



HM Revenue
& Customs

Simplified cash basis for unincorporated property businesses

Consultation document

Publication date: 15 August 2016

Closing date for comments: 7 November 2016

Subject of this consultation:	Proposals for introducing an optional cash basis for unincorporated property businesses.
Scope of this consultation:	<p>The proposals are relevant for individuals and partnerships of individuals with unincorporated property businesses.</p> <p>The government wishes to consult on the proposed design of this cash basis.</p>
Who should read this:	Individuals and partnerships of individuals carrying on a property business, their advisers and representative organisations.
Duration:	The consultation will run for 12 weeks from 15 August 2016 to 7 November 2016.
Lead official:	Sophie Sharp - HM Revenue and Customs
How to respond or enquire about this consultation:	<p>Written responses should be submitted by 7 November 2016 via email to: propertycashbasis.consultation@hmrc.gsi.gov.uk</p> <p>or by post to: HM Revenue and Customs Property Income Team Room 3/64 100 Parliament Street London SW1A 2BQ</p>
	<p>Any queries about this consultation should be directed to Sophie Sharp, on 03000 542 664 or by email to the above address.</p>
Additional ways to be involved:	HMRC officials are willing to meet with interested parties to discuss any aspect of this consultation and will be organising stakeholder events following publication.
After the consultation:	Subject to the outcome of the consultation it is intended to publish draft legislation in autumn 2016 for introduction in the 2017 Finance Bill.
Getting to this stage:	<p>On 14 December 2015, HMRC published the Making Tax Digital roadmap, setting out how it will transform the tax system by 2020. Following this the government announced at the 2016 Budget that it would consult on measures to simplify the tax rules for businesses, landlords and the self-employed – with the aim to reduce administrative burdens and ensure that regular digital updates work smoothly. This is one of these measures.</p> <p>This proposal also builds on the implementation of the simplified cash basis for traders introduced in the 2013 Finance Act and the Office of Tax Simplification small business report published in February 2012.</p>
Previous engagement:	None, however the consultation on the simplified cash basis for traders outlined the potential for extension of this to unincorporated property businesses in the future.

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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](#).
- 1.3 This consultation focuses on one of the measures aimed at simplifying the tax rules for unincorporated property businesses. This is designed to fit with and complement the Making Tax Digital reforms, giving landlords the choice to use the simplified cash basis (paragraph 1.15 below) currently only available to some unincorporated traders.
- 1.4 Profits from land and property are treated for UK tax purposes as arising from a business. These are often referred to as rental businesses but include other types of income as well as rents, for example, income from furnished holiday lettings, fishing or hunting rights. Where this income is received by a person who is not a company, they are considered to have an unincorporated property business. Many, but not all, of those with unincorporated property businesses will identify themselves as landlords.
- 1.5 A significant proportion of individuals who currently complete annual tax returns operate unincorporated property businesses. With nearly two-thirds having just one property and all but a small minority having five or fewer, many of these property businesses are relatively straightforward. They may be operated by individuals who do not even consider themselves as being in business.
- 1.6 Unincorporated property businesses can take several different forms; a UK property business or overseas property business could include residential or commercial properties, furnished holiday lettings or receipts to which the rent-a-room scheme applies. Each of these scenarios has slightly different tax rules.
- 1.7 At present, property businesses must use the same accountancy rules as most other businesses, including trading businesses, when they work out their profits. Calculation of profits must be done in accordance with Generally Accepted Accounting Practice (GAAP). GAAP uses the accruals basis (sometimes referred to as the earnings basis) which recognises income earned and the expenses incurred in earning that income in a period (whether or not

the amounts have actually been received or paid). These profits provide the starting point for calculating the tax they owe.

- 1.8 Following consultation, since 6 April 2013, eligible small trading businesses have been able to opt to use a cash basis (paragraph 1.15 below) as a means of calculating profit for tax, rather than the accruals accounting basis.
- 1.9 Provisional data received from the first year of the trading income cash basis suggests that there has been a positive response, with around 1.1m small businesses opting to use the trading income cash basis.
- 1.10 The government is keen to build on the success and popularity of the trading income cash basis, to make it easier for individual landlords (or those in partnership with other individuals) to calculate their taxable income.
- 1.11 Compared to the accruals accounting basis, calculating profit for tax using the cash basis requires fewer adjustments and therefore makes it simpler to prepare. A simpler reporting framework makes it easier for landlords to provide information and get a real-time overview of their tax affairs meaning, as the Office of Tax Simplification has commented, the cash basis is a natural fit with Making Tax Digital. In conjunction with the Making Tax Digital regular updates, those using the cash basis should have a clearer picture in-year of their estimated tax position.

