HM Revenue & Customs

Making Tax Digital: Voluntary pay as you go

Consultation document
Publication date: 15 August 2016
Closing date for comments: 7 November 2016

Subject of this consultation:	Voluntary pay as you go (PAYG) for businesses, self-employed and landlords who are keeping their records digitally and providing regular updates to HMRC.
Scope of this consultation:	This consultation outlines, and invites comments on, the arrangements for voluntary PAYG.
Who should read this:	We would like to hear from anyone who is affected by or interested in these proposals, including businesses, agents and representative bodies.
Duration:	The consultation will run for 12 weeks from 15 August 2016 to 7 November 2016.
Lead official:	Liz Williams, HMRC
How to respond or enquire about this consultation:	HM Revenue and Customs Making Tax Digital for Business Policy Team Room 3C/12 100 Parliament Street London SW1A 2 BQ Or by email to makingtaxdigital.consultations@hmrc.gsi.gov.uk
Additional ways to be involved:	HMRC welcomes discussions with interested parties, especially businesses, agents and their representatives. If you would like to meet with us to discuss these proposals, please contact us using the details above.
After the consultation:	HMRC will publish a response to this consultation as soon as possible after the consultation closes. At that time, we will also publish any necessary draft legislation.
Getting to this stage:	At Budget 2016 the Chancellor announced the voluntary payment facility, and stated that we would be consulting on this in 2016.
Previous engagement:	The government published a discussion paper on simpler payments in December 2015, and followed this up with consultation events around the country in January and February 2016.

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On request this document can be produced in Welsh and alternate formats including large print, audio and Braille formats

1. Introduction

1.1 At the March 2015 Budget the government committed to transform the tax system through digital technology and end the need for annual tax returns by the end of this Parliament. On 14 December 2015, HMRC published the Making Tax Digital Roadmap, which sets out how this transformation will be achieved by 2020.

1.2 There is still a lot to design and develop before 2020 and it is important for us to do this hand in hand with our customers and those impacted by these changes, to hear their views and concerns and to work with them to understand how we can make these changes work for everyone. We want to design the tax administration around the people it affects and we welcome your input about how we can best achieve that. To this end we have launched a package of six Making Tax Digital consultations, of which this is one. To see the others, please go to MTD consultations.

What we are consulting on

1.3 In December 2015 HMRC also published a Making Tax Digital discussion paper on simpler payments. This considered options on the simplification of payment of taxes, aligning payment arrangements and bringing payment dates closer to the time of the activity or transactions generating the liability. A series of consultation events with stakeholders to discuss the propositions followed.

1.4 We listened to the feedback from these events and there was a clear message that voluntary pay as you go was a positive step forward, giving businesses the opportunity to budget towards their tax bills, and would prove attractive provided it was flexible and straightforward. The other options achieved less support.

1.5 At the March 2016 Budget the Chancellor announced the opportunity for businesses, self-employed and landlords who are keeping their records digitally and providing regular updates to HMRC to have the facility to make voluntary payments on a 'pay as you go' basis. Voluntary pay-as-you-go (PAYG) payments are effectively amounts that a business chooses to pay towards an expected liability.

1.6 Voluntary PAYG will apply to those unincorporated businesses, sole traders and landlords, in respect of their Income Tax/National Insurance Contributions/Capital Gain Tax, from 1 April 2018, to VAT from April 2019 and to incorporated businesses, in respect of their corporation tax affairs, from 2020.

1.7 This consultation looks at the options for a customer to make and manage their voluntary payments; considers how voluntary payments will be allocated across a customer's different taxes; and explores the best way of dealing with the repayment of voluntary payments. Chapter 5 looks outside voluntary payments and considers the opportunity regular updating provides to make earlier repayments to our customers.

1.8 For those in business and landlords, the current payment rules for Income Tax/NIC/CGT, Corporation Tax and VAT, and treatment of early payments under each tax, are varied and are covered in more detail in Annex A. **The opportunity to voluntarily pay as you go will not change the statutory due dates for these taxes**.

1.9 In this document several examples are used to illustrate how the process might apply, using the following case studies:

Introducing the case studies

'Richard' is a self-employed landscape gardener. His business is growing. He has recently crossed the VAT threshold and taken on two employees. He has also appointed 'Alison', an agent, to help him with his tax.

'Dimitri' is a self-employed mechanic who accounts for income tax on a cash basis, with no employees and is below the VAT threshold. He employs an agent 'Sarah' to manage his tax affairs.

Who should read this consultation?

1.8 The proposals will be of interest to all businesses, sole traders and landlords who will be required to both keep business records and update HMRC regularly using digital tools. In addition, the contents will affect agents and anyone who manages businesses' tax affairs.

2. What voluntary payments might look like under MTD for business customers

2.1 HMRC considers the overarching principles for voluntary PAYG should be that:

- The making of voluntary payments will be flexible
- The administration will be simple for the customer and HMRC
- HMRC will allocate voluntary payments against tax liabilities as they become due
- Voluntary payments will be repayable
- Payments and repayments will be made electronically

The processes that we introduce will reflect these basic principles, and the rest of this chapter explains how we expect those processes to look.

