Draft legislation: Improving the data HMRC collects from its customers

Management of taxes **Employment Tax** **OMB**



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The ATT and CIOT have both commented on draft regulations which introduce new data obligations on employers and self-assessment taxpayers to provide certain information to HMRC in tax returns.

The consultation is on GOV.UK website: tinyurl.com/458eb9cs

The Finance Act 2024 introduced powers to enable HMRC, from April 2025 onwards, to collect data from taxpayers through both Income Tax Self Assessment and Pay As You Earn (PAYE) Real Time Information (RTI) returns. These draft regulations specify the additional information required:

- Employers will be required to provide more detailed information on employees' worked hours paid via RTI PAYE reporting. This figure for employee hours will depend on whether the employee is paid an hourly rate of pay or via a contract which specifies a number of hours, or a combination of the two in some cases.

Where that information is not held, employers will be required to provide the reason with reference to a specific description set out in the regulations.
- Directors in owner-managed businesses will be required to provide the amount of dividend income received from their own companies separately to other dividend income. New mandatory questions will be added to the self-assessment tax return requiring the name and registered number of the close company, the value of dividends received from the close company and the person's highest percentage shareholding in the company.
- The self-employed will be required to provide information on start and end dates of self-employment via their self-assessment tax return. (These questions are currently voluntary.)

The CIOT response

Employee hours worked

We are unclear why HMRC are collecting this information and what they are going to use it for. That made it hard for us to comment on whether the draft regulations will work as intended. We also remain concerned that gathering this additional data and providing it to HMRC will place significant extra administrative burdens on some employers. The figures in HMRC's revised impact assessment look significantly underestimated.

Dividends

We are pleased that the draft regulations limit the information gathering exercise to directors of close companies. We think that the term 'the percentage of the person's shareholding' requires further explanation, ideally in the regulations themselves.

We also suggest that HMRC should produce some guidance (with examples) to help taxpayers work out what percentage they will need to put on their return. We also recommend that the term 'director' should be defined in the regulations.

Start and end dates of self-employment

HMRC should provide appropriate guidance in the tax return accompanying notes and on GOV.UK to help taxpayers identify the dates that their business started and

ended, as these may not be clear cut. Not all self-employed taxpayers will need to provide this information so the tax return will need to be designed to avoid validation errors when taxpayers try to file the return without answering the mandatory start and end date questions.

The rules will also need to cater for taxpayers who may not have needed to report the start date of a trade (for example, if their income was under the £1,000 trading allowance in its early years). Guidance may be necessary to assist taxpayers. Finally, it is not clear if the regulations apply to activities that are only treated as trades by virtue of a deeming provision.

The full CIOT response can be found here: www.tax.org.uk/ref1312

ATT response

Employee hours worked

We consider that HMRC had not provided a credible rationale for the collection of this information. If the reasoning behind the collection is to support work undertaken by HMRC on compliance with the national living wage (NLW) or national minimum wage (NMW), then the requirements to report data on hours *paid* would not enable identification of NLW/NMW non-compliance in all cases as the NLW/NMW are calculated based on hours *worked*.

Dividends

We raise concerns that the identification of ;shareholdings would be problematic as an individual's percentage shareholding could change from year to year, and within the year. We query what shareholdings require disclosure – is it just ordinary shares or does it include preference and debentures? We consider that it would be much more logical (and more reliable) to obtain this information from Companies House.

Start and end dates of self-employment

We note that tax cases and the supporting HMRC Business Income Manual guidance in BIM805058 (and subsequent sections through to BIM80555) attest to the fact that identifying the precise start date of trading is not always straightforward. Tax cases and BIM805659 (through to BIM80585) do likewise in respect of cessations.

Given the significance of the identification of the dates now that notification is compulsory, we hope that there will be no sanction (even though there is provision for one) in situations where upon closer examination either the originally reported date had been entered on the return after taking proper care or where no overall change in the individual's tax liability resulted from the initial adoption of a date that was then found to require amendment.

We also support the need for clearer guidance in the tax return accompanying notes and on GOV.UK.

The full ATT response can be found here: www.att.org.uk/ref456

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