What is the government consulting on?

- 1.12 The government is consulting on whether to introduce an optional simpler tax system for unincorporated property businesses. The proposal is to extend the cash basis for trading income to unincorporated property businesses - providing an option for landlords to be taxed on the cash basis (paragraph 1.15 below), rather than using the accruals accounting basis.
- 1.13 Over 2.5 million property businesses could benefit from having the option to use the cash basis.
- 1.14 Although open to most unincorporated property businesses, it would be designed with the simplest property businesses in mind – individuals with small numbers of properties or those who have property income alongside another main source of income - rather than those who are seeking to build large, diverse property portfolios as their main business activity. The proposed cash basis will therefore not be the most suitable choice for all unincorporated property businesses and the accruals accounting basis would be available to those not wishing to use it.

What is meant by cash basis?

- 1.15 The cash basis method of calculating tax works on a cash in, cash out basis. For income it's what you received when you received it; for expenditure it's what you paid when you paid it.

- 1.16 Just as property business taxation is subject to trading rules, the proposal is that the cash basis for unincorporated property businesses will follow the trading cash basis rules as closely as possible. This should provide simplicity for those with both trading and property business income.
- 1.17 HMRC help sheet [HS222](#) provides a useful customer overview of the cash basis for traders. (Also, detailed guidance written for tax professionals on the cash basis for traders can be found in HMRC's [Business Income Manual](#).)
- 1.18 It will be made clear in this consultation where there is a departure in the proposed rules for landlords from those of the current cash basis for trading income.

Does this apply to me?

- 1.19 The proposals are relevant to individuals and partnerships of individuals with unincorporated property businesses (paragraph 1.4 above).
- 1.20 The option to use the cash basis would be confined to entities with simple affairs. Companies, trusts, holders of units in unit trusts, real estate investment trusts, partnerships with corporate members, limited liability partnerships and other similar, more complex entities would not be able to use the cash basis.

I'm interested in the proposal, what do I have to do now?

- 1.21 Chapter 2 provides an overview of the proposal. If you have income from letting out property or any other property business income, and you are not a company, please be sure to read Chapter 2. Chapter 3 provides more technical detail about the proposal and is aimed more at agents and representative bodies.
- 1.22 If you wish to respond to the consultation please send an email to propertycashbasis.consultation@hmrc.gsi.gov.uk or see the alternative contact details in Chapter 6. You do not need to answer all the questions, just those that are most relevant to you.
- 1.23 Additionally, if you would like to assist the government in understanding more about property businesses as a whole please complete the anonymous questionnaire linked [here](#). This should not take long and will help to ensure the design of the proposals reflects the reality of most property businesses.
- 1.24 The government is also consulting on changes to the existing cash basis for traders and other simplifications for business income tax to remove complexity from the tax system and ease the transition to Making Tax Digital. Any changes agreed may also impact on the final design of the cash basis for property income. Landlords are therefore encouraged to consider the [Simplifying tax for unincorporated businesses](#) consultation.

2. Simplification Proposed

Background

- 2.1 Making Tax Digital represents transformative change in the way that businesses interact with HMRC around their tax affairs. Although this is being introduced on a phased basis, requirements to both maintain digital records and provide regular, at least quarterly, updates to HMRC using digital tools will apply for income tax and National Insurance contributions from April 2018.
- 2.2 In the context of this move towards quarterly updates, the cash basis would offer more flexibility and oversight to unincorporated property businesses and should make the move as straightforward as possible for landlords.
- 2.3 Whilst landlords with annual business income below £10,000 will not be mandated to keep their business records digitally or provide quarterly updates to HMRC, they will still be able to use the optional cash basis. Details about digital record keeping and quarterly updates can be found in the [Bringing business tax into the digital age](#) consultation.
- 2.4 The cash basis should make budgeting for tax easier and enable landlords to better manage their cash flows. Currently, under accruals accounting, even if your tenants are in arrears you would still have to include the income they should have paid as income for that year, until you considered those receipts to be irrecoverable. Under the cash basis, you would not need to declare this income until it was actually received, meaning any tax on the profits of the property business would not be paid before you have received the rent or other income.
- 2.5 There will likely be some timing differences between when tax is paid under the cash basis compared to the accruals basis, although over the life of the business the taxable property business income should broadly match under both the cash basis and the accruals accounting basis.