2.2 As businesses start to update HMRC regularly through their software/digital tax account, they and their agents will be able to see in one place their established liabilities – paid, outstanding or becoming due - and their estimated liabilities, across their taxes. Under PAYG they will be able to set aside money, ensuring there are no shocks or problems in meeting their liabilities, helping them improve cashflow and reducing exposure to any late payment penalties or interest charges.

2.3 Under PAYG, the customer will decide how often and what amount they want to pay. Payment will not have to be at any fixed time, or at regular intervals; the customer will retain control and choice, so they feel confident that they have made the right decision for their circumstances, and have the opportunity to amend their choices if circumstances change. There will be no such thing as a missed voluntary payment.

2.4 Voluntary payments will sit on the customer's digital account as a credit. These credits will be allocated against liabilities as they become due, across their taxes, using appropriation rules set by HMRC (generally a first in first out basis, subject to certain over-riding criteria such as EU taxes and levies). Unused credits will be carried forward for use against future tax liabilities.

2.5 So that the credits can be properly dealt with by HMRC it is possible that customers will need to indicate they intend to make a voluntary payment, probably by selecting an option in their software/digital account. This will not commit customers to making payments, but the existence of an indicator would ensure that voluntary payments are correctly identified, received and held on the customer's record. We know from customer feedback that HMRC rejecting or returning unexpected payments drives up business costs, and we want to stop this happening. However, in the interests of simplicity we will review whether our systems and processes can offer the necessary flexibility and customer control without an indicator present.

2.6 Customers will be able to make a voluntary payment in several ways. A customer may choose to make a voluntary payment at the point they submit their update, when their digital tax account is being updated with actual and estimates of tax liability. We envisage the software/digital tax account will ask the customer when they submit the update whether they want to make a voluntary payment towards their tax bill. It will present various options and take them straight to the payment functionality/facility, making it seamlessly part of the update process. A variation to this may be that a customer chooses to simply pay a voluntary sum to HMRC, before the statutory due date, as and when they want to. This gives maximum flexibility to the customer over when, and if, they make a voluntary payment (although for systems capacity reasons we may have to restrict the number of payments in a period).

2.7 A further option would be for a customer to enter into a more regular commitment. For these we would set up a direct debit arrangement, similar to those applying for utility bills, so that a regular amount agreed by the customer is paid to HMRC. This is essentially an extension of the current Budget Payment Plan into MTD, although all interactions would take place digitally.

2.8 Although – like the BPP and utility bills - the customer could arrange to pay a regular, set amount by direct debit, with regular updating we think some customers may want to set up a direct debit facility for the amounts of estimated liability shown by those updates. As we want customers to feel confident they have control over voluntary sums taken by HMRC we would ensure that amounts to be taken are clearly visible within the digital tax account, with simple processes for customers to make changes within a specified timeframe.

Question 1: Do you see any challenges with the voluntary payments process described? Do you think there are alternative options that should be considered, and if so, what are these?

2.9 The next four examples focus on one customer's journey, building up a picture over time, and illustrating how voluntary payments, and different payment choices, might look to a customer on their digital account:

Ex 1

Dimitri starts trading as a self-employed mechanic on 6 April 2018 and makes up his accounts for the period 6 April to 5 April. The accounts for the period 6 April 2018 to 5 April 2019 form the basis of his tax liability for 2018/19. He is below the VAT threshold and has not registered for VAT. Under MTD he is required to provide regular updates to HMRC and has chosen to provide them quarterly.

His account might look like this (updates are cumulative):

Date	Updates
27 July 2018	Update for Quarter 1 of 2018/19, estimated Tax/NIC liability £1,000
12 October 2018	Update for Quarter 2 of 2018/19, estimated Tax/NIC liability £2,100
21 February 2019	Update for Quarter 3 of 2018/19, estimated Tax/NIC liability £3,000

2.10 In March 2019 Dimitri decides he wants to make a voluntary payment towards future liabilities. He goes into his software/digital tax account and indicates that he intends to make a voluntary payment. He would be offered the option to make a payment of a) £3,000 (cumulative estimated liability at end of quarter 3), or b) some other sum that he chooses (may be subject to certain parameters, e.g. for security reasons). By choosing one of the options, Dimitri would be taken straight to a screen where he can make the payment to HMRC. Depending on his software it could also send a payment authority straight to a linked bank account.

2.11 As Dimitri becomes more familiar with MTD he chooses to make another voluntary payment when prompted by his software/digital tax account when making his update for quarter 1 of 2019/20:

Ex. 2 Dimitri makes two voluntary payments towards his expected tax liabilities:

Date	Updates	Voluntary Payments
21 February 2019	Update for Quarter 3 of 2018/19, estimated liability £3,000	
7 March 2019		Voluntary payment of £3,000 • £3,000 Credit balance
17 May 2019	Update for Quarter 4 of 2018/19, estimated liability £4,200	□
23 July 2019	End of Year declaration for 2018/19, tax liability £4,100 (not yet due)	
25 July 2019	Update for Quarter 1 of 2019/20, estimated liability £1,300	Voluntary payment of £1,300 • £4,300 Credit balance

2.12 Although Dimitri has made voluntary payments of £4,300, and the end of year declaration shows a tax liability for 2018/19 of £4,100, as that tax is not yet due, the £4,300 remains as an unallocated credit on his account. We might however want the digital account to indicate that the credit balance of £4,300 will currently cover the tax liability of £4,100 becoming due in January 2020 (subject to no other liabilities arising in the interim, for example a chargeable capital gain), but not both that liability and the 2019/20 Quarter 1 estimated liability of £1,300.

