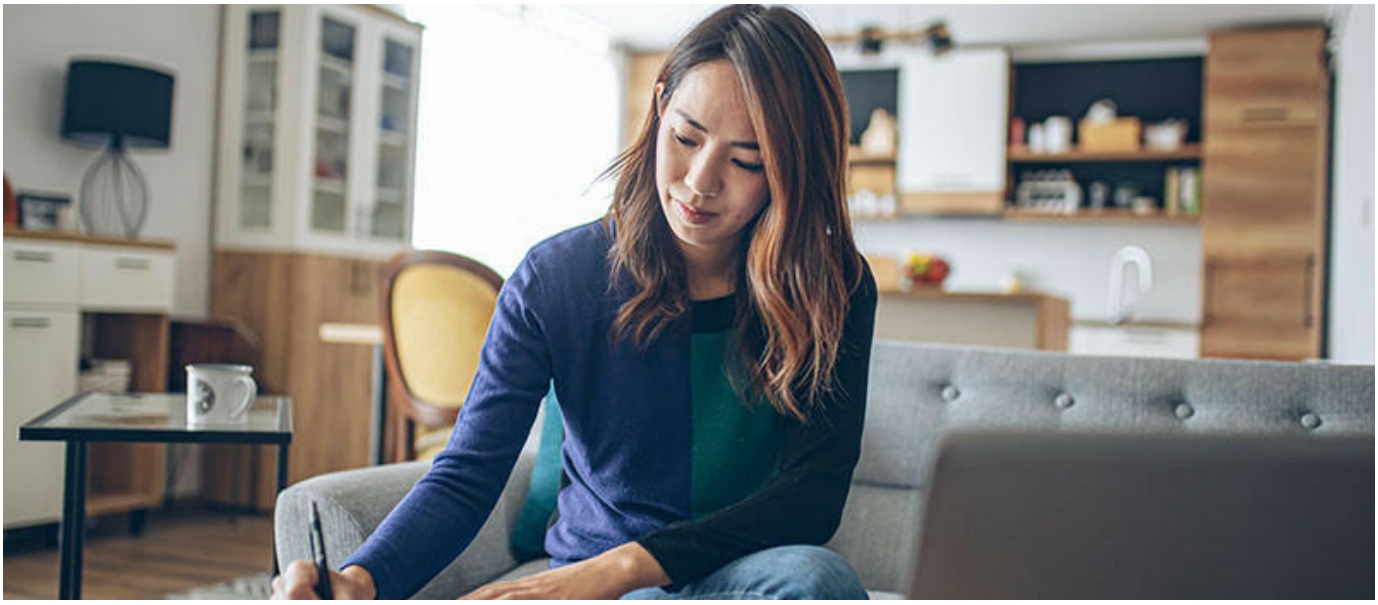
Draft Finance Bill legislation: changes to data HMRC collects from customers

Management of taxes | Personal tax | Employment Tax



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The CIOT and ATT have submitted comments to HMRC about the draft Finance Bill legislation (tinyurl.com/4yzxf6df) which will enable regulations to be created specifying additional data that HMRC will be able to collect through existing returns from the tax year 2025/26 onwards.

The draft regulations themselves have not yet been published, but HMRC's policy paper published at the same time as the draft legislation indicates that the government will require businesses to provide the following additional information to HMRC:

- Employers will be required to provide more detailed information on employee hours worked using Real Time Information (RTI) PAYE reporting.

- Shareholders in owner managed businesses will need to provide the following additional information on their Self Assessment (SA) tax return:
- the amount of dividend income received from their own companies separately to other dividend income; and
- the percentage of share capital that they hold in their own companies.
- Self-employed taxpayers will need to provide information on the start and end dates of their self-employment on their SA tax return.

In its response, the CIOT is pleased to note that following a consultation last year, HMRC have decided, for now at least, to take forward only the above three options for additional data collection. We had been concerned that the original proposals (which had identified six broad areas where HMRC believed their data could be improved) would place significant extra administrative burdens on employers and businesses, for little or no direct benefit to them (see www.tax.org.uk/ref989).

Whilst the reduction in scope helps address our concerns, particularly around increased administrative burdens and complexity, we note the following points:

- The estimated one-off impact on transitional businesses costs (£44 million) and continuing impact on administrative burdens (£9.6 million), as calculated by HMRC, are not insignificant. However, they seem to be hugely underestimated, particularly in relation to the impact on businesses of providing data on employee hours worked. We would welcome sight of the calculations, as we expect real-life costs to be significantly higher.
- The draft legislation includes powers to enable HMRC Commissioners to make regulations to specify the information they consider relevant to be collected via returns. The details of what information is to be collected are not contained in the primary legislation. We are concerned that this would appear to leave open the possibility that HMRC may in future widen the data they collect beyond the three options they have decided to take forward at this stage by making further regulations under the powers granted to the Commissioners by this draft legislation, without proper Parliamentary scrutiny.

We also said that it is difficult to provide any meaningful comment on the data collection measures themselves when the regulations have not been published. In our response, we urge HMRC to publish draft regulations before the enabling legislation has been enacted.

Although the amendments will not have effect until the tax year 2025/26, this does not provide much time for businesses and employers to budget for, investigate, develop and implement any software upgrades and new internal data collection processes that may be needed to comply with their new data collection and submission obligations.

With regard to the draft legislation itself, our principal concern is whether the legislation will work as intended, which we think will depend on what HMRC intend to use the additional data for. However, it is not at all certain from the information that has been published so far what HMRC will do with the data. For example, it is not clear if they intend to share it with other parts of government, or use it only for their own compliance purposes, or both.

We also make some comments on the three specific areas that businesses will be required to provide additional information about to HMRC. In terms of employee hours worked, for example, employers not already capturing this information on their payroll systems will have to set up new systems to do so. In terms of the dividends paid to shareholders in owner managed businesses, we note that there is the potential for complexity on percentage of share ownership.

The ATT's main concern with this primary 'enabling legislation' is that the crucial details of exactly what additional information will be requested are relegated to regulations which will, by their nature, receive much less scrutiny. Given the importance of this detail to how workable the plans for supplying this additional information are, the ATT would have preferred this content to be included in the primary Finance Bill legislation.

The ATT also note that the only limitation placed on the issue of any subsequent regulation is that the information being sought has to be 'relevant for the collection and management of taxes referred to in Taxes Management Act 1970 s 1 (i.e. income tax, capital gains tax and corporation tax)'. The ATT therefore have concerns that the interpretation and breadth of 'collection and management of taxes' provides potentially unlimited scope for extra data and information to be required in relation to direct taxes via regulations.

The CIOT's response can be found here: www.tax.org.uk/ref1197.

The ATT's response can be found here: www.att.org.uk/ref434.

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