The cash basis for unincorporated property businesses

- 2.6 The cash basis for unincorporated property businesses is intended to be simple to operate and the design will be based as closely as possible on the cash basis currently available to some unincorporated traders. Landlords considering these proposals may find that the HMRC help sheet [HS222](#) provides a useful overview of the cash basis for trading income.
- 2.7 The cash basis calculates taxable profits based on the cash flows of the business: cash in, cash out. Income is only recognised when it is received and expenses when they are paid. This is unlike the accruals accounting basis which recognises income when it is earned and expenses incurred in earning that income.

Example 1: Individual A: Using accruals accounting basis

A is a landlord with one property. He has a tenant who has been in the property since 1 September 2016 and has never been in arrears. The annual rent is £16,200 and his tenant pays his rent of £1,350 in advance on the first of the month. A receives no other income from his property business.

In the year 2017/2018 his total receipts from his property business are £16,200.

However, in February 2019, the tenant gets into financial difficulty so is not able to pay A their March and April rent until 15 April 2019.

As A is using the accruals accounting basis, for the tax year 2018/2019, what A must declare as income is what he was due for that tax year (6 April 2018 – 5 April 2019) being:

Period when income earned	Amount
6 April 2018 – 30 April 2018	£1,350/30 x 25 = £1,125
1 May 2018 – 31 May 2018	£1,350
1 June 2018 – 30 June 2018	£1,350
1 July 2018 – 31 July 2018	£1,350
1 August 2018 – 31 August 2018	£1,350
1 September 2018 – 30 September 2018	£1,350
1 October 2018 – 31 October 2018	£1,350
1 November 2018 – 30 November 2018	£1,350
1 December 2018 – 31 December 2018	£1,350
1 January 2019 – 31 January 2019	£1,350
1 February 2019 – 28 February 2019	£1,350
1 March 2019 – 31 March 2019	£1,350
1 April 2019 – 5 April 2019	£1,350/30 x 5 = £225
TOTAL INCOME	£16,200

This is despite the fact that A hasn't received the rents earned in March or April 2019.

When A eventually receives the 2 months' rent arrears on 15 April 2019, it makes no difference to what he must declare as income in 2019/2020.

Example 2: Individual B: Using the cash basis

The facts for B are identical to those of A except B has opted to use the cash basis for her property income for 2017/2018 and 2018/2019.

For the tax year 2018/2019, under the cash basis she must only declare as income what she has actually received during that tax year (6 April 2018 – 5 April 2019) being:

Date rent received	Amount
*1 May 2018	£1,350
1 June 2018	£1,350
1 July 2018	£1,350
1 August 2018	£1,350
1 September 2018	£1,350
1 October 2018	£1,350
1 November 2018	£1,350
1 December 2018	£1,350
1 January 2019	£1,350
1 February 2019	£1,350
TOTAL INCOME	£13,500

*Note the rent received on 1 April 2018 would have been included as income on 2017/2018.

B continues use to the cash basis for the tax year 2019/2020. She must therefore declare all income that she has actually received during that tax year (6 April 2019 – 5 April 2020) being:

Date rent received	Amount
15 April 2019	£2,700*
1 May 2019	£1,350
1 June 2019	£1,350
1 July 2019	£1,350
1 August 2019	£1,350
1 September 2019	£1,350
1 October 2019	£1,350
1 November 2019	£1,350
1 December 2019	£1,350
1 January 2020	£1,350
1 February 2020	£1,350
1 March 2020	£1,350
1 April 2020	£1,350
TOTAL INCOME	£18,900

* Rent for March and April received on 15 April 2019 (£1,350 x 2)

- 2.8 The cash basis would not change the underlying principles of what expenditure is allowable in calculating the profits of a property business. As with the accruals accounting basis, expenditure must be incurred wholly and exclusively for the purpose of the property business to be tax deductible and withdrawal of cash from the business will not affect the calculation of profits. Adopting the cash basis would simply change the time when deductible expenditure is recognised.
- 2.9 The way capital expenditure is relieved is simplified under the cash basis. Detail is provided in paragraphs 2.18 – 2.19 below, however, the overall extent of the simplifications will depend on the outcome of the consultation on [Simplifying tax for unincorporated businesses](#). Please see Chapter 5 of that consultation for further details.
- 2.10 If the capital cost of a capital item used in the property business had been relieved as an expense under the cash basis, any capital proceeds from the sale of that items would be treated as a receipt of that property business.

