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Making Tax Digital: the House of Lords examine the proposals

1 April 2017

The CIOT, ATT and LITRG provided a combination of oral and written evidence to the House of Lords Economic Affairs Finance Bill Sub-Committee on the government's Making Tax Digital (MTD) proposals.
In February Tina Riches (CIOT), Michael Steed (ATT) and Robin Williamson (LITRG) gave oral evidence to the House of Lords' sub-committee. The transcripts from the sessions, which were broadcast live on Parliament TV, can be found on the Parliament website [1].

The CIOT evidence

In written evidence provided to the committee, CIOT expressed its support in general for the move towards increased digitisation of the tax system, and greater use of technology to reduce burdens on taxpayers and HMRC. However, we raised concerns about the timetable for mandating MTD being too optimistic and that we think it should be pushed back. Public testing of the software will only commence in April 2017, and will start slowly before ramping up later in the year. Agent access will not come online until later in 2017, and a full reporting cycle (including the End of Year declarations) will not be possible before many businesses are mandated into MTD. Deferral will allow for better and more thorough testing, and a smoother and more effective transition. There is also little detail yet about what the penalty regime under MTD will look like. This uncertainty adds to our concerns that the timetable for introducing the changes is far too ambitious.

In our submission, we highlighted the results of our member survey which was carried out in September 2016 and which indicated that MTD will place additional burdens and costs on clients' businesses and on members' practices. We also said that in our view HMRC's costs estimates are too optimistic, and that we think they have underestimated the additional costs to businesses, and overestimated the administrative savings and the revenue which MTD will secure.

At the time we submitted our evidence, the government had not announced at what level the initial exemption threshold for mandatory digital record keeping and quarterly reporting would be set – whether this would be £10,000 or higher than £10,000 – or whether there would be a one year deferral for the smallest businesses, and who would qualify. We said that we thought this was extremely unsatisfactory, since businesses need to know sooner rather than later what preparations they will have to make to comply with their MTD obligations – potentially starting in just over one year's time. In our view, the threshold for mandation should be increased. £10,000 is far too low. An initial threshold in line with the VAT registration threshold (currently £83,000) would be more appropriate. This would exempt many of the businesses which HMRC consider make errors, due to failure to take reasonable care, but we said that we have yet to see convincing evidence which supports HMRC's assertions.

The LITRG evidence

In its written evidence, LITRG concurred with the view expressed by the CIOT and others that the £10,000 exemption threshold was far too low, and that businesses with turnover below the VAT threshold should not be mandated but enabled to opt into MTD. LITRG also said that the timetable was far too short to enable the smallest businesses to prepare for implementation, or for HMRC to put in place any major changes indicated by the pilots given that the pilots will not allow for one full MTD cycle. Free software might help the smallest businesses if the specification was right, but those who will rely on it must not have a worse experience than those who can afford to use paid-for versions of commercial software. In LITRG's view, HMRC should develop free software that is fit for purpose and should not rely on the commercial market.

The proposed extensions to the cash basis and reform of the basis period rules may achieve some simplicity, but at the expense of a less convenient tax regime particularly as regards set-off of trading losses. Nobody should be encouraged to adopt cash accounting for the sole reason that it will make compliance with MTD easier for them, particularly when accruals accounting is the only way to understand whether a business is profitable and how it is doing generally. In particular, universal credit claimants should not be expected to understand and apply two different forms of cash basis – one for HMRC for tax, the other for the Department for Work and Pensions (DWP) for benefit purposes.

LITRG supported HMRC's proposal to exempt those for whom it is not reasonably practicable to use electronic communications or to keep electronic records for any reason, including age, disability or location. But as part of its Public Sector Equality Duty HMRC should consider that some disabled people who rely on assistive technology to help overcome their disability might incur additional cost, over and above that incurred by their non-disabled counterparts. Therefore HMRC should provide sufficient financial help to ensure that disabled users do not suffer unlawful discrimination.

All written evidence, including that of the CIOT, LITRG, and indeed HMRC can be found on the Parliament website [2].

Budget update

On 8 March, and further to the representations outlined above, the Chancellor announced a deferral of mandatory digital record keeping and quarterly updates for small businesses and landlords with turnover below the VAT registration threshold (£85,000 from April 2017). Although the detail is not available at the time of writing, we understand that deferral will apply if all income from all activities in the scope of MTD is below £85,000, that is, it does not apply on an activity-by-activity basis, meaning that businesses which are not VAT registered could still be mandated into MTD from April 2018.

In addition, the turnover threshold for exemption from MTD (rather than deferral) was confirmed at £10,000. Again, this amount is for the total of all in scope activities, and not per activity. So, an individual with a small trading business generating turnover of £8,000 per annum, and a buy to let generating £6,000 per annum, will be within the scope of MTD; although they will benefit from the one year deferral outlined above.

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