

Association of Accounting Technicians response to the HMRC consultation document “Making Tax Digital: Voluntary Pay As You Go”

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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: Voluntary Pay As You Go”, 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 outcome. 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. **A survey of AAT licensed accountants found that 27% believe the Voluntary Pay As You Go (VPAYG) process described in the consultation document is a good idea.** 26% thought it was not a good idea and the largest number of respondents (47%) were unsure. The large degree of uncertainty among AAT members is doubtless reflected more widely across the industry and can probably be addressed in part by the successful implementation of the concept. With this in mind AAT is keen to assist HMRC with a number of informed suggestions for improvement.
- 2.6. **AAT is very clear that this system must remain entirely voluntary and that mission creep must be avoided in order for this to be a success.**
- 2.7. **AAT believes the display of voluntary payments should be as clear and simple as possible to encourage active customer engagement.** AAT focus groups found display examples provided in the consultation document were neither clear nor simple and would likely have the opposite effect of that intended.
- 2.8. **All voluntary payments should be used to pay off whichever tax first becomes due.** The alternative is for the system to clearly allow taxpayers to allocate payments for particular taxes. The former is a simple and easy to understand method of voluntary payments whereas the latter, whilst affording greater flexibility, would unnecessarily complicate matters, potentially causing debts to arise e.g. where a taxpayer makes a payment intended to pay off one tax only for it to be allocated to another. The only potential exception to this, acknowledged by AAT licensed accountants at an AAT focus group, was where larger sole traders are concerned because they may wish to keep their business and personal tax issues entirely separate and allocating payments rather than operating on a first due basis would be more sensible here.
- 2.9. **There should be no restrictions on repayment shortly before a liability becomes due.** AAT focus group attendees were unanimous in their view that no restrictions should be implemented. This is because to do so would make a mockery of the fact these are supposed to be voluntary payments.
- 2.10. **HMRC needs to educate both agents and businesses about the merits or otherwise of undertaking voluntary payments.** Some will choose not to do this because they prefer to use their funds for other purposes until tax payments are actually due and this is perfectly understandable and reasonable. For others, particularly those who may struggle to make payments on time due to budgeting or organisational reasons rather than financial reasons, this facility to budget appropriately will be particularly useful. A third group will be those who are very organised and like to know exactly where they are and these are likely to be attracted to making voluntary payments.
- 2.11. **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: Voluntary Pay As You Go”**

Question 1: Do you see any challenges with the voluntary payments process described? Do you think there are alternative options that should be considered, and if so, what are these?

- 3.1. Several organisations including IPSE, ACCA and ICAEW have argued against the concept of voluntary payments for a variety of reasons ranging from the potentially negative impact on cash flow, the fear that voluntary payments are a slippery slope to eventual compulsion and that the main beneficiary from voluntary payments will be HMRC.
- 3.2. It is possible that voluntary payments may impact on the cash flow of a business but this should only be the case in a minority of instances and should not be a problem providing the system remains voluntary and has a simple and easily accessible mechanism for the refunding of these voluntary payments.

- 3.3. Whilst the system should enable customers to have a greater degree of certainty and assist with tax planning, there can be little doubt that this system will benefit HMRC too. This in itself should be viewed as a positive rather than a negative because ultimately fewer late payments, less debt and a reduced need for HMRC action benefits taxpayers in general.
- 3.4. Alternative options are not required given the fact this system is entirely voluntary. The alternative option of being able to continue as at present remains however, and providing this continues to be the case, then AAT supports the concept.

Question 2: Do you have any views or suggestions on the display of voluntary payments in the digital tax account?