Example 3: Individual C: Purchase and sale of capital asset under the cash basis

C is a landlord with 4 commercial properties.

In October 2017 he secures new tenants for one of these properties, an office with space for 100 people. As part of the lease, C has agreed to provide the office furniture for the 100 staff. This cost C a total £15,000.

Under the cash basis, C will get relief for all of the £15,000 when he makes the payment in 2017/2018.

On 3 November 2018, the tenants decide that they want a more open plan office, so decide they do not want some of the furniture originally supplied by C.

As the furniture is still in good condition, C is able to sell this excess office furniture for £6,000 on 19 November 2018. C must include the proceeds of £6,000 as income from his property business in his 2018/2019 return, when he receives the income.

How would I calculate my property business profits?

- 2.11 The cash basis would, as is already the case for individuals with property business income, operate by reference to the tax year (6 April to 5 April). So, to calculate their property business income under the cash basis, landlords would take the difference between:
- Amounts actually received in the tax year in connection with the business, and
 - Payments actually made in the tax year to cover allowable expenses of the business.

2.12 To ensure that income is declared once, but only once, and all expenditure is relieved once, but only once, there will be transitional arrangements in place for those moving from the accruals accounting basis to the cash basis, or from the cash basis to the accruals accounting basis. These will mirror those in the cash basis for traders and will require some adjustments.

Example 4: Individual B: Enters the cash basis

The facts in this example are the same as that in Example 2 except that in 2017/2018, B had used the accruals accounting basis, rather than the cash basis.

In 2018/2019 she opts to use the cash basis. She must therefore declare the income she has actually received during that tax year (6 April 2018 – 5 April 2019) plus the income which was not included in the previous year being:

Date rent received	Amount
*6 April – 30 April 2018	£1,350/30 x 25 = £1,125
1 May 2018	£1,350
1 June 2018	£1,350
1 July 2018	£1,350
1 August 2018	£1,350
1 September 2018	£1,350
1 October 2018	£1,350
1 November 2018	£1,350
1 December 2018	£1,350
1 January 2019	£1,350
1 February 2019	£1,350
1 March 2019	Nil
1 April 2019	Nil
TOTAL INCOME	£14,625

*amount not recognised in 2017/2018 under the accruals accounting basis

Example 5: Individual D: Leaves the cash basis

D is a landlord with 3 properties. She uses a lettings agent to manage her properties.

For the tax year 2017/2018 she used the cash basis and paid annual up front management agent fees of £2,100 on 1 January 2018. This was all allowable as a deduction in 2017/2018, when paid.

On 20 April 2018, she buys another property. She decides she wants to start preparing full accounts so does not opt to use the cash basis for the tax year 2018/2019. Under the accruals accounting basis some of the expenses paid on 1 January 2018 would normally be deductible in the year to which they relate (2018/2019). However, as this has already been claimed in 2017/2018 no deduction can be made in 2018/2019 for any of the £2,100.

How would this differ from the cash basis for trading income?

2.13 One of the eligibility criteria for the cash basis for trading income is that the total cash basis receipts for all trades carried on by a person in a tax year does not exceed the “relevant maximum”. The relevant maximum amount for a tax year is the VAT registration threshold at the end of that tax year (£83,000 for 2016/17) or twice the VAT registration threshold for Universal Credit claimants. The government is not intending to impose a relevant maximum limit on entry into the cash basis for eligible unincorporated property business. The eligibility criteria will instead only be based on whether the unincorporated property business is carried on by an individual or partnerships of individuals.

Question 1: Do you feel there should be a relevant maximum limit imposed for eligibility for the cash basis for unincorporated property businesses? If so, what should this limit be and why?

