



## **VAT Practitioners Group ("VPG") response to the Consultation on the draft regulations for Making Tax Digital – The Value Added Tax (Amendment) Regulations 2018 and the Draft VAT Notice**

The VAT Practitioners Group ("VPG") welcomes the opportunity to respond to the above consultation. The VPG is a member's organisation with approximately 400 members. Membership is drawn from advisors accountancy and law practices, industry and small tax consultancies, all of whom practice wholly or predominantly in the VAT field.

Making Tax Digital ("MTD") is a subject that has evoked some discussion with members. The main emotive issues are the timescale and degree of change that appears to be required under MTD.

### **General comments from members**

1. The set timescale is too tight and unrealistic. At this stage, it appears that the momentum is such that the pilot scheme has to start on 1 April 2018. Accepting this as being so means that making MTD mandatory for VAT with effect from 1 April 2019 is not sensible. The length of the pilot period should be at least 18 months.
2. There needs to be time set aside for assessing the results of the pilot scheme before proceeding to full implementation. Perhaps there should be a formal 12 month pilot scheme from 1 April 2018 to 31 March 2019 with the outcome assessed over the following six months during which the pilot scheme continues informally. This would allow time for a considered appraisal before mandating MTD for VAT, which should be deferred until sometime after 1 April 2019.
3. A postponed start would also enable any, as yet unknown, immediate changes brought about by Britain's exit from the European Community on 29 March 2019 to be taken into account. One such change might be an amendment to the basic format of the VAT return. It is recognised that the software needs to be developed by reference to the current position, but we would venture that some modifications could easily be made if, for example, the 9 box VAT return became a 6 box VAT return as an immediate consequence of Brexit.
4. Regardless of actual implementation date, it is strongly recommended that there be a staggered introduction by reference to the VAT period commencement date of individual businesses. This would greatly simplify matters and avoid the need to split VAT return data between old rules and new rules.

5. We are not convinced by HMRC's stated intentions for MTD. As a back drop, HMRC state that there is a £34 billion tax gap of which £9.4 billion is due to a lack of reasonable care. It is not entirely clear how MTD, in itself, will reduce the likelihood of error, although it is clearly the case that MTD will assist HMRC's ability in detecting and assessing for errors. There is a difference and HMRC should be upfront in acknowledging this. More generally, the benefits for businesses of adopting digitalisation do not accord with HMRC's representations. We suggest that MTD for VAT should not be mandatory until the benefits for businesses have been more clearly established.
6. Our understanding is that the requirement for taxpayers outside MTD to submit VAT returns via the existing portal will continue post MTD implementation. We further understand that HMRC are considering how best to control matters so that the portal facility is blocked for those taxpayers within the scope of MTD. The difficulty is that the figures declared on a VAT return will not necessarily determine whether a taxpayer is entitled to file returns via the portal or not (for example income in box 6, without any consequential figure in box 1, could be zero rated, exempt or outside the scope). We would suggest that the blocking off of the portal should not be accorded top priority.

## **Draft Value Added Tax (Amendment) Regulations 2018**

### Definition of "functional compatible software".

Members have voiced concern that, whilst branded software will potentially have minor adjustments to make in order to fulfil the criteria, those that use spreadsheets in order to prepare the VAT returns will require software that is, as yet, untried to ensure that the spreadsheets are compatible. At the moment only one API enabled spreadsheet has been successfully tested and this has been in the self-assessment field and not VAT.

This group of taxpayers is not restricted to small businesses and includes those with complex calculations (e.g. partial exemption) and consolidation of data (e.g. VAT groups and those with third party data feeding into the return).

### Recording and keeping of information in electronic form

The requirement to record the total amount of input tax for which credit is allowable under section 26 of the Act would appear to suggest that taxpayers should make a judgement as to the recoverable input tax as it is incurred. For those taxpayers that are partly exempt, it will not be possible to do this until the partial exemption calculation has been done. Any adjustment would then be a global figure and not for each individual transaction. We are not convinced that this is what HMRC intends and we would recommend that the wording is changed to reflect the total adjustment and not on a line by line basis.

### HMRC approval of software

We assume that a list of software suppliers that have met HMRC's testing and design criteria for the software will be available to taxpayers significantly in advance of the implementation date. However, we would suggest that if it becomes apparent by the early summer that the software is not going to be available, the implementation date is delayed.

### Exemption from MTD

HMRC's intention is that only VAT registered businesses whose taxable turnover is over £85k will be mandated to use MTD. This will unnecessarily catch businesses that are only registered for VAT because of the value of reverse charge services. We believe that reverse charge services should not count for this purpose.

