

Association of Accounting Technicians response to the HMRC consultation document “Making Tax Digital: Simplified cash basis for unincorporated property businesses”

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1. Introduction

- 1.1. The Association of Accounting Technicians (AAT) is pleased to have the opportunity to respond to the HMRC consultation document “Making Tax Digital: Simplified cash basis for unincorporated property businesses”, published on 15 August 2016.
- 1.2. AAT is submitting this response on behalf of our membership and for the wider public benefit of achieving sound and effective administration of taxes.
- 1.3. AAT has added comment in order to add value or highlight aspects that need to be considered further.
- 1.4. AAT has focussed on the operational elements of the proposals and has provided opinion on the practicalities of implementing the measures outlined.
- 1.5. Furthermore, the comments reflect the potential impact that the proposed changes would have on SMEs and micro-entities, many of which employ AAT members or would be represented by our 4,250 licensed accountants.
- 1.6. AAT is happy to participate in future Making Tax Digital (MTD) consultations and its members are willing and able to participate in any MTD pilots in order to assist with the smooth implementation of this important programme.

2. Executive summary

- 2.1. **AAT wholeheartedly supports the ambition to make our tax system the most digitally advanced tax system in the world.** However, AAT is concerned about the timetable for implementation.
- 2.2. **AAT is concerned about the costs MTD will place on businesses and taxpayers.** A recent survey of AAT licensed accountants found that well over three quarters were concerned about software costs and time spent familiarising themselves with the new processes. Almost half are concerned about hardware costs and other, as yet unknown, costs.
- 2.3. **It has been difficult to fully respond to each of the six MTD consultation documents given so much technical uncertainty remains.** HMRC must delay implementation if significant technical difficulties arise rather than proceeding regardless. Proceeding under such circumstances risks both reputational damage and reduced compliance. Universal Credit (UC) serves as a recent reminder of a less than successful government IT programme where pressing ahead despite the consequences has caused difficulties for recipients, financial losses for the taxpayer, reputational damage for all involved parties and a legacy of mistrust for future large scale government projects. The National Audit Office described the UC programme as beset by “weak management, ineffective control and poor governance” with £34m written off on failed IT programmes and at least one hundred million more on the programme as a whole. It is vital that HMRC learns the lessons from examples such as this.

- 2.4. **AAT favours a phased implementation programme for MTD.** The threshold should be set at £83,000 (the current VAT threshold) falling to £11,000 (the personal allowance) over a three year period. This will help the business community whilst simultaneously helping HMRC achieve the best possible outcomes. This proposal is explained in full at 3.83-3.84 of AAT's response to "Making Tax Digital: Bringing business tax into the digital age."
 - 2.5. **AAT supports the cash basis as being optional.**
 - 2.6. **There is not strong support for preparing letting property accounts on a property-by-property basis using either the cash basis or UK GAAP** as this will add yet another layer of unnecessary bureaucracy.
 - 2.7. **Changes to the deduction of interest in relation to residential letting are likely to cause confusion for many landlords** and lead to potential errors and the understatement of their property business profits.
 - 2.8. **The introduction of the cash basis for unincorporated landlords is likely to result in a marginal saving of time** through a removal of the requirement for landlords to calculate accruals and pre-payments. However, as most transactions in respect of a letting activity are via a bank account there will be no reduction in time required to post "cash" transactions.
 - 2.9. **In general, many unrepresented unincorporated landlords already report their letting property income and expenditure on a cash basis** largely due to a lack of awareness of existing legislation. For such payers the move to introduce a cash basis of reporting is welcome.
 - 2.10. **AAT and its members can and will play a vital role in helping make a success of MTD.** AAT members are already educating and raising awareness of MTD amongst their client base (and adopting a phased implementation will give them much needed time to do so). In addition AAT is utilising various channels to provide information, advice and guidance to members on successful MTD implementation.
3. **AAT response to the HMRC consultation document "Making Tax Digital: Simplified cash basis for unincorporated property businesses"**

Question 1

Do you feel there should be a relevant maximum limit imposed for eligibility for the cash basis for unincorporated property businesses?

If so, what should this limit be and why?

- 3.1. On the basis that most landlords with large property portfolios will already be incorporated, either via a company or an LLP, it is not considered that the imposition is necessary.

Question 2

Do you feel there is any reason why the cash basis should not be optional for all eligible unincorporated property businesses?

- 3.2. No reason could be thought of that would justify the cash basis being anything other than optional.

Question 3

Would you want to opt in for each of their property businesses separately (for example, UK property business and overseas property business) or would they prefer to choose whether to opt in for all their property business income or none of it?

- 3.3. There is only limited support for an ability to prepare letting property accounts on a property-by-property basis using either the cash basis or UK GAAP, as deemed appropriate by the property owner. However, the majority of AAT's licensed accountants considered that if genuine simplification is to be achieved the owner of a portfolio of

rental properties should either opt to report using the cash basis or UK GAAP for their entire holding.