- 2.14 The cash basis for trading income has a restriction on interest expense, with a maximum of £500 allowable as an expense for interest and other costs paid on cash borrowings. Under the cash basis for unincorporated property businesses, there would also be a restriction on interest expenses and other costs paid on cash borrowings.
- 2.15 For those with non-residential properties that are outside the scope of the basic rate restriction to finance costs introduced in the 2015 Summer Budget (see the [Tax Impact and Information Note](#) {TIIN}, published on 8 July 2015), certain mortgage borrowing costs (interest) would be allowable expenses. To be allowable, the mortgages would need to be tied to property assets used in the business, be wholly and exclusively for business purposes and not exceed the value of the property.
- 2.16 For those with residential properties, relief for interest will continue to be restricted to the basic rate of income tax, in accordance with the restriction of finance cost relief for individual landlords introduced in the Summer Budget 2015 (see TIIN mentioned in paragraph 2.15 above). A tax reduction would be provided at the basic rate of income tax for mortgage borrowing costs tied to the property assets used in the business and paid during the period. Again, this is provided that these borrowings were wholly and exclusively for business purposes and did not exceed the value of the property.
- 2.17 The same amount of relief for interest (and other borrowing costs) on mortgages should therefore be available whether a landlord is using the accruals accounting basis or using the cash basis. Any difference would be purely in the timing of the relief.
- 2.18 The cash basis for traders provides for the upfront cost of some capital expenditure to be relievable when paid. For plant and machinery currently eligible for capital allowances, capital expenditure would be deductible when it was paid. This would have a similar effect to the current Annual Investment Allowance (AIA) although it would not be subject to any limit.

- 2.19 For those with residential properties that do not qualify as a furnished holiday let (FHL), relief for domestic items, such as furniture, household appliances and kitchenware would be available on only the cost of replacing these items. In line with the rules being introduced from April 2016 for all residential landlords, (see [Reform of Wear and Tear Allowance](#), published on 9 December 2015) no relief would be available on the initial cost. No other relief would be available for capital expenditure on assets provided for the tenants of these properties. FHLs would continue to be able to claim the initial cost, as well as any replacement costs, for plant and machinery eligible for capital allowances.

What would I need to do to use the cash basis?

- 2.20 As for traders, adoption of the cash basis would be optional. As the cash basis rules would be designed with the simplest businesses in mind, they may not be the right choice for all eligible unincorporated property businesses. Landlords will therefore be free to choose the basis which works best for their business.

Question 2: Do you feel there is any reason why the cash basis should not be optional for all eligible unincorporated property businesses?

Question 3: Would you want to opt in for each of their property businesses separately (for example, UK property business and overseas property business) or would they prefer to choose whether to opt in for all their property business income or none of it?

- 2.21 Following this consultation, after the details of the proposal have been finalised and prior to the introduction of any cash basis, HMRC will provide guidance to help eligible property businesses make the decision on whether the cash basis is the right choice for them. This would also include details of how to opt in and how to switch between the cash and the accruals accounting basis.

Question 4: Does the above advice give you enough information to decide whether or not to use the cash basis with/without (please indicate) professional advice? If not, what else would you need to know about the new rules?

3. Proposed details of cash basis

Introduction

- 3.1 This chapter provides further detail on the proposed design of a voluntary cash basis for unincorporated property businesses and should be read in conjunction with Chapter 2.
- 3.2 The cash basis is not an alternative method of preparing annual business accounts. It does not apply accounting principles (accruals, matching, fair value accounting etc), and it provides none of the financial information that annual accounts do (profit/loss, assets, liabilities etc). It is based on cash in and cash out rather than income earned or expenses incurred in earning that income.
- 3.3 Over the life of a business cumulative cash flows, as measured by the proposed cash basis, should broadly match the cumulative profits of the business. So, the proposed cash basis can provide a suitable alternative basis for calculating taxable property business income. It is designed with that purpose in mind and is intended for those who do not need and do not want to prepare accounts for business or other purposes.
- 3.4 The cash basis should also help property businesses to calculate their taxable property business profit for any given period therefore making the move to quarterly digital updates as smooth as possible.
- 3.5 The assumption made throughout this consultation is that design of the cash basis for unincorporated property businesses will generally follow that of the cash basis for trading income. (Detailed guidance written for tax professionals on the cash basis for trading income can be found in HMRC's [Business Income Manual BIM70000 - 70100](#)). This document makes clear where there is a departure in the proposed rules for property businesses compared to the current cash basis for traders.
- 3.6 The government is aware that there is some overlap between the proposed cash basis and the current non-statutory concession set out in the [Property Income Manual - PIM1101](#). The cash basis proposal is intended to provide further simplification for more businesses and to ensure that there is legislative foundation for the use of the cash basis for property businesses. As a result, the non-statutory concession would be withdrawn on the introduction of the proposed statutory cash basis for unincorporated property businesses.