There is a distinct possibility that the VAT registration threshold will reduce substantially at some stage in the not too distant future. This will bring more small businesses into the MTD net. Whilst in the short term, there may be a basis for linking the VAT registration threshold with the MTD threshold, this may well not be sustainable in the future. We suggest that the link be severed sooner rather than later.

## **Draft VAT Notice**

### Digital Links

We note that the terms "digital links" and "mandatory digital links" are used frequently in the Notice and Addendum. Whilst the distinction between the two is that a digital link will become mandatory after one year post implementation, the basic definition of "digital link" has not yet been clarified or determined. This makes upgrading software and systems difficult if what needs to be linked with no human intervention is not yet known!

In the case of those taxpayers where third parties provide data, the providers may not be aware that the data format needs to be digital. An example of this may be overseas landlords who use a managing agent in the UK. The agent would be sending VAT records of rents and service charges received and expenditure to the landlord in pdf format. Whilst the managing agent may realise that their own VAT return records should be digital, they may overlook the fact that the information provided to clients should also be digital.

### Digital VAT account

Paragraph 3.3 covers the reporting requirements for adjustments, which we take to be adjustments such as the partial exemption annual adjustment, fuel scale charges, bad debt relief, etc. It is suggested the provision of a list in the final version of the draft notice showing the types of adjustments covered by this section would be useful.

Paragraph 3.4 states that "If the adjustment requires a calculation it does not have to be made in software. However using software for all your calculations will reduce the risk of errors in your returns". We feel that this could be read in such a way as to suggest that accounting software can carry out the calculations such as partial exemption etc. This is not currently the case and we would suggest that HMRC clarifies this. We can understand a digital link from calculations to software being possible but not the underlying allocation of data and calculation of VAT restriction.

### Submission of VAT returns

Paragraph 4.2 states that an agent can submit the VAT return for a taxpayer. We have concerns on this front as we are not convinced that the agent platform under Agent Online Self-Serve is ready for VA. This is because transferring the data as to which agent acts for which client to avoid re-enrolment of each client in the new system has not yet been achieved. Agents face the very real possibility of having to mass enrol their clients on a new system as well as getting used to MTD.

The same paragraph also states "To do this your agent must have access to the functional compatible software that holds your mandatory records. For agents, unless they are preparing management accounts and VAT on behalf of clients, there is no access to the accounting data. Therefore, if the client is the licensee of the software and uses it in-house, the agent will not and would not want to, have access to the accounting software. Even access via the cloud where the client has the log in details is not usually allowed under data protection risk management by agents.

### Supplementary data

We can see some merit in having the ability to submit supplementary data, but understand that this particular facility cannot encompass the provision of documents, such as invoices to support repayment claims. However, there should be a way of submitting documentation as this facility will prove useful to both HMRC and the taxpayer.

### **Addendum**

#### Customer journeys

Whilst it will help taxpayers to work out what data needs to be digitally retained, we think that the number of journeys is too small and taxpayers may get confused as to which heading they fall under.

Also, some of the journeys suggest that bridging software would be the only means to submit a VAT return from spreadsheets (e.g. for groups in the examples given), whereas there is no reason why the figures could not be submitted by API enabled spreadsheets as for simpler taxpayer records. We suggest that this is made clear to avoid confusion.

### **Other issues**

1. It is pleasing to note HMRC's commitment to having a soft landing period from the start date to allow extra time to update legacy systems without fear of incurring record keeping periods. However, this under-estimates the complexity of the issue and we strongly suggest that the soft landing period be at least two years. Having an extended period will also show support to businesses having to cope with Brexit; the VAT implications of which are likely to be substantial. Advanced planning for both Brexit and MTD for VAT is challenging enough without the overhanging threat of penalties.
2. There is speculation that the facility to submit annual VAT returns will disappear under MTD despite assurances from HMRC that this will not be the case. We request clarification in this area as greater certainty is required.
3. The security aspects surrounding MTD receive little coverage in documentation released as part of the consultation process. Naturally, taxpayers will be concerned about the security of their data and HMRC will need to take

appropriate action to reassure taxpayers about risk management and contingency plans.

4. It is not entirely clear how MTD will handle deemed supplies, such as gifts, change of use and scale charges where VAT needs to be declared in box 1 (output tax). The value of deemed supplies needs to be declared in box 6, but is not income for accounting purposes. The same is true for reverse charge supplies, but most software accounting systems recognise this and provide for separate reporting (although it is often complicated to set this up and software has been known to only report half of the transaction!) . This is not the case for deemed supplies. It would seem sensible, therefore, for HMRC to encourage the developers to test the software with VAT specialists who know how the transactions should be reported on the return.



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Authorised by the VAT Practitioners Group to submit responses on behalf of the organisation