Question 2: Do you have any views or suggestions on the display of voluntary payments in the digital tax account?

Allocation of voluntary payments

2.13 Currently (see annex A), where there is a credit on a business customer's SA account, that credit will be used to meet the next SA liability arising. When a voluntary payment is made on account of a business customer's income tax/NIC from April 2018, creating a credit on their digital tax account, we envisage this will still be the case. We believe that credits should be used against the earliest liabilities arising (subject to certain other appropriation priorities resulting from HMRC's legal obligations), in order to mitigate against interest, late payment penalties, and the possibility of debts accruing. Example 3 demonstrates this:

Ex 3 Dimitri's tax liability for 2018/19 forms the basis of his Payments on Account (POA) for 2019/20

Date	Updates	Crystallised liabilities	Voluntary Payments
19 October 2019	Update for Quarter 2 of 2019/20, estimated liability £2,500		• £4,300 Credit balance
18 January 2020	Update for Quarter 3 of 2019/20, estimated liability £3,750		
31 January 2020		1) £4,100 due for 2018/19, £4,100 settled 2) £2,050 1st POA due for 2019/20 (based on 50% of 2018/19) • £200 settled, £1,850 payable	1) £4,100 of credit used against 2018/19 tax due 2) £200 of credit used against 1st POA due for 2019/20 • NIL Credit balance remaining

2.14 Dimitri made his first voluntary payment of £3,000 in March 2019, based on his update for quarter 3 of 2018/19 showing a cumulative estimated liability of £3,000 for 2018/19. The full £3,000 was used towards his eventual 2018/19 liability of £4,100. He made a second voluntary payment of £1,300 in July 2019, based on his update for quarter 1 of 2019/20 showing an estimated liability of £1,300 for 2019/20. Only £200 of this second voluntary payment was used against his 2019/20 liability – the majority (£1,100) of it was used to settle his 2018/19 liability.

2.15 We recognise that for some customers this could be confusing. Dimitri might reasonably have expected when he paid the £1,300 shown by his update for the first quarter of 2019/20 that he was notionally budgeting for his 2019/20 tax bill. However in the meantime he had other liabilities arising – here VAT - that he needed to pay. We do not think he should have the choice not to pay those, creating a debt, and reserve the second voluntary payment for use at a later date. This is analogous to how credit cards work, with money set against earlier rather than later credit periods.

2.16 Of course Dimitri may specifically want the second, probably "tagged" voluntary payment of £1,300 to be used against his 2019/20 tax bill. In that instance we want him to be able to make a separate, non-voluntary payment towards his liability for 2018/19, due on 31 January 2020. To facilitate this, HMRC may need to build in rules that allow a 'period of grace' before the credit is set against the liability that has arisen, to allow for separate, non-voluntary made on the due date. If no separate payments are made, the credit would be allocated, retrospectively, as at the due date to ensure no late payment interest arose.

2.17 HMRC will ensure that there are clear explanations within digital tax accounts and within our guidance, of how payments to HMRC are allocated, so that customers are fully aware of how any voluntary payments they make will be used. The digital tax accounts will clearly set out the liabilities arising, the payments made, and the allocation of payments against liabilities. We will be encouraging software developers to enable much of this information to be available within their software packages.

Question 3: Should there be a 'period of grace', and if so, what period would be appropriate to allow for separate payment of an amount becoming due?

2.18 Example 4 illustrates what Dimitri's digital tax account might look like if he had decided that he wanted to start budgeting on a regular basis and set up a direct debit:

Ex. 4 Dimitri sets up a direct debit every month for £300, payable from 9 November 2019, as voluntary payment towards his expected tax liabilities:

Date	Updates	Crystallised liabilities	Voluntary Payments
23 July 2019	End of Year declaration for 2018/19, Tax liability £4,100		• £3,000 Credit balance
25 July 2019	Update for Quarter 1 of 2019/20, estimated liability £1,300		Voluntary payment of £1,300 • £4,300 Credit balance
19 October 2019	Update for Quarter 2 of 2019/20, estimated liability £2,500		
9 November 2019			Voluntary payment £300 • £4,600 credit balance
9 December 2019			Voluntary payment £300 • £4,900 credit balance
9 January 2020			Voluntary payment £300 • £5,200 credit balance
18 January 2020	Update for Quarter 3 of 2019/20, estimated liability £3,750		
31 January 2020		1) £4,100 due for 2018/19, £4,100 settled 2) £2,050 1st POA due for 2019/20 (based on 50% of 2018/19) • £1,100 settled, £950 payable	1) £4,100 of credit used against 2018/19 tax due 2) £1,100 of credit used against 1st POA due for 2019/20 • NIL credit balance remaining