- 3.4. It was felt that a pick-and-mix approach would add yet another layer of unnecessary complexity.

Question 4

Does the above advice give you enough information to decide whether or not to use the cash basis with/without (please indicate) professional advice?

If not, what else would you need to know about the new rules?

- 3.5. It is considered that the average landlord is well equipped to prepare accounts on a cash basis if they choose to adopt the method without needing to engage with the services of a professional adviser.
- 3.6. As observed in the introduction of this response many unrepresented unincorporated Landlords already report their letting property income and expenditure on a cash basis.
- 3.7. The changes to the deduction of interest in relation to residential letting is likely to cause confusion for many landlords, and lead to potential errors and the understatement of their property business profits.
- 3.8. Moving to a cash basis is likely to exacerbate this issue as the landlord will potentially assume that all (cash) interest is deductible.
- 3.9. In order to assist unrepresented landlords it is recommended that HMRC provide an easily accessible on-line guide of Allowable/Disallowable items.

Question 5

Does a regime that allows for individuals letting jointly, not in partnership, to separately opt to report using the cash basis present particular difficulties or issues?

- 3.10. There was limited support for individuals letting jointly to report their profits separately using either the cash basis or UK GAAP as deemed appropriate.
- 3.11. On balance, it was considered that the ability for individuals letting jointly, not in partnership, to separately opt to report using the cash basis would introduce unnecessary confusion, and potentially lead to a greater level of error.
- 3.12. For the reason given above and in the interests of simplicity the accounts of a property business should be drawn up using either the cash basis or UK GAAP basis and then the individual taxpayer should report their share of the profit or loss.

Question 6

Should eligibility for the trading cash basis affect eligibility for the cash basis for unincorporated property businesses?

If so, do you have any suggestions on what this interdependence should be?

- 3.13. On the basis that trade income and income arising from land and property have differing legislative reporting requirements, it is not necessary for the eligibility to report using the cash basis for one to impact on the eligibility for it to apply to the other.

Question 7

Would only recognising deposits that landlords are entitled to keep at the end of a tenancy create unnecessary complexity?

- 3.14. No. Only recognising deposits that landlords are entitled to keep will not create any unnecessary complexity, it would merely follow the current legal position and current normal custom and practice.
- 3.15. If it became a requirement of the cash basis to treat deposits held as rental income and to account for tax on those held, there is a real danger that the cash basis would be undermined through landlords not taking it up.

Question 8

Do you feel there is anything which has not been considered which could make the cash basis as simple as possible for landlords?

- 3.16. AAT does not consider that there is anything else arising out of the proposal which has not been covered earlier in this response document.

Question 9

Are you aware of any risks that the cash basis for unincorporated property business could present which could lead to the avoidance or reduction of liability to income tax? If so, please provide details.

- 3.17. Taking into account the earlier observation that many unrepresented unincorporated Landlords already report their letting property income and expenditure on a cash basis, any move to formally introduce a cash basis of reporting is unlikely to result in a growth of avoidance. Instead, it will merely legitimise existing custom and practice.

Question 10

Do you have any comments, not already provided, on any aspect of the proposal?

- 3.18. Please see the response provided to question 8 above.

Question 11

If the government introduces a simpler tax system for unincorporated property businesses, please provide details of how this will affect your business. This should include details of both the expected one-off and ongoing benefits and costs of:

- a) **Familiarisation with the new basis and updating your software or systems.**
- b) **Not having to keep accruals accounts and prepare calculations in accordance with UK GAAP.**

- 3.19. The introduction of the cash basis for unincorporated landlords is likely to result in a marginal saving of time through a removal of the requirement for landlords to calculate accruals and pre-payments.
- 3.20. However, as most transactions in respect of a letting activity are via a bank account there will be no reduction in time required to post "cash" transactions.
- 3.21. Taking into account the following statement, repeated several times throughout this document, that many unrepresented unincorporated Landlords already report their letting property income and expenditure on a cash basis, the introduction of a cash basis of reporting is unlikely to result in any real time savings.

Question 12

Please tell us if you think there are any other benefits or costs not covered in the summary of impacts.

- 3.22. AAT does not consider there are any other benefits or costs not covered in the summary of impacts.

4. About AAT

- 4.1. AAT is a professional accountancy body with approximately 50,000 full and fellow members and 80,000 student and affiliate members worldwide. Of the full and fellow members, there are over 4,250 licensed accountants who provide accountancy and taxation services to individuals, not-for-profit organisations and the full range of business types.
- 4.2. 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.

5. Further information

If you have any questions or would like to discuss any of the points in more detail then please contact Aleem Islan, AAT Technical Consultation Manager, at:

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