Proposed new reporting requirements for close companies

OMB

August 2026

21 July 2026

The ATT and CIOT caution against burdensome additional reporting requirements proposed in HMRC’s consultation on Reporting company payments to participators.

HMRC’s recent consultation (see tinyurl.com/2vc9czpy) sought views on introducing new requirements to report all transactions between close companies and their participators.

Under the proposals, companies would be required to provide details of all their transactions with participators to HMRC by means of a report showing the recipient, National Insurance number (for individuals), amount and date of all relevant transactions. This would include, for example, cash withdrawals, loans, debts, dividends and transfers of assets. The only proposed exception is for salary payments, which are reported under Real Time Information (RTI). Transactions with corporate participators would not be excluded, potentially bringing intra-group transactions into scope.

The ATT response highlighted the concerns raised by members about the financial impact of the proposals. The additional reporting would inevitably lead to increased costs for business, which may risk corners being cut and result in a reduction in the quality of data being submitted to HMRC. ATT felt that companies that are deliberately not compliant with the existing requirements for close companies are unlikely to comply with additional reporting requirements fully and accurately. Meanwhile, companies that are already compliant will see an increase in their compliance costs, with little or no benefit to them from the new administrative burden.

The CIOT agreed that the volume of data involved would be unmanageable for some businesses without additional resources, both for businesses and HMRC. We questioned the cost-benefit analysis of the proposals, recommending that any new rules should be carefully targeted.

Both representative bodies highlighted that many companies rely on assistance from professional advisers to submit accurate information to HMRC as part of a year-end process. While we support the policy aim of improving record-keeping, most small businesses cannot afford in-house tax experts to help them get things right first time. Therefore, both bodies opposed these proposals for more regular or real-time reporting.

The ATT suggested that there would be little benefit to including corporate participators within the scope of additional reporting requirements. The position of companies in liquidation would also need to be considered as part of any reporting regime.

In terms of possible exclusions, the CIOT also raised the question of companies that are only close by reason of being held by collective investment schemes and other types of investment funds. We commented that the proposed measures seemed too widely drawn, given the consultation’s stated aims of reducing the small business tax gap.

Were HMRC to press ahead with some form of additional reporting, the ATT put forward for consideration the introduction of a de minimis threshold or, alternatively, disclosure requirements similar to those previously required under accounting standards in respect of transactions with participators. This would help to focus the additional administrative burden on those transactions with a more than negligible tax risk.

The CIOT’s members had mixed views on a de minimis exclusion, concluding that it may actually add more complexity to the tax system. Our preference would instead be for a simplified form of reporting, providing summarised information as part of the annual corporation tax return. We also made recommendations about improved guidance and educational resources for new business owners, drawing on the conclusions of the Office of Tax Simplification in its 2019 report ‘Simplifying everyday tax for smaller businesses’.

The full CIOT response is available here: www.tax.org.uk/ref1658

The full ATT response is available here: www.att.org.uk/ref522

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