- 3.5. AAT believes the display of voluntary payments should be as clear and as simple as possible in order to encourage active customer engagement. AAT focus groups found that the display examples provided in the consultation document were neither clear or simple and would likely have the opposite effect of that intended i.e. such displays are likely to create complexity rather than simplification and be off-putting rather than attractive.
- 3.6. Best practice in other sectors should be adopted here and lessons learned too. For example, examining the manner in which Tesco Clubcard vouchers are allocated against online purchases for their 15 million users. It's also worth considering the not so good examples. For instance, whilst online banking with First Direct is generally regarded as being a positive user experience, doing the same with some other banks is not. Likewise making advance voluntary payments for gas and electricity with some suppliers is a simple and user friendly experience whereas doing the same with others is not. This highlights that simply having an online voluntary payments system is not sufficient in and of itself. Instead it must provide a good user experience in order to be deemed successful.

Question 3: Should there be a 'period of grace', and if so, what period would be appropriate to allow for separate payment of an amount becoming due?

- 3.7. AAT agrees that voluntary payments should always be used to pay off the next arising liability. Providing this is always made clear to customers AAT does not think that this will be unduly confusing for customers. In fact quite the reverse is likely as this would replicate credit card payments, utility payments and so on where any early monies paid are used to clear the first arising debt. Allowing customers to pick and choose which liabilities their voluntary payments should be allocated against may have some advantages but they are outweighed by the disadvantage of complexity, bureaucracy confusion and the potential for creating debt or debts.

Questions 4 & 5: Do you have any general comments to make on the allocation of voluntary payments and do you foresee any problems with HMRC's intended approach?

- 3.8. In short, there are two options. (1) All voluntary payments are used to pay off whichever tax first becomes due or (2) the system should clearly allow taxpayers to allocate payments for particular taxes.
- 3.9. The first option is a simple and easy to understand method of voluntary payments but has the disadvantage of not affording the taxpayer the freedom and flexibility to choose which taxes are paid in which order.
- 3.10. The latter option does afford greater flexibility but it would also unnecessarily complicate matters and has the potential to cause debts to arise e.g. where a taxpayer makes a payment intended to pay off one tax only for it to be allocated to another.
- 3.11. Such problems can be avoided by adopting suggestion 1 and making clear at all stages that any voluntary payments will be used to pay off whichever tax first becomes due. Whilst it is also true that improved communications could make suggestion 2 more acceptable, it would remain inherently more difficult for many to understand.
- 3.12. Option 1 has the merits of simplicity and familiarity given the approach is mirrored in other areas of the tax system. In fact it is the same approach being considered in relation to the accrual of points before a penalty becomes payable (Making Tax Digital: Tax Administration consultation document) and as AAT has made clear in response to that consultation document, the fact a

customer may accrue points for one kind of submission obligation but be charged a penalty the first time they were late on a different submission obligation is far from complicated and would be widely understood and accepted.

Question 6: What improper or inappropriate use of the repayment facility do you think there may be, and what rules do you think should be applied by HMRC to stop that happening?

- 3.13. It is possible that the facility could be used to hide money from creditors i.e. by making voluntary payments a taxpayer will have less money in their business or personal account and in turn legitimately claim to have limited funds.
- 3.14. Secondly the issue of money laundering must be taken seriously and a particular problem arises when a third party makes a payment and that could then be repaid to the tax owing party instead.
- 3.15. HMRC must be aware of the potential for such abuse and act accordingly. To stop third party payments being repaid to the tax owing party HMRC could simply ban such practice.

Question 7: Do you agree with a restriction on repayment shortly before a liability becomes due, and if so, what period or terms of restriction do you think should be put in place?

- 3.16. No. AAT members who attended an AAT focus group on Making Tax Digital were unanimous in their view that no restrictions should be implemented. This is because to do so would make a mockery of the fact these are supposed to be voluntary payments. As one attendee understandably suggested, having restrictions would make this process, "*Voluntary with strings attached*". Clearly being voluntary with strings attached is not voluntary.
- 3.17. Given the strength of feeling that no restrictions should be imposed, questions as to period and terms of restriction are irrelevant.

Question 8: Do you have any views or evidence on whether, and how, HMRC should revisit the sums paid as payments on account to match more closely to the sums being reported under MTD?