2.19 Whilst in the examples above Dimitri only has the income tax from his business to consider, there will be business customers who have other taxes applying to them, such as VAT and PAYE. Once VAT comes within MTD in April 2019, a business customer with both income tax and VAT liabilities will be presented with a fuller picture than Dimitri. The integrated view across all of a customer's taxes will make it easier to see what tax bills are due, what credits are on their account, and what estimated liabilities may crystallise as due at a future date. Any voluntary payment could be used to meet these liabilities becoming due. Example 5 shows the customer experience when more than one tax applies:

Ex 5

Richard is a self- employed landscape gardener and recently crossed the VAT threshold. He prepares accounts for the period 1 January to 31 December and from April 2019 provides a single update every quarter for the purposes of both direct tax and VAT. His Income Tax/NIC liability for 2017/8 was £4,300. In April 2019 he also decides to start to make a voluntary payment each time he makes an update to his digital tax account. His digital tax account looks like this (updates are cumulative for direct tax):

Date	Updates	Crystallised liabilities	Voluntary payments
19 April 2019	Update for Quarter 1 of 2019/20 • actual VAT £1,347 • estimated Income Tax/NIC £1,300		Voluntary payment £2,500 • £2,500 credit balance
07 May 2019		VAT £1,347 due, £1,347 settled	£1,347 used against VAT due • £1,153 credit balance
18 July 2019	Update for Quarter 2 of 2019/20 • actual VAT £1,809 • estimated Income Tax/NIC £2,319.60		Voluntary payment £2,900 • £4,053 credit balance
31 July 2019		£2,150 2nd POA due for 2018/19 (based on 50% of 2017/18), £2,150 settled	£2,150 credit used against 2nd POA • £1,903 credit balance
07 August 2019		VAT £1,809 due, £1,809 settled	
23 August 2019	End of Year declaration for 2018/19, Tax/NIC liability £4,500		£1,809 credit used against VAT • £94 credit balance
16 October 2019	Update for Quarter 3 of 2019/20 • actual VAT due £1,031 • estimated Income Tax/NIC £3,769.60		Voluntary payment £3,000 • £3,094 credit balance
07 November 2019		VAT £1,031 due, £1,031 settled	£1,031 credit used against VAT • £2,063 credit balance
09 January 2020	Update for Quarter 4 of 2019/20 • actual VAT due £809 • estimated Income Tax/NIC £4,929.60		Voluntary payment £3,500 • £5,563 credit balance
31 January 2020		£200 Balancing Payment due for 2018/19, (due £4,500, paid £4,300) £200 settled £2,250 1st POA due for 2019/20 (based on 50% of 18/19), £2,250 settled	£200 credit used against 2018/19 • £5,363 credit balance £2,250 used against 1st POA 2019/20 • £3,113 credit balance
07 February 2020		VAT due £809, £809 settled	£809 credit used against VAT • £2,304 credit balance

2.20 We will continue to develop the digital tax accounts, and work with the software industry on the development of products to support our customers' needs to clearly see, understand and comply with their various obligations across multiple taxes, and to help them understand how HMRC will allocate their voluntary payments.

2.21 There is already legislation in place that allows the set-off by HMRC of a customer credit against a customer debit, i.e. setting off a sum repayable to a person against a sum payable. With the move to a fully digitalised tax system we expect to be making more use of these powers across taxes. We will be considering the allocation and set-off of payments in general - looking at the customer, legislative, operational and systems impacts; protecting contributions towards benefit entitlements; ring fencing sums that are for onward transmission (e.g. VAT MOSS); and reviewing the order of appropriation where more than one tax is due and payments made are insufficient to cover them all. Voluntary payments are just one subset of payments and we will expect them to align with the final overarching approach to payment allocation.

Question 4: Do you have any general comments to make on the allocation of voluntary payments?

Question 5: Do you foresee any problems with HMRC's intended approach to the allocation of voluntary payments?

Repayment of voluntary payments

2.22 One of the concerns raised by our customers around voluntary payments is the loss of access to working capital. For various reasons they may need access to their money, for example if they unexpectedly need to replace a business asset, if a business falls into unexpected losses, or seasonal variations in trade prove more serious than expected.

2.23 We believe that if customers are choosing to make voluntary payments to HMRC to help them budget for their tax bills, we need to make it easy for them to have the money returned if their circumstances change. We want this to be a simple, automated process, carried out digitally.

2.24 We are still reviewing the design of our repayment processes under MTD, but for voluntary payments we anticipate there will be a facility within the software/digital tax account to request a repayment. This may offer several options for repayment of all or a part of voluntary credits held on the account that haven't yet been allocated against a sum due.

2.25 HMRC will need to establish certain parameters to prevent improper or inappropriate use of the (payment and) repayment facility, for example money laundering. We may also need to introduce minimum and maximum payment limits for security or administrative reasons. With digital tax accounts linked to digital record keeping and digital updates, customers will have the opportunity to provide us with the most up to date information to ensure that repayments are made directly to their bank account. There are certain caveats around this – for example, certain payments by card (when card industry standards apply), or where there are anti-fraud requirements.

2.26 Where the customer will have any liability shortly becoming due we are also considering whether any repayment should be restricted to the credit over and above that liability. Our reasoning for this is that voluntary payments allow customers to budget for their tax bills. By repaying shortly before the due date of a tax bill, we may make it more difficult for customers to meet their statutory requirements, and would be imposing an extra requirement to make a further payment to us that – by making voluntary payments - they were not expecting. We are also increasing the risk of debts arising, which are both detrimental to the customer and the exchequer. We would like your views on whether this approach is reasonable, and what period or terms of restriction on repayment before a liability is due are appropriate.

