



HMRC
Making Tax Digital
Voluntary pay as you go

3 November 2016

About ICAS

1. The following submission has been prepared by the ICAS Tax Committee. The ICAS Tax Committee, with its five technical sub-Committees, is responsible for putting forward the views of the ICAS tax community, which consists of Chartered Accountants and ICAS Tax Professionals working across the UK and beyond, and it does this with the active input and support of over 60 committee members. The Institute of Chartered Accountants of Scotland ('ICAS') is the world's oldest professional body of accountants and we represent over 21,000 members working across the UK and internationally. Our members work in all fields, predominantly across the private and not for profit sectors.
2. ICAS has a public interest remit, a duty to act not solely for its members but for the wider good. From a public interest perspective, our role is to share insights from ICAS members in the many complex issues and decisions involved in tax and financial system design, and to point out operational practicalities.

General comments

3. ICAS welcomes the opportunity to respond to the HMRC consultation 'Making Tax Digital: Voluntary pay as you go', issued by HMRC on 15 August 2016.
4. ICAS supports the overall objectives of 'Making Tax Digital' (MTD), as set out by HMRC in December 2015. The four 'foundations' are laudable goals, but we have significant reservations about the timescale and the mandatory approach and particularly so for small and medium enterprises. To describe MTD as a reform of tax compliance obscures the reality that it is a colossal IT and change management project affecting some 5.4 million businesses and many more taxpayers. A project on this scale needs careful risk management to maximise both its success and acceptance by users.
5. Voluntary pay as you go (PAYG) is suggested as an option for landlords and the self-employed who fall within the new quarterly reporting regime. While the principle of PAYG is attractive, linking the scheme to taxpayers covered by quarterly updates is limiting. There would seem to be no a priori reason why the scheme could not include any taxpayer with a digital tax account.
6. The target of the scheme is narrow. Businesses which are not required to make quarterly updates may well benefit from PAYG. This would include PAYE taxpayers with occasional freelance earnings. They might prefer to use PAYG linked to a personal tax account, rather than face coding adjustments or year-end bills. Consideration should be given to making PAYG available to these individuals.
7. The heading 'voluntary pay as you go' is confusing. Quarterly payments of VAT or PAYE are not 'voluntary'. By contrast, encouraging taxpayers to 'save up for' their self-assessment liability is about voluntary payment.
8. Bringing all taxes within the one PAYG account may result in confusion. Different taxes should be held on different pages within the PAYG account. There is a fundamental difference in nature between payroll taxes and VAT, which are Government (or employees') money administered by businesses; and profit based taxes such as income tax, corporation tax, national insurance and capital gains tax. The latter are appropriations from business profits, and could be affected by items beyond the digital tax account – such as pension contributions, the level of other income and the allocation of the personal allowance.
9. The final amount of 'profits tax' due normally depends on the results from a 12 month accounting period, so is only provisional during the year (though proposals for changing basis periods are considered elsewhere). By contrast, payroll taxes and VAT within quarterly returns are likely to be established amounts. Consideration should be given to keeping like with like so that amounts paid on account for 'profits taxes' are not mixed up specific liabilities for VAT or payroll taxes.

10. The aim is for voluntary payments to be based on the information in quarterly updates. This could result in overpayments, for instance if early quarters show profits that are reduced by events in later quarters, such as bad debts, or purchase of machinery or equipment. The system therefore needs to be capable of refunding amounts voluntarily paid. This functionality will be built in, but it is unclear exactly how it will work.
11. It is likely that for the majority, an accurate estimate of the income tax and class 4 NIC liability will only be available after the year-end update. This has very significant implications for the design of the system. Mandatory payments based on quarterly updates could produce alarming and unrealistic fluctuations in tax liability – with very significant cash flow implications. Voluntary payments could potentially damage business liquidity
12. A payment cycle which treats tax as a normal ‘running cost’ of the business, and one to be included in the usual commercial payment cycle is to be welcomed. It would help to avoid the potentially destabilising, initial tax bill for the self-employed start up.

Specific questions

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?

13. Maximum flexibility is likely to lead to greatest take up. While using quarterly submissions as a guide, businesses should not be restricted in the amount they choose to pay. Business owners may well be able to see ahead: they may be aware of future events which will affect their liability.
14. Taxpayers may have good reasons to choose to pay more, or less, than is shown in the digital tax account. This flexibility is important.
15. The consultation document envisages the PAYG software potentially linking into the taxpayer’s bank account so he/she can send a payment authority straight to a linked bank account but there may be significant security risks around this.

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

16. Tax statements can be confusing to taxpayers. The display should, wherever possible, match like with like, distinguishing between VAT, PAYE, and income tax as would an open item statement from a supplier.
17. This means that payments should be allocated as requested by the taxpayer. It will cause confusion if the taxpayer makes a payment against a particular tax liability but cannot see that this is the case. There may also be confusion when some payments are ‘voluntary’ whereas others are for VAT or PAYE which may be due and therefore not ‘voluntary.’
18. Taxpayers should be prompted to allocate the payment, when the payment is made.

