# JCEXCHANGE

Connecting accountancy professionals

Summer 2017

# Government revises 'Making Tax Digital' timetable

Ministers have announced a revised timetable for Making Tax Digital – a government initiative that sets out a vision for 'a transformed tax system and the end of the tax return'.

HMRC's Making Tax Digital project was originally scheduled to be introduced in spring 2018, starting with quarterly online reporting of income and expenses for unincorporated businesses (sole traders and some partnerships) and landlords; with a view to achieving full digitisation by 2020 for all taxpayers (other than those with turnover < £10K or those digitally excluded).

## What are the changes?

The new timetable announced sets out plans as follows:

> Only businesses with a turnover above the VAT threshold (currently £85,000) will have to keep digital records and only for VAT purposes
> They will only need to do so from 2019
> Businesses will not be asked to keep digital records, or to update HMRC quarterly, for other taxes until at least 2020

## What does this mean?

While there is a definite recognition that digital reporting is a good idea, and is still the direction of travel; smaller businesses will not be required to use the system, but can move to digital reporting at their own pace on a voluntary basis.

The deferral will give more time for testing the system before the VAT system goes live in April 2019. However, as VAT already requires quarterly returns, no business will need to provide information to HMRC more regularly during this initial phase than they do now - just potentially in a different format and possibly with more detail of individual transactions within the submissions. We await further details which we expect to be included in a Finance Bill in autumn 2017.

All businesses and landlords will now have at least a further two years to adapt to digital reporting to HMRC for taxes other than VAT.

## Next steps

These measures and the other measures which were dropped from the draft Finance Bill pre-election will be legislated for as soon as possible after summer recess.

We will to keep the JC Exchange network informed of any further updates in order to help you understand what this means for your client base. However please do speak to our tax specialists at the next round of JC Exchange events.

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# The UK's new Corporate Criminal Offence of failing to prevent the facilitation of overseas and domestic tax evasion – Are your clients prepared?

The focus on tax transparency is heightening. A current example is the UK's Corporate Criminal Offence pf the Failure to Prevent the Facilitation of Tax Evasion (CCO), which is now law and will be effective from 30th September 2017. In this article, we explain the wider context in which the legislation will operate, why every business either doing business in, with or through the UK needs to consider the legislation, and the view from HMRC as to how businesses should respond by 30th September 2017.

## The new offence of failing to prevent third-party tax evasion

The new offence concerns an 'associated person' such as an employee, agent, contractor or subsidiary acting on behalf of a business who facilitates the evasion of tax by a third party.

If that business cannot evidence that it had reasonable preventative procedures in place to prevent the facilitation of tax evasion by persons acting on its behalf, then it could be subject to a corporate criminal conviction. A successful public prosecution could result in an unlimited fine. The repercussions are likely to have far-reaching consequences for regulated businesses such as the revocation of licenses in some countries. Further, organisations may find themselves barred from public procurement processes and face reputational damage.

HMRC is not expecting organisations to put in place fail-safe procedures to stop their clients and customers from committing tax evasion, or stopping the de facto tax evasion itself. Instead it expects businesses to take a risk-based approach and to be doing all that is 'reasonable' to prevent their people, service providers and third parties acting on their behalf from being knowingly concerned in facilitating tax evasion by third parties globally.

The tax evasion can be anywhere in the world and applies to all taxes. There is no de minimus level.

## What are 'reasonable procedures'?

To respond to the legislation, HMRC recommends that businesses should put in place procedures that are proportionate to the risks they face, using HMRC's six principles as a guide:

- Risk assessment
- Proportionality of risk-based prevention procedures
- Top level commitment
- Due diligence
- Communication
- Monitoring and review

## Act now to meet the September deadline

By September 2017 any business seeking to ensure that it has a defence of reasonable procedures should have identified, documented and categorised the specific risks of facilitation of tax evasion across their organisation, identified the controls already in place to manage those risks, and devised a plan to address any control shortcomings or other necessary actions to address the risks identified.

## Risk assessment – the first response

The risk assessment drives the response to the legislation – until your clients identify where their risks arise it is impossible to know whether existing controls sufficiently manage the risk.

A logical starting point is to risk assess their business operations by considering the geographies, products, supplies, relationships and motivations that could result in a facilitation of tax evasion risk. Identifying the 'associated persons' of the business and the risks of facilitation can ensure a focus on key risk areas. It can also be helpful to consider who the counterparties to transactions are, who potentially could be evading tax, to then identify where facilitation could arise – for example customers, suppliers and employees.

Once risk have been identified and prioritised a plan can then be built to address any gaps in controlling procedures. Any response should include top-level commitment from the organisation as well as sustained communication which can be facilitated through training.

## Conclusions

Businesses have a limited time to carry out their risk assessment processes. Our experience is that by gathering together key members of the business to perform an initial assessment of the risk of facilitation across the business, a plan of action can quickly be formulated. Will your clients be ready in time for the September deadline?

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# Valuation services

For many of your clients, situations will arise where the business owners need to value their business. Be it for a particular purpose such as valuing a marital asset; making a decision on when is the right time to sell; or to support a tax efficient employee share scheme, a valuation can be critical. Johnston Carmichael's Corporate Finance team has hands on experience of preparing independent business valuations, and working with other specialists in our forensic and tax teams to cover all potential scenarios. Our forensic team's valuation reports have also been used in contentious situatons, and we are often relied on as expert witnesses in valuation disputes.

While not exhaustive, here are some scenarios where we can assist:

- Valuing a business when the owners are considering selling
- Ascertaining the value of a business in a divorce situation (marital asset)
- Valuing a minority or majority stake in the business in the event of a shareholder exiting
- An independent opinion being required by the Articles of Association in a shareholder dispute
- For HMRC purposes, for example tax efficient share schemes such as EMI
- Confirming the value of the business for the estate in the event of the death of the owner

As a JC Exchange member, we would be delighted to work alongside you to assist your clients with their valuation needs.

## Contact

The contacts listed below should be the first port of call for your valuation needs and will pass the lead onto the most relevant team internally.

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