Question 6: What improper or inappropriate use of the repayment facility do you think there may be, and what rules do you think should be applied by HMRC to stop that happening?

Question 7: Do you agree with a restriction on repayment shortly before a liability becomes due, and if so, what period or terms of restriction do you think should be put in place?

3. Other aspects of PAYG

Interaction of voluntary payments with Income Tax Payments On Account

3.1 Annex A to this document sets out the rules for payments on account for income tax customers. Example 5 above highlights that the first payment on account for 2019/20 is currently based on 50% of the 2018/19 liability, despite the fact that at the due date for that payment Richard has already provided quarterly updates for the whole of 2019/20. (How much has been provided will depend on a customer's period of account, so that at the first POA due date it could range from just the second quarter's update to - as in Richard's case – the full four quarters).

3.2 In Richard's case he has to pay £2,250 towards his 2019/20 liability, when the estimates suggest it should be nearer £2,464 (50% of £4,929).

3.3 This discrepancy between the amounts payable based on the previous year's liability and the real time estimates from updates already submitted, gives a conflicting message to our customers on how best to budget towards their eventual liability. This is particularly the case for established businesses. Whilst these differences could be accommodated – either by voluntary payments if the updates suggest higher liabilities, or by claims to reduce or cancel the POA if they suggest lower liabilities - we would like to explore whether there is any scope for revisiting the rules around payments on account.

3.4 If payments on account were mandatorily based on the quarterly updates submitted so far, rather than on the previous year's liability, those who have not submitted their final update or End of Year declaration (see chapter 6 of Making Tax Digital: Bringing business tax into the digital age) at the point the first POA was due and payable would be paying on an estimated basis. All would, however, have submitted their final update at the point of the second POA, and the majority would also have submitted their End of Year declaration.

3.5 Those having to make payments on the basis of estimates would, however, be at a disadvantage compared to those with final figures. Having interest payable on overpayments (and charged on underpayments) to allow for the estimated nature of the payments, helps mitigate this.

3.6 If payments on account however remain payable on the current basis, at the point when the amount of the first POA is becoming due the digital account could compare the proportionate estimated liability shown by the updates with the actual POAs due, indicate if they are lower or higher, compare this to any voluntary payments made to date, and recommend further payments (or the option to reduce the POA) to assist customers in matching their voluntary payments more closely to the likely tax liability of the period.

Question 8: Do you have any views or evidence on whether, and how, HMRC should revisit the sums paid as payments on account to match more closely to the sums being reported under MTD?

Ability to elect for an overpayment to be held as a voluntary credit

3.7 Under a digital system our repayments will be automated and made quickly by electronic methods. Where an overpayment arises on a customer's account, subject to any security issues or a liability becoming due as described at 2.24 above, repayments will be made swiftly to a customer's bank account or card.

3.8 Instead of receiving a repayment, customers may prefer the funds to remain with HMRC, to be used towards future tax bills. We propose to introduce a facility for customers to elect for a repayable overpayment to be held as a voluntary credit, rather than repaid. Once it is treated as a voluntary payment, the processes applying will be the same as for any other voluntary credit.

Question 9: Do you have any views or suggestions on customers' ability to elect for overpayments to be held as voluntary credits?

Voluntary PAYG and interest

3.9 Currently ad hoc early payments held on a customer record may be treated differently for interest purposes depending on the tax to which they relate.

3.10 The consultation document Making Tax Digital: Tax administration explores the intention to simplify and align the rules around interest under MTD. The basic principles for paying interest on overpayments of tax, and charging interest when tax is not paid on time, will remain. Subject to the responses to that consultation document, the current interest rules applying for Income Tax and NICs will continue to apply. As the examples above show, a voluntary payment will not be treated as an overpayment, but as an unallocated credit, with any excess remaining after set-off against a crystallised liability also being treated as an unallocated credit. We will consider further the differences in how interest currently applies to different taxes.

Voluntary PAYG - partnerships, and third parties

3.11 The consultation document Making Tax Digital: Bringing business tax into the digital age discusses processes that could apply to partnerships under MTD.

3.12 That included the proposal that the partnership, through the nominated partner, would fulfil the digital record keeping and updating obligations, and these would feed through directly to the partners' digital tax account as prepopulated, estimated income, based on the partner's profit allocation as reported to HMRC, so each partner would get a view of their estimated income tax and NICs position.

3.13 Whilst the liability sits with the individual partners, we are aware that the partnership will usually hold the cash arising from the business carried on in partnership. We therefore want to make it easy for the partnership to make voluntary payments towards each of the partners' income tax and NIC liabilities. In order to do this the partnership would need to have an indication of the amount of liability falling on each partner in respect of their partnership shares. We would like to explore whether this is something customers would prefer left to the partnership and the partners to discuss and arrange separate from HMRC, or whether there is the appetite to have specific arrangements built into HMRC systems to facilitate this, so that partners would be able, on a voluntary basis, to authorise a limited data flow from their digital account to the partnership to enable this.

