'.
- To avoid having to claim a repayment for overpaid CIS deductions, you can apply for Gross Payment Status, providing your business passes the qualifying tests. You can apply when registering for CIS or online at a later date via your tax account. ■

CIS and Corporation Tax: security against non-payment

HMRC has published a policy paper **'Extension of security deposit legislation'** which looks at extending the scope of the existing security deposits regime to include Corporation Tax and Construction Industry Scheme (CIS) deductions.

Draft legislation has been included in the draft Finance Bill 2019 and has been released alongside HMRC's policy document.

HMRC can currently require high-risk businesses to provide an upfront security deposit in respect of VAT, PAYE and National Insurance contributions as well as other less mainstream taxes and duties. It can take the form of a cash deposit or bond authorised or approved by a financial institution.

From 6 April 2019 HMRC will have the power to require securities in relation to:

- Corporation Tax and
- CIS deductions
    - Where an HMRC officer considers that it is necessary for the protection of the revenue.

There will be a right to review by HMRC and a right to appeal to the tribunal against a decision to request security or as to the amount, terms or duration of the security. Failures to comply with a request for security will be a **criminal offence** and subject to fines. ■

No change to PAYE code for flexible pension

HMRC have confirmed that they do not intend to change how they deduct tax on flexible pension drawdowns. HMRC have reviewed the Real Time Information requirements for reporting flexible drawdowns of employer pensions and the way in which those drawdowns are taxed.

HMRC have concluded that they will not change the current process:

- 75% of the payment will be taxed, 25% will be tax-free.
- Tax will be deducted using the Emergency PAYE code on a 'week 1/month 1' basis.

In a number of cases this will result in tax overpayments and refund requests. HMRC believe this is the most appropriate way of collecting the tax. **Many accountants do not!** ■

30 day CGT payment window for residential property: draft legislation

HMRC has published a policy paper, **'Capital Gains Tax payment window for residential property gains'** alongside its response to an earlier consultation on requiring taxpayers who dispose of residential property to pay tax on the capital gain within 30 days.

Draft legislation has been included in the draft Finance Bill 2019 and has been released alongside HMRC's policy document.

From April 2019:

- Non-resident CGT (NRCGT) will be extended to all UK land and property. This tax is already payable within 30 days.

From April 2020:

- UK residents will have to complete a return and make a payment on account within 30 days of completion of the disposal of UK residential property.
- The self-assessed calculation can take account of Annual Exemptions and losses available.
- Taxpayers can ignore these gains when considering whether they have to register for self-assessment tax returns. ■

What is residential property for SDLT purposes?

HRMC had a meeting with the Chartered Institute of Taxation (Stamp Taxes Practitioners Group) and published the notes of the meeting. They discussed the status of gardens sold separately from a residential house, sales of bare land and off plan sales.

If you are interested in Stamp Duty Land Tax and would like a copy of the notes please email **Liz@thetaxbridge.com** ■

Using the VAT reliefs for a property unoccupied for 2/10 years?

In a recent tax tribunal HMRC produced evidence from their RTI PAYE records that an address had been occupied within the period claimed by a developer as unoccupied.

No one except HMRC can check the RTI PAYE record but it does mean that when claiming a building has been unoccupied for a period you must have good evidence. ■

If you have any queries on any of the items in this newsline or a tax query please contact Tel: 020 8874 4335 liz@thetaxbridge.com