Draft Finance Bill 2025-26: Making Tax Digital for income tax

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Both the CIOT and the ATT have submitted comments on the draft legislation on Making Tax Digital for income tax and penalty reform.

The draft legislation updates the scope of Making Tax Digital (MTD) for income tax, as well as making changes to the list of exemptions and HMRC's powers to cancel penalty points and late submission penalties. The ATT and CIOT responses focused on similar themes.

The ATT response noted that the draft legislation could unintentionally bring *all* non-resident sole traders and landlords within the scope of MTD, even where their sole trade or property letting activities do not give rise to any UK tax liability. This may not necessarily affect all non-resident taxpayers due to the MTD income thresholds but could still present an unnecessary and unfair administrative burden in some cases.

The ATT also highlighted how proposals could complicate MTD obligations for individuals without a National Insurance number. Under existing regulations, individuals who do not have a National Insurance number on 31 January before their expected MTD start date would be automatically exempt. The draft regulations are unclear about when the absence of a National Insurance number should be assessed, and whether any resulting exemption from MTD applies automatically or needs to be applied for.

The ATT noted the removal from the draft regulations of the current 28-day time limit for HMRC to accept or reject an application for MTD exemption on grounds of digital exclusion. The guidance accompanying the opening of the MTD exemption process at the end of September describes the 28-day limit as an aim rather than an obligation. This will cause uncertainty for taxpayers and could lead to indefinite delays for the response to an exemption application.

The CIOT response similarly highlighted the issues on the scope of MTD for non-resident taxpayers and taxpayers without a National Insurance number. The CIOT also flagged the need for adequate safeguards to be in place where statutory discretion is used to not award a point, or not to assess a penalty, to maintain fair treatment for all taxpayers.

Both the CIOT and ATT suggested that the wording on the list of exemptions should be amended to make it clear that the exemption only applies to a trustee (or executor or personal representative) in their capacity as a trustee. Both responses highlighted the need to include the legal definitions of power of attorney in Scotland and Northern Ireland, alongside the definition for England and Wales currently included.

The full CIOT response can be found here: www.tax.org.uk/ref1547

The full ATT response can be found here: www.att.org.uk/ref491

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