Current Legislation

- 3.7 The most directly relevant part of the current tax regime is Part 3 of the Income Tax (Trading and Other Income) Act 2005 (ITTOIA 2005).
- 3.8 An individual carrying on a property business can also receive proceeds which are taxed as capital gains under the Taxation of Chargeable Gains Act 1992 (TCGA1992) rather than Income Tax, such as on the disposal of a property or

lease. (This legislation provides that where the proceeds have already been taken into account in calculating Income Tax they are excluded from Capital Gains taxation.)

- 3.9 Any person carrying on a property business may from time to time make a loss; this is covered by Part 4 of the Income Tax Act 2007 (ITA2007).
- 3.10 The Capital Allowances Act 2001 (CAA2001) provides details of when relief for capital expenditure is currently available and to which types of property businesses. The extent to which this legislation will be relevant depends on the outcome of the Simplifying tax for unincorporated businesses consultation.

Scope

- 3.11 The proposed cash basis for property businesses would only be available to the simplest property businesses – individuals and some partnerships. Eligible partnerships would be those where the partners are all individuals.
- 3.12 Company property businesses, including non-UK resident companies, would not be eligible; nor would partnerships with corporate partners, limited liability partnerships, trusts, holders of units in unit trusts, real estate investment trusts and other similar complex entities.
- 3.13 Where property is held jointly with one or more other persons the way the rental income is taxed depends on whether the letting is carried on in partnership. Usually, there won't be a partnership and the taxpayer's share from the jointly owned property will be included as part of their personal rental business profits. Where this is the case, the government envisages that each individual will be able to separately opt to report the profits from their personal rental business using the cash basis, although we would expect that most will make joint decisions on whether to opt for the cash basis in order to simplify administration.

Question 5: Does a regime that allows for individuals letting jointly, not in partnership, to separately opt to report using the cash basis present particular difficulties or issues?

- 3.14 It is proposed that the cash basis would be available to eligible non-UK resident landlords.
- 3.15 As a property business for tax purposes, those with a furnished holiday lettings (FHL) business would be within the scope of the proposal.
- 3.16 It is intended that guidance would be provided through the GOV.UK website and other channels to help new and existing businesses understand whether the cash basis would be suitable for them and to inform their choice about whether to use the cash or the accruals accounting basis rules.
- 3.17 As outlined in paragraph 2.13 above, unlike the cash basis for trading income, the government is not intending to impose a relevant maximum limit on entry

into the cash basis for eligible unincorporated property business. The eligibility criteria will instead only be based on whether the unincorporated property business is an individual or partnerships of individuals. (Please refer to Question 1.)

- 3.18 As outlined in paragraph 2.20 above, the government's proposal is that the cash basis should be optional for all eligible property businesses, both new and existing. (Please refer to Questions 2 and 3.)

Interaction with the cash basis for traders

- 3.19 For those individuals and eligible partnerships who have income from a trade, profession or vocation, as well as property business income, it is proposed that their eligibility for the cash basis on trading income should have no impact on their eligibility for the cash basis for their property business income.

Question 6: Should eligibility for the trading income cash basis affect eligibility for the cash basis for unincorporated property businesses? If so, do you have any suggestions on what this interdependence should be?

General Principles

Income

- 3.20 All receipts which are currently treated as property income by virtue of Part 3 ITTOIA 2005 would continue to be treated as such.
- 3.21 The difference would be that receipts in connection with the property business would be counted as income in the period in which they are received rather than when they are earned.
- 3.22 As with the current rules, those amounts which would normally be chargeable under the Capital Gains regime would continue to fall within that regime and not be property income for income tax purposes, for example, premiums on long leases, sale of the property itself.
- 3.23 Some receipts which are not treated as property income receipts under the accruals accounting basis would be income receipts under the cash basis, for example, the proceeds from the sale of a van used for the property business where the cost has been deducted when initially purchased. Also, some events, such as a change of use of such an asset from business to personal use, would require the current value of the asset to be treated as an income receipt.
- 3.24 In most respects the treatment of such receipts or events would be the same as the treatment under the cash basis for trading income although there would be slight differences for those with residential dwelling houses who can only claim the cost of replacing furnishings.

- 3.25 For those in receipt of lease premiums or other sums treated as premiums the additional calculation rules in s288 ITTOIA 2005 would not apply. Receipts from these premiums would all be recognised when they are received.

