

The 2017 Finance Bill inquiry ACCA's written evidence to the Economic Affairs Committee Finance Bill Subcommittee

About ACCA

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ACCA has 188,000 members and 480,000 students in 178 countries, with approximately 75,000 members and over 70,000 students in the UK, and works to help them to develop successful careers in accounting and business, with the skills required by employers. We work through a network of 100 offices and centres and more than 7,400 Approved Employers worldwide, who provide high standards of employee learning and development. Through our public interest remit, we promote appropriate regulation of accounting and conduct relevant research to ensure accountancy continues to grow in reputation and influence.

The expertise of our senior members and in-house technical experts allows ACCA to provide informed opinion on a range of financial, regulatory, public sector and business areas, including: taxation (business and personal); small business; pensions; education; and corporate governance and corporate social responsibility.

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Topic 3) the scope of the exemptions and measures to help the digitally excluded;

1. As noted in ACCA's evidence on Topics 1 and 2 of the inquiry, HMRC has undertaken some research into the needs of the digitally excluded, and those in the digital assist population¹.
2. There has been a shift in the terminology used by HMRC and the Cabinet Office during the development of the MTD proposals. HMRC's early research distinguished between the Digitally Excluded ("DE") population, who are unable to access digital services at all, from the Digital Assist ("DA") population, who can with varying degrees of support access digital services.
3. More recently, the Digitally Excluded category has for Cabinet Office purposes been subsumed entirely with Digital Assist, since with the provision of some assistance, for example from agents, any user can in effect access Digital Services².
4. However, HMRC have retained the concept of the DE population, on the basis that there are taxpayers for whom access to digital services is so impracticable or expensive as to be effectively beyond their reach³. ACCA agrees that this is a sensible and practical approach to take.
5. HMRC have in addition indicated that they will treat each application for exemption on DE grounds on its own merits. ACCA welcomes this undertaking, but would express concern about the possible resource implications.
6. HMRC's research, when set in the context of ONS Business Population estimates, indicates that around 790,000 SMEs are likely to identify as DE. Of these, 38% (300,000) are currently prevented from accessing digital services but presumably would

¹ *Digital Exclusion & Assisted Digital Research To understand digital access, use and skills among the UK population* HMRC Research Report, Luc Altmann 17 August 2015 via

<https://www.gov.uk/government/publications/digital-exclusion-and-assisted-digital-research>

² See eg <https://www.gov.uk/service-manual/helping-people-to-use-your-service/assisted-digital-support-introduction> and <https://www.gov.uk/service-manual/user-research/understanding-users-who-dont-use-digital-services>

³ "(4) The digital exclusion condition is met in relation to a person or partner if—

(a) ...

(b) for any reason (including age, disability or location) it is not reasonably practicable for the person or partner to use electronic communications or to keep electronic records." Draft Paragraph 12(4) of proposed Schedule A1 to Taxes Management Act 1970 Available at

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/586581/Digital_reporting_and_recording_keeping_for_business_-_income_tax.pdf

do so if able. The remaining 490,000 indicated that even if all other means of engaging with government were withdrawn they would still not engage digitally.

7. Some proportion of the DE business population will in any event be excluded from MTDfB on basis of the exemption threshold, although we note that the income exemption is to be on an “opt out” basis⁴. HMRC will need to ensure that a non-digital channel for the income exemption is also available otherwise the DE population will have to apply for the DE exemption anyway.
8. It is not yet clear what shape measures to help the DE will take. However, it does seem inevitable that they will be comparatively cost and resource intensive. The longer term interaction with HMRC’s move to regional hubs is likely to add further to the costs, since HMRC employees will typically live closer to the hubs, meaning greater journey times to assess or provide assistance to applicants for DE exemption.

Topic 4) the robustness of the proposed timetable from the perspective of each of the groups affected, including the software industry, different taxpayer groups (such as small businesses and landlords), intermediaries and HMRC;

9. The timeline for MTDfB remains a concern. ACCA fully supports HMRC’s desire to take more time to consider the issues and fiscal impacts of exemptions and deferrals before setting final limits. The implications for an individual small business of whether it is required to change over to MTD or not will be significant and it is important that the final limits are set at the optimum point of compromise.
10. However, deferring the announcement of what the rules will be without deferring the point at which businesses will be required to comply with them reduces the window for those businesses affected to prepare.
11. Those businesses who do need to implement new processes and software solutions will have a far shorter window in which to choose a product, incorporate it into their business and become familiar with its operation. There is a greater likelihood of decisions being rushed and unnecessary costs incurred as a consequence. Lack of familiarity will increase the risk of errors in use.
12. From the perspective of professional advisers, the uncertainty creates a significant difficulty. On the one hand, our members cannot advise clients to incur costs in

⁴ “67. To opt out of MTDfB based on the income, businesses will be required to demonstrate that their turnover for the previous tax year was below the threshold. They will also...” *Bringing business tax into the digital age Summary of Responses* 31 January 2017 at Para 67 via https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/587433/Making_Tax_Digital_-_Bringing_business_tax_into_the_digital_age_-_Summary_of_responses.pdf

preparing for obligations to which they may not ultimately be subject. On the other hand, clients should be made aware as early as possible that they may have to change the way they operate their business.