- 3.18. For the time being, given the general climate of hostility towards compulsion, it would probably be wise to continue with payments on account being payable on the current basis rather than mandatorily basing them on the quarterly updates submitted.
- 3.19. AAT agrees that at the point when the amount of the first POA becomes due, the digital account should compare the proportionate estimated liability shown by the updates with the actual POAs due, indicate if they are lower or higher, compare this to any voluntary payments made to date, and recommend further payments (or the option to reduce the POA). This would assist customers in matching their voluntary payments more closely to the likely tax liability of the period.

Question 9: Do you have any views or suggestions on customers' ability to elect for overpayments to be held as voluntary credits?

- 3.20. A facility for customers to elect for a repayable overpayment to be held as a voluntary credit, rather than repaid makes sense and was universally supported by members at the AAT focus group on MTD.
- 3.21. AAT also agrees that once it is treated as a voluntary payment, the processes applying should be the same as for any other voluntary credit.

Question 10: What are your views on how voluntary payments might work for partnerships? Do you think partners will see the convenience of direct payment towards their total liabilities as outweighing a loss of a limited amount of confidentiality?

- 3.22. There will be no difference as the tax liability remains the same. Furthermore, it is worth highlighting here that in a partnership each partner is assessed on his or her share of the partnership profits and each partner is solely responsible for the tax due on that share. There is no joint and several liability arising from a partner's tax debts and this sensible approach should certainly be maintained.

Question 11: Do you think there are any special considerations that should apply to third party voluntary payments?

- 3.23. No special considerations should be applied to third parties as they are not a matter for HMRC. Instead they are a matter between the third party and the liable party. For example, a husband and wife as set out in the consultation document example.
- 3.24. The only possible exception to this would be around money laundering concerns as alluded to at 3.14 of this consultation document where a third party could theoretically make a payment with the sole intention of that payment being repaid to the liable party. However, as now, these should be adequately covered by various HMRC security rules that apply to repayments.

Question 12: What additional processes or measures would make customers feel more confident about making voluntary payments?

- 3.25. HMRC needs to educate both agents and businesses about the merits or otherwise of undertaking voluntary payments. Some will choose not to do this because they prefer to use their funds for other purposes until tax payments are actually due and this is perfectly understandable and reasonable. For others, particularly those who may struggle to make payments on time due to budgeting or organisational reasons rather than financial reasons, this facility to budget appropriately will be particularly useful. A third group will be those who are very organised and like to know exactly where they are and these are likely to be attracted to making voluntary payments.
- 3.26. The consultation document included a number of suggestions to further encourage voluntary payment e.g. cash rewards, interest payments, tax discounts and so on.
- 3.27. AAT recognises that HMRC made cash payments to incentivise PAYE online filing in advance of the process becoming compulsory. In 2004/05 and 2005/06 small employers with less than 50 employees received a payment of £250. For 2006/07 the incentive reduced to £150, for 2007/08 it was £100 and for 2008/09 £75. Firstly it would be interesting to see what impact these payments actually had on incentivising businesses. In most cases it is likely that payments were made to companies who would have done this anyway. Secondly, and more importantly, recognising that economic reality means it is now a very different financial climate to 2004/5 AAT does not believe that any form of cash payment is an appropriate incentive.
- 3.28. A discount on tax could be considered much the same as a cash reward and is therefore, in AAT's view, inappropriate.
- 3.29. The payment of interest at a reasonable level would be a sensible incentive. This would encourage voluntary payments over businesses and individuals simply saving money in a current account. Interest payments would also undermine the accusation that HMRC is offering this facility not as a budgeting mechanism for businesses but as a money making exercise. Conversely AAT believes it would be fair and reasonable for a loss of interest if the payee seeks a repayment.

Question 13: Do you have any suggestions for the basis on which earlier repayments could be reasonably claimed?

- 3.30. There are myriad reasons why repayments could be claimed.

Question 14: Please tell us if you think there are any other costs or benefits not covered in the summary of impacts, including any detail you may have.

- 3.31. There do not appear to be any costs or benefits that have not been detailed in the consultation document.

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 Isan, AAT Technical Consultation Manager, at:

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