Expenditure

- 3.26 As with the accruals accounting basis, only expenses incurred wholly and exclusively for the purpose of the property business would be deductible from property income.
- 3.27 Again the difference would be that expenses would be deductible from income in the period they are paid rather than when they are due.
- 3.28 Expenditure on some items of a capital nature would be available up front when paid, in place of capital allowances. The details of this will depend on the outcome of the consultation on changes to the capital/revenue divide within the cash basis outlined in the [Simplifying tax for unincorporated businesses](#) consultation.
- 3.29 However, for those purchasing plant and machinery for use in residential properties, relief would continue to be available on the cost of replacing domestic items such as furniture, household appliances and kitchenware, but would not be available on the initial cost. No other relief would be available for capital expenditure on residential properties or assets provided for the tenants for use in these properties.
- 3.30 Following the rules for the cash basis for trading income, payment of premiums or other sums treated as premiums would not be treated as allowable expenses. Details of what is considered a premium or a sum treated as a premium can be found in the [Property Income Manual PIM 1200 – 1201](#). (The accruals accounting basis would be available to those landlords who wish, rather than treating them as capital, to use the more complex income tax reliefs available in respect of some such amounts).

Treatment of security deposits

- 3.31 For many rental businesses, a tenant will provide a security deposit to the landlord. Those deposits are usually returnable at the end of a tenancy, subject to negotiation on whether the landlord is eligible to retain any under the terms of the lease, say for example, to cover repairs.
- 3.32 If they let a residential property the vast majority of landlords must protect the deposit in a government-backed tenancy deposit scheme. In some cases the deposit is passed over to the scheme for the duration of the tenancy, while in others the landlord retains the deposit and pays a fee for the scheme to offer protection.
- 3.33 Under a true cash basis model, we would expect a deposit to be recognised as income when it is received. If it is then passed over to a tenancy deposit scheme then the landlord would recognise an expense. However, we

acknowledge that where the landlord retains the deposit, then the expense would not be available until the end of the tenancy when the landlord becomes permanently entitled to keep any part of it. This may be many years after the deposit is recognised as income.

- 3.34 Requiring landlords to recognise a deposit for tax purposes only when they become entitled to it would create complexity in the cash basis rules, yet different consequences depending on the type of scheme used (if any) could skew commercial decisions.

Question 7: Would only recognising deposits that landlords are entitled to keep at the end of a tenancy create unnecessary complexity?

Treatment of negative amounts/losses

- 3.35 If the calculation of taxable income gives a negative amount, then this would carry forward to be available to relieve against any subsequent taxable income. However, no 'sideways relief' would be available against any other source of income. This is in line with the treatment under the cash basis for traders and also with the current rules for the use of property business losses for the majority of property businesses. The accruals accounting basis would be available to those landlords who wish to calculate whether they have an actual loss, and if so, would want to be able to claim sideways loss relief if they are eligible.

Transitional Arrangements

- 3.36 As outlined in paragraph 2.12 above transitional adjustments may be required on entry and exit from the cash basis to ensure that all receipts are charged once and only once, and all expenditure is deducted once and only once. These will follow the adjustments required under the cash basis for trading income.

Existing businesses switching to the cash basis

- 3.37 When an eligible property business switches to the cash basis it would need to make some adjustments to taxable income. For example:
- A landlord has provided accommodation to a tenant in a period in which they used the accruals accounting basis and included the income in 2017/18. If the tenant does not pay until the landlord has opted for the cash basis in 2018/19, then the receipts for the first period of the cash basis will need to be reduced to exclude the income that has already been declared and taxed in 2017/18;
 - A landlord has recognised letting agent fees for services for a period in which they used the accruals basis in 2017/18 and the expenditure was deducted for tax purposes in that period. If the landlord does not pay until they have opted for the cash basis in 2018/19, then the expenses for the

first period of the cash basis will need to be reduced to exclude the expenditure that has already been deducted for tax in 2017/18.

- 3.38 For existing capital assets which would qualify for an immediate deduction under the cash basis any part of the costs, if pooled under the capital allowances regime, that are unrelieved at the time of entry to the cash basis would be allowed as a deduction in calculating the business income in the first tax period of the cash basis. In broad terms the whole unrelieved written down value (if any) would be allowable as a deduction when entering the cash basis.