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?

19. If there is a liability arising of which the taxpayer may be unaware – for example an unmatched item, where regular payments fall short of the amount due – then a period of grace of, say 7 days would not be unreasonable.

Question 4: Do you have any general comments to make on the allocation of voluntary payments?

20. Matching voluntary payments on account of income tax with actual liabilities for other taxes is problematic. The essence of PAYG is to encourage budgeting for tax bills. Where payments are due, but not matched by the allocations made by the taxpayer, these should be highlighted with a reminder before the due date.

21. Voluntary payments should be allocated by the taxpayer. Any unmatched liabilities could be flagged on the digital tax account.

Question 5: Do you foresee any problems with HMRC's intended approach to the allocation of voluntary payments?

22. As mentioned in the introductory comments, conflation of VAT and income tax within the same account is potentially a nightmare. Would it not be better to have profits taxes and other taxes on different tabs? The key concern is that some of the liabilities are not voluntary, and whilst we believe that taxpayer allocation of payments is the right approach it may not be very helpful if the taxpayer does not realise that allocating against future IT liability rather than the due-now VAT liability is not a good idea.
23. There could be an overall summary page showing next liability / repayment position across all taxes, but there should be separate pages for VAT, and profits taxes. There also need to be strong warnings for the taxpayer that 'voluntary' payments may be so under PAYG for income tax, but are not so for VAT and PAYE liabilities. This has all the hallmarks of bringing confusion for the unrepresented taxpayer and an inherent sense of unfairness when it goes wrong, or additional cost in needing agents to chase payment allocations that have gone astray.

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?

24. The repayment facility is significant. Payments based on quarterly updates are likely to need fine tuning. Unexpected events, such as a replacement of broken machinery or bad debts could very significantly impact cash flow.
25. The mechanism for repayment needs to be fast and robust. To safeguard the system, there could be a menu of reasons for repayment requests. However, where payments are on account only, there would seem to be little reason why repayment could not be made on request. This would mirror the SA 303 system for reducing payments on account.
26. Care is needed to avoid fraudulent repayments - for example by making refunds to intermediaries, rather than direct to the taxpayer; or to bank accounts which are not the one from which the payment of tax was originally made.

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?

27. Where a liability is due shortly – say within 14 days – the taxpayer might be required to provide an explanation of why the funds should be repaid.
28. It is possible that the tax due should be adjusted. Giving the taxpayer notice, before making the repayment, would enable the taxpayer to query the amount due, if the tax due is considered to be overstated.

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?

29. Only for the simplest businesses is the forecast tax liability in the digital tax account likely to be close to the actual liability. This is because there are a wide variety of factors which can affect the tax liability, of which HMRC may be unaware. These include future planned capital expenditure, pension contributions, averaging claims, losses and reliefs. The use of cash basis or accruals accounting will also impact the outcome.
30. The relationship between payment on account and tax liabilities estimated through digital tax accounts is very complex. The payment on account rules will need to be adapted for

MTD. The issue of basis periods needs to be resolved before this point can be properly addressed.

31. Even for the smallest business, there may be new sources of income or changes in the balance between employment and self-employment. It can be a very complex and changing picture which involves future expectations and intentions as well as current and past performance.
32. The match is always going to be approximate. Even if the reporting framework and basis periods are identical, there are potentially going to be adjustments.
33. While it might be appropriate for HMRC to query large differences between the tax liability shown in a digital tax account and payments on account due, such circumstances should be exceptional.
34. Once a pattern of payment history and liability is built up, it will become apparent if specific taxpayers appear to be consistently under providing for liabilities.

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

35. The ability to hold over refunds is sensible. There are occasions where monies are repaid to taxpayers, only for payment to be required later. This has happened, for example, with class 2 national insurance payments.

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?

36. Crediting payments on account for partnership tax paid by the nominated partner could have advantages in some business structures. The situation may be complex and potentially unworkable, for all but the most straightforward partnerships.

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

37. Third party payments are potentially more open to misuse than, for example, partnership payments. Given the instability of many personal and business relationships, third party payment could be fraught with difficulty.
38. In the context of couples, they may already have joint banking arrangements, so the advantage of third party payments would seem to be limited. Where a couple do not have joint banking arrangements, this suggests that they prefer their finances to be separate. There are significant risks associated with third party payments, particularly in coercive or abusive relationships.
39. It may be more appropriate and secure for a transfer to be made between the couple's bank accounts, so the individual can pay their own tax bill, rather than have a payment made to HMRC direct by one individual on behalf of the other.

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

40. The most basic incentive to use PAYG would be that the taxpayer is not disadvantaged by paying in advance. This suggests that payment of interest on balances might be appropriate.
41. Simplicity and security of the system is likely to be a key attribute to encourage engagement. What safeguards will there be if payments or refunds go astray?

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

42. Earlier repayment of tax may be desirable, though uncertainty over the final tax liability means that caution is needed. CIS is an area which could be considered. This is particularly so where a business is both contractor and subcontractor. Easing cash flow in such cases would be very beneficial.

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.

43. We have no further comments.