Question 10: What are your views on how voluntary payments might work for partnerships? Do you think partners will see the convenience of direct payment towards their total liabilities as outweighing a loss of a limited amount of confidentiality?

3.14 A partnership may not be the only instance of a third party wanting to make a voluntary payment on behalf of someone else. For example, a husband and wife may run their own, separate businesses but the wife's business has a surplus of funds and she chooses to make a voluntary payment on behalf of her husband's business. Provided the appropriate reference is used, and the payer indicates that this is an intended voluntary payment, the payment should process normally. Customers should be aware that under MTD, as now, there are various security rules applying to repayments, and any voluntary payment made by a third party may not necessarily be repaid to the payer.

Question 11: Do you think there are any special considerations that should apply to third party voluntary payments?

4. Take up of voluntary pay as you go

4.1 Voluntary PAYG will enable businesses to simply and flexibly budget towards their tax bills. Through their digital tax accounts they will see a picture of their cross-tax financial position with HMRC. With that information they will be able to make choices over how much and how frequently they want to make payments to HMRC, reducing the difficulties of funding larger, less frequent sums, and the risks of missing their payment obligations.

4.2 Whilst voluntary payment may not suit some businesses, by making the processes simple and flexible we believe more and more businesses will see it as an attractive option.

4.3 HMRC intends to test behavioural approaches around voluntary take up of more frequent tax payments. We have planned a randomised controlled trial with Self-Assessment customers in summer 2016. HMRC believes the benefits of voluntary PAYG stand on their own merits, but is open to considering any additional processes or measures that could help businesses feel confident about adopting voluntary PAYG. Suggestions made by our external stakeholders at consultation events held in February 2016 include:

- Incentives similar to those offered successfully some years ago to encourage electronic filing of PAYE returns (cash rewards)
- A National Savings Scheme link, with perhaps a monthly draw
- Paying interest on credits
- Streamlining HMRC's security processes related to repayments to make them quicker

We would welcome any comments on the above stakeholder suggestions, and on what additional features might make voluntary PAYG an attractive option for business customers.

Question 12: What additional processes or measures would make customers feel more confident about making voluntary payments?

5. Earlier repayment of tax paid or deducted

5.1 This chapter considers the opportunity for earlier repayments of tax paid or deducted in accordance with a legislative requirement, once a business customer is updating HMRC regularly using software linked to their digital tax account. It does not cover repayment of sums paid voluntarily, in advance of a sum becoming due and payable, which is covered in chapter 2 above.

5.2 As customers in business start using digital tools to maintain their business records and update HMRC digitally, the tax system will operate much more closely to 'real time'.

5.3 The receipt of an update every quarter (or more frequently if the business so wishes), rather than annual returns, provides the opportunity to consider whether any repayments can be given at an earlier point than at present. As VAT currently has a process for regular repayments based on the returned quarterly (or in some cases, monthly) figures, we are concentrating on opportunities for earlier repayment within direct tax.

5.4 As the consultation document Making Tax Digital: Bringing business tax into the digital age describes, a charge to tax on business profits arises on the profits of a period of account. In most cases this period of account will not equate to a quarter. The full extent of a business' taxable profits or allowable losses, and its entitlement to certain reliefs and allowances, will not be certain until all the regular updates, and any final update necessary following End of Year activity, have been submitted to HMRC.

5.5 It is difficult to contemplate early repayment when it relates to activities or claims that have yet to fully crystallise. An example of this is in-year trading losses that will, when crystallised after the end of the period of account, be carried back to an earlier period to create an overpayment.

5.6 There may however be instances, for example where tax has been withheld from a payment, when an overpayment position is sufficiently certain at the point an update is submitted for a repayment to be reasonably claimed. This may relate to unused personal allowances, or other claims or allowances that could crystallise at an earlier point. We believe that once digital record keeping and updating is firmly embedded, there will be opportunities for implementing some earlier repayments, and we seek your views on this. The government will, of course, need to consider the affordability of any suggestions received.

5.7 We will continue to review the position to see if, once regular digital updates are firmly embedded, there are opportunities for items such as payable tax credits, e.g. Research and Development tax credits, to be claimed earlier or more frequently. We are aware that for certain companies where cash-flow is particularly important the ability to make claims closer to the point where the research and development takes place may lead to increased investment in these critical activities.

Question 13: Do you have any suggestions for the basis on which earlier repayments could be reasonably claimed?

6. Initial Assessment of Impacts

This section sets out HMRC's initial assessment of the impacts for those businesses, self-employed people and landlords who choose to adopt the voluntary pay-as-you-go (PAYG) arrangements after they start to keep their records digitally and provide regular updates to HMRC, as announced by the Chancellor at the March 2016 budget. This assessment is based on our current understanding of the impacts which have been brought to our attention through early engagement and informal consultation with a wide range of stakeholders, including representative professional bodies and businesses.

Overview

Our aim is to make voluntary PAYG simple by offering businesses, self-employed people and landlords the option to make flexible payments to HMRC through a digital platform. Whilst this is a voluntary scheme, we realise that the impacts must be identified and considered. We recognise that this assessment may have a number of gaps and might not fully identify all of the impacts. HMRC welcomes your comments on the assessment of impacts below and invites you to identify any other further impacts not yet recognised. HMRC will continue to develop its work in these areas throughout 2016, consulting with an extensive range of stakeholders.