13. In addition, the relaxations announced on 31 January, while welcome, increase the uncertainty around what preparations businesses should make. It is not yet clear whether VAT registered businesses will be able to rely upon the availability of free software, or must purchase a commercial product. Even if they qualify to use a free product in the first year of Income Tax filings, they will have to change for 2019. However, neither they nor their advisers yet have a clear picture of what software is (or will be) available on which to base an informed choice around which package to implement for year one.
14. The promised availability of a spreadsheet portal for recording and submission of information has been welcomed by taxpayers and their advisers. However, it seems clear from comments made by HMRC and the Minister that the development of both the software and legal framework for these packages is in its infancy⁵. There are certainly no packages available yet for businesses to trial ahead of making any decisions.
15. In particular, it is not clear whether the final legislative framework will require the availability of free software incorporating spreadsheet compatibility. This will be of great interest to the smallest businesses who are most likely to rely at present on spreadsheets, and for whom the availability of a familiar environment in which to operate their record keeping will be most valuable.
16. However, there is of course a risk that the compressed timeframe for development and testing of the software could compromise its final quality. The broader issues around the testing cycle for software, and the decision not to follow Carter principles, will be exacerbated where test software is not available until less than 12 months before the advent of mandatory MTD filing for businesses, who would benefit from the availability of properly designed, developed, tested and refined software.
17. It is not clear how HMRC intend to test the End of Period Statement (“EoPS”) process for any particular package before taxpayers have to start using it for “live” periods. Business which have already implemented an MTD package in 2017 will effectively be committed to using it for 2018 as their record keeping for 2018’s Periodic Updates will have commenced before any issues might become apparent with the 2017 EoPS process. As a result, those taxpayers who have adopted a package during the 2017 test period may even find themselves in a worse position than late adopters.

⁵ “the use of spreadsheets to record receipts and expenditure will count as digital record keeping for MTD, provided the spreadsheet is able to produce and send the quarterly summary updates to HM RC and complete the end of year activity. This is likely to involve combining the spreadsheet with software. HMRC will test this process during the planned pilots.” Letter from Jane Ellison MP to Rt Hon Andrew Tyrie MP, 31 January 2017, via <https://www.publications.parliament.uk/pa/cm201617/cmselect/cmtreasy/correspondence/Jane-Ellison-to-Treasury-Committee-Chair-Making-Tax-Digital-31-01-17.pdf>

Topic 5) the adequacy of the proposed measures to simplify the calculation of taxable profits and basis periods and the timing of their introduction;

18. The proposed measures could all have the scope to improve the operation of the UK tax system, although we remain concerned that the inappropriate use of cash accounting for larger or growing businesses could in the long term affect their growth prospects and economic stability. We would welcome wider publicity and education about the value of accruals accounting in any more complex business.
19. However, the timing of these changes alongside the changes to the underlying tax reporting regime, and the mechanisms for transmitting information under that regime does have the potential to create avoidable problems. Existing tax software is not always able to properly reflect the legal requirements, as demonstrated Raymond Tooth case⁶.
20. There are instances where taxpayers are required to file on paper because of complexities of the existing regime⁷. Simplifications will be welcome to the extent that they can reduce such instances. However, the current proposals do not directly address those issues. It would seem sensible as part of the move to compulsory digital filing to amend either the tax rules or the systems used to apply them in order to remove the necessity for any taxpayer to file on paper.
21. However, there is for example no immediate need to revise the basis periods of taxation for business. We welcome HMRC's announcement that further time will be taken to ensure that any changes made properly implement the intended policy outcomes, and would be happy to see a cautious approach to change against a dynamic backdrop.

Topic 6) the consequential revisions to the penalty regime.

22. The timescale for development and implementation of the changes to the penalty regime is as challenging as that for any other aspect of MTD. HMRC's summary of responses to the consultation indicates that a further consultation will be issued alongside draft legislation in "spring 2017"⁸, with a view to introducing legislation in time for the April 2018 rollout, although with an expectation of a "soft landing" period.

⁶ Raymond Tooth and the Commissioners for Her Majesty's Revenue and Customs, 2016 UKFTT 723 TC05452 <http://www.bailii.org/uk/cases/UKFTT/TC/2016/TC05452.html>

⁷ See for example the lists at

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/542922/2016-exc-indi.pdf

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/518109/2016-se-partner.pdf

⁸ *Making Tax Digital: Tax Administration – Summary of Responses* at Para 1.8, via

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/587432/Making_Tax_Digital_-_Tax_administration_-_Summary_of_responses.pdf

23. However, the penalties for failure to properly comply with the assessment provisions for MTD cannot reasonably be set in a fully informed context until the assessment mechanisms themselves are clear.
24. Currently, income tax liabilities (under s59A TMA 1970 et seq) arise as a consequence of either a self-assessment (s9 return) or a Revenue assessment (s30A or the new s28H et seq “simple assessment”)
25. The completion of s s9 self-assessment consequent upon a s8 notice to file a Personal Return must presumably be the mechanism which MTD is to replace. It is inconceivable that the “Death of the Tax Return” could retain the requirement to file a personal return.
26. The Revenue assessment powers under ss28H/30 do not require a return. However, s30A powers (and the related s28L et seq Simple Assessment) trigger s59B/BA payment mechanisms, which work to a 31 Jan liability date. They do not incorporate any mechanism for payments on account of income tax.
27. The s59A payments on account regime for Income Tax Self Assessment, which operates for businesses, is triggered only by a s9 Self Assessment Return. Accordingly, if MTDfB is to retain the existing payments on account mechanism then some legislation must be brought forward which replaces the s8/9 notice and return mechanism.
28. We understand that draft primary legislation setting out further details of how the new processes will interact with the existing income tax self-assessment regime is due imminently. Given the importance to the UK economy of ensuring that the tax system is properly configured, and the fundamental changes to the basis of self-assessment (itself the outcome of a lengthy debate and development process) there must be a concern that parliament may have difficulty in finding the time to properly scrutinise the draft legislation. This is particularly the case given the demands of Brexit and wider economic and foreign policy concerns.