

Association of Accounting Technician's response to HMRC Consultation on Making Tax Digital: interest harmonisation and sanctions for late payment



The Association of Accounting Technicians (AAT) is pleased to have the opportunity to respond to the HMRC consultation on Making Tax Digital (interest harmonisation and sanctions for late payment), published on 1 December 2017.

AAT is submitting this response on behalf of our membership and for the wider public benefit of achieving the sound and effective administration of taxes.

AAT agrees with much contained within this consultation paper and acknowledges that some of the recommendations will lead to a fairer system e.g. in relation to interest on delayed payments of a repayment return by HMRC.

Late payment penalties

AAT wholeheartedly agrees with HMRC that, *"...simplifying and harmonising late submission penalties, late payment penalties and interest will make the tax administration system clearer and simpler."*¹ Unfortunately HMRC proposals in relation to penalty interest will achieve the opposite of this ambition.

As this consultation acknowledges at 5.2, it was very clear from the previous consultation that the majority of respondents thought HMRC's proposal for 14 days to be the date from which late payment penalties commence to be unacceptable.

This was for a variety of reasons, three significant reasons are acknowledged in the consultation document as being 1) insufficient time to allow for internal HMRC delays/postal delays 2) insufficient time for personal factors e.g. holidays, illness etc and 3) insufficient time to make payment arrangements.

HMRC may believe some of the above are outdated and that as Making Tax Digital reforms are embedded, there may be a welcome reduction in the time taken to communicate issues to taxpayers and agents and vice versa but we are not there yet.

There are several other reasons not acknowledged in the consultation document or above. These include the fact it is contrary to the stated objective of *"harmonising...late payment penalties."* However, true harmonisation would result in a 30-day timeframe, not 14.

The proposed reduction has almost no support from the accountancy profession as indicated by AAT's member survey which found less than 3.5% of AAT licensed accountants believed that 14 days after the due date is sufficient time to pay, that 30 days is required (47%) and that many favoured an even longer period of time (46% believe customers should have 60 days or longer to pay).

These views have been expressed in previous responses and meetings with HMRC officials.

It is disappointing to note that, in contrast to the views of the clear majority of previous consultation respondents and most accountants, HMRC now proposes a compromise solution involving no penalty in the first 15 days and half the penalty being payable if unpaid between days 16 and 30.

¹https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/663930/Making_Tax_Digital_-_interest_harmonisation_and_sanctions_for_late_payment_-_consultation.pdf (page 4)

So, in addition to failing to harmonise penalties or deal with any of the other identified problems above, this new proposal also defeats a further stated objective of these reforms – it fails to “simplify” and instead adds unnecessary complexity.

AAT accepts that HMRC is in a difficult position, that the current VAT regime effectively results in penalties being levied from day one and therefore a move to payment 30 days later would represent a sizeable change and could drive a negative change in taxpayer behaviour. Yet such a change would achieve the stated objectives of simplicity and harmonisation, be considerably fairer to taxpayers and acknowledge the views of licensed accountants who deal with such matters from a taxpayer perspective on a day-to-day basis. As a result, AAT urges HMRC to reconsider its position and instead adopt a simple 30-day rule.

Penalty interest

AAT was the first to suggest that HMRC may want to consider having a fixed amount of interest plus the Bank of England base rate which would replicate the system of ‘statutory interest’ which is 8% plus the Bank of England base rate.

This had the benefit of currently being lower than the 10% originally proposed but more importantly had the advantage of not having to be regularly reviewed (as that already happens).

This change would also mean that HMRC could justify the rate charged by highlighting that this is a widely accepted and commonly applied legal principle, not just in relation to the Late Payment of Commercial Debts (Interest) Act 1998 (updated in 2000 and 2002) but various Government agencies including the Financial Services Ombudsman.

Those suggesting the rate is too high are likely to suggest it is too high irrespective of the rate whether 5%, 6%, 7% or 8%. There is no valid reason why HMRC could not adopt “statutory interest”, a principle that has been around since the 1800’s and has worked well in practice as a form of penalty to ensure that no financial gain is enjoyed by the party who is able to retain the money owed for a period of time and additionally to penalise such behaviour.

Applying statutory interest but taking part of the calculation away, e.g. having the interest rate without the addition of base rate interest, would mean that statutory interest is not being applied, would add confusion as it could not reasonably be described as statutory interest and would weaken any justification for applying such a method as no other public body or agency does this and there is no exiting legal principle to replicate.

About AAT

AAT is a professional accountancy body with approximately 50,000 full and fellow members and over 90,000 student and affiliate members worldwide. Of the full and fellow members, there are more than 4,250 licensed accountants who provide accountancy and taxation services to over 400,000 British businesses.

AAT is a registered charity whose objectives are to advance public education and promote the study of the practice, theory and techniques of accountancy and the prevention of crime and promotion of the sound administration of the law.

Further information

If you have any queries, require any further information or would like to discuss any of the above points in more detail, please contact Phil Hall, AAT Head of Public Affairs & Public Policy at:

E-mail: phil.hall@aat.org.uk

Telephone: 07392 310264

Twitter: @PhilHallAAT

Association of Accounting Technicians, 140 Aldersgate Street, London, EC1A 4HY