Our initial assessment of the impacts of voluntary PAYG payments is that there will be positive impacts for customers. An updated impact assessment will be published in December 2016 alongside draft legislation. HMRC will also consider the impacts in the context of the wider consultations which have their own separate impact assessments.

Question 14: Please tell us if you think there are any other costs or benefits not covered in the summary of impacts below, including any detail you may have.

Summary of impacts

Exchequer impact (£m)	2016-17	2017-18	2018-19	2019-20	2020-21
	n/a	n/a	n/a	n/a	n/a
	HMRC does not expect voluntary PAYG to have any significant exchequer impact. Voluntary payment may have a positive impact on the cost of debt to HMRC, however the scale of any impact is not yet fully known. Any changes to make earlier repayments of tax could have an exchequer impact. We will continue to develop our work on impacts through 2016.				
Economic impact	This measure is not expected to have any significant economic impacts.				
Impact on individuals and households	This measure about the voluntary payment of tax is not expected to have any impact on individuals, households and families. The measure is not expected to impact on family formation, stability or breakdown.				
Equalities impacts	HMRC does not expect this measure to have any significant or disproportionate impact on groups with legally protected characteristics, as recognised in the Equality Act 2010. Individuals and businesses with protected characteristics under the Equality Act who fall within the current legislative definitions of 'digitally excluded' will be exempted from the digital record-keeping and update requirements and HMRC will provide non-digital alternative channels to them.				
Impact on businesses and Civil Society Organisations	HMRC does not expect this measure to have any impact on businesses (including small and micro businesses) and civil society organisations. However, these proposals are likely to appeal to more compliant customers, as well as to new businesses and to those with stable cash flows who see the benefit of budgeting towards their tax bills. We would expect to be able to review take up of voluntary PAYG by sector, business activity and characteristics of the individual, and this data will allow HMRC to tailor our offering to better encourage customers to make use of the facility and improve customer experience.				
Impact on HMRC or other public sector delivery organisations	The details of the proposal in this consultation, alongside those in the other MTD consultations, continue to be considered and it is therefore not possible to provide details of any additional impacts on HMRC or any other public sector delivery organisation at this stage.				
Other impacts	No other impacts have been identified				

7. Summary of Consultation Questions

Question 1: Do you see any challenges with the voluntary payments process described? Do you think there are alternative options that should be considered, and if so, what are these?

Question 2: Do you have any views or suggestions on the display of voluntary payments in the digital tax account?

Question 3: Should there be a ‘period of grace’, and if so, what period would be appropriate to allow for separate payment of an amount becoming due?

Question 4: Do you have any general comments to make on the allocation of voluntary payments?

Question 5: Do you foresee any problems with HMRC’s intended approach to the allocation of voluntary payments?

Question 6: What improper or inappropriate use of the repayment facility do you think there may be, and what rules do you think should be applied by HMRC to stop that happening?

Question 7: Do you agree with a restriction on repayment shortly before a liability becomes due, and if so, what period or terms of restriction do you think should be put in place?

Question 8: Do you have any views or evidence on whether, and how, HMRC should revisit the sums paid as payments on account to match more closely to the sums being reported under MTD?

Question 9: Do you have any views or suggestions on customers’ ability to elect for overpayments to be held as voluntary credits?

Question 10: What are your views on how voluntary payments might work for partnerships? Do you think partners will see the convenience of direct payment towards their total liabilities as outweighing a loss of a limited amount of confidentiality?

Question 11: Do you think there are any special considerations that should apply to third party voluntary payments?

Question 12: What additional processes or measures would make customers feel more confident about making voluntary payments?

Question 13: Do you have any suggestions for the basis on which earlier repayments could be reasonably claimed?

Question 14: Please tell us if you think there are any other costs or benefits not covered in the summary of impacts, including any detail you may have.

8. The Consultation Process

This consultation is being conducted in line with the Tax Consultation Framework. There are 5 stages to tax policy development:

Stage 1 Setting out objectives and identifying options.

Stage 2 Determining the best option and developing a framework for implementation including detailed policy design.

Stage 3 Drafting legislation to effect the proposed change.

Stage 4 Implementing and monitoring the change.

Stage 5 Reviewing and evaluating the change.

This consultation is taking place during stage 2 of the process. The purpose of the consultation is to seek views on the detailed policy design and a framework for implementation of a specific proposal, rather than to seek views on alternative proposals.

How to respond

A summary of the questions in this consultation is included at Chapter 7.

Responses should be sent by 7 November 2016 by e-mail to:
makingtaxdigital.consultations@hmrc.gsi.gov.uk

or by post to:

HM Revenue and Customs
Making Tax Digital for Business Policy Team
Room 3C/12
100 Parliament Street
London
SW1A 2BQ

Please <u>do not send consultation responses to the Consultation Coordinator.</u>

Paper copies of this document or copies in Welsh and alternative formats (large print, audio and Braille) may be obtained free of charge from the above address. This document can also be accessed from HMRC's GOV.UK pages. All responses will be acknowledged, but it will not be possible to give substantive replies to individual representations.

When responding please say if you are a business, individual or representative body. In the case of representative bodies please provide information on the number and nature of people you represent.

Confidentiality

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes. These are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004.

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals with, amongst other things, obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentially can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on HM Revenue and Customs (HMRC).

HMRC will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

Consultation Principles

This consultation is being run in accordance with the government's Consultation Principles.

The Consultation Principles are available on the Cabinet Office website: http://www.cabinetoffice.gov.uk/resource-library/consultation-principles-guidance

If you have any comments or complaints about the consultation process please contact:

John Pay, Consultation Coordinator, Budget Team, HM Revenue & Customs, 100 Parliament Street, London, SW1A 2BQ.

Email: hmrc-consultation.co-ordinator@hmrc.gsi.gov.uk

Please do not send responses to the consultation to this address.

Annex A: Current payment landscape

A.1 This annex sets out the current statutory payment rules applying to business customers for Income tax /NIC/CG, CT and VAT, and explains how ad hoc voluntary payments are treated.

A.2 Income Tax customers within self-assessment are generally required (subject to certain limiting criteria) to make Payments on Account (POA) of their Income Tax and Class 4 NIC liability for a tax year as follows:

- A payment due on 31 January of the tax year in question, based on 50% of their income tax liability for the preceding tax year.
- A payment due on 31 July following the tax year in question, based on 50% of their income tax liability of the preceding tax year.
- Balance of any liability for the tax year (to include other sums, such as Capital Gains Tax) on the next 31 January (i.e. the usual filing date for that year).

Customers have the right to claim to reduce or cancel payments on account, or request a repayment, where they have grounds for believing that payments based on the tax liability for the previous year will lead or have led to an overpayment of tax for the current year.

A.3 These customers can at the moment voluntarily make ad hoc payments. These payments sit on the customer's business record as a credit and do not accrue interest. As POAs become due these credits are used to meet those liabilities, with payments allocated or re-allocated to sums due using automatic allocation rules. Under common law a customer can request a refund of a voluntary payment before tax becomes due. Once a return has been filed establishing the liability any credits overpaid will be refunded on request to the customer. To reduce costs to customers and to HMRC, any such overpayment is, however, withheld if a further income tax liability is due to arise shortly.

A.4 These customers are also able to take advantage of the Budget Payment Plan (BPP), which is available to customers with no payment arrears who voluntarily make payments by direct debit, in advance, towards the 31 January/31 July SA liability. The customer decides the amount and frequency of the regular payment (normally monthly or weekly). The customer can vary the amount by contacting HMRC or logging into their SA Online Service (moving to Digital Tax Accounts) and amending the plan. No interest is paid on these advance payments. Approximately 35,000 customers currently use the BPP facility.

A.5 Corporation Tax customers are liable to tax in respect of an accounting period, and are currently required to pay their corporation tax liability 9 months and 1 day after the end of their accounting period. As the filing date is 12 months after the end of an accounting period, payment is often made before there is any liability shown on the customer's record.

A.6 The exceptions to this are: 'Large' companies (generally those with profits exceeding £1.5m, proportionately reduced by the number of group companies) who pay their liability in instalments, the first of which arises 6 months and 13 days after the start of their accounting period; and certain liabilities of companies with oil and gas activities.

A.7 Corporation Tax customers can also voluntarily make ad hoc payments. Payments are allocated to an accounting period, so the appropriate payment reference must be used. Use of incorrect payment references can lead to costly additional manual intervention and contact for both HMRC and the customer. Payments sit on the customer's accounting period record as a credit, and can accrue interest (from the later of 6 months and 13 days after the start of the accounting period, or the date of payment). Under common law a customer can request a refund of a voluntary payment up until the statutory due date. After the statutory due date, a repayment is usually automatically generated when a return indicates an overpayment.

A.8 Once tax has become due and the liability established in a return, for Income Tax any excessive credit (overpayment) is usually requested through the return, whereas for Corporation Tax repayment will usually automatically follow.

A.9 VAT customers are generally liable to pay their VAT bill one calendar month and 7 days after the end of their accounting period, unless they fall within the Annual Accounting Scheme, within VAT MOSS, or are required to make Payments on Account (POA). This is also the point when their VAT return is due.

A.10 The Annual Accounting Scheme is available to VAT customers with an estimated taxable turnover of £1.35m or less. These customers submit only 1 VAT return a year. Advance payments are made towards their VAT bill based on the last return, and the difference between what was paid and the actual VAT bill is submitted with the VAT return.

A.11 Under the VAT MOSS scheme, payment is normally due on the 20th day of the month following quarter end. These are not payments of UK VAT, and the payment timescales are governed by EU legislation.

A.12 Businesses with a VAT liability of £2.3m or more in a period of 12 months or less are required to make interim payments on account of the quarterly liability on the last working day of the second and third months of each VAT quarterly period. A balancing payment – the quarterly liability less the payments on account made – is then made with the VAT return. Payments on account are based on the annual VAT liability in the period in which the £2.3m threshold was exceeded, and are normally around 1/24 of that liability.

A.13 VAT customers do not generally make voluntary ad hoc payments, due to the regularity of their payments, although these are possible