Leaving the cash basis

- 3.39 When a business switches from the cash basis to the accruals accounting basis rules, a reversal of the adjustments described in paragraph 3.37 above would need to be made.
- 3.40 Plant and machinery eligible for capital allowances under the normal rules would be treated as being in a capital allowances pool with nil unrelieved expenditure. This ensures any balancing charge occurs if the eligible plant and machinery is sold after the business leaves the cash basis.

Question 8: Do you feel there is anything which has not been considered which could make the cash basis as simple as possible for landlords?

Question 9: Are you aware of any risks that the cash basis for unincorporated property business could present which could lead to the avoidance or reduction of liability to income tax? If so, please provide details.

Question 10: Do you have any comments, not already provided, on any aspect of the proposal?

4. Assessment of Impacts

The government wants to make it easier for individual landlords (or those in partnership with other individuals) to calculate their taxable income.

Question 11: If the government introduces a simpler tax system for unincorporated property businesses, please provide details of how this will affect your business. This should include details of both the expected one-off and ongoing benefits and costs of:

- a) Familiarisation with the new basis and updating your software or systems**
- b) Not having to keep accruals accounts and prepare calculations in accordance with UK GAAP.**

Question 12: Please tell us if you think there are any other benefits or costs not covered in the summary of impacts below.

Summary of Impacts

Exchequer impact (£m)	2016-17	2017-18	2018-19	2019-20	2020-21
	-	-	-	-	-
	This measure is expected to generate an initial transition yield to the Exchequer in the region of £25m. (This arises from earlier payment of some tax arising from the timing effect explained below in the section on Impact on individuals and households.) The final costing will be subject to scrutiny by the Office for Budget Responsibility if and when this measure is introduced.				
Economic impact	This measure is not expected to have significant macroeconomic impact.				
Impact on individuals and households	<p>The simplification provided by the cash basis is expected to make it easier and cheaper for unincorporated property businesses to calculate tax liabilities by no longer having to compute profits in accordance with GAAP, so many property businesses will avoid the need to carry out time-consuming accruals based adjustments at the end of each period.</p> <p>The cash basis also ensures that tax will not be paid on profits before the cash associated with those profits has actually been received, providing landlords with more certainty over their cash flow positions.</p> <p>Some individuals switching to use the cash basis are likely to incur a small one-off timing cost. This arises because rent is generally paid in advance of when it is due. However, over the</p>				

	life of the property business, taxable profits should be broadly the same using both the accruals accounting and cash basis method. Additionally, any initial small costs to individuals should be balanced by reduced administrative burdens and expense costs over the longer term. Those with substantial items left in their capital allowance pools will also have a one-off cash flow benefit the first year. There should also be a longer term cash flow benefit expected for landlords with arrears as they will only be taxed on income when it is actually received.
Equalities impacts	The proposals relate to an optional simplified scheme to compute business income for tax purposes and as such, no adverse impact on the equality of protected groups has been identified.
Impact on businesses and Civil Society Organisations	<p>The impacts on business will mirror those impacts on individuals.</p> <p>This measure is intended to enable businesses to comply with their income tax obligations themselves and is therefore aimed at those customers who do not have an agent so there should no impact on the agent population.</p> <p>The number of businesses affected and impacts on them will be reviewed in light of consultation responses.</p>
Impact on HMRC or other public sector delivery organisations	The details of the proposal are being considered in this consultation therefore it is not possible to provide details of any additional impacts on HMRC at this stage.
Other impacts	Other impacts have been considered and none have been identified.

5. Summary of Consultation Questions

Question 1	Do you feel there should be a relevant maximum limit imposed for eligibility for the cash basis for unincorporated property businesses? If so, what should this limit be and why?
Question 2	Do you feel there is any reason why the cash basis should not be optional for all eligible unincorporated property businesses?
Question 3	Would you want to opt in for each of their property businesses separately (for example, UK property business and overseas property business) or would they prefer to choose whether to opt in for all their property business income or none of it?
Question 4	Does the above advice give you enough information to decide whether or not to use the cash basis with/without (please indicate) professional advice? If not, what else would you need to know about the new rules?
Question 5	Does a regime that allows for individuals letting jointly, not in partnership, to separately opt to report using the cash basis present particular difficulties or issues?
Question 6	Should eligibility for the trading cash basis affect eligibility for the cash basis for unincorporated property businesses? If so, do you have any suggestions on what this interdependence should be?
Question 7	Would only recognising deposits that landlords are entitled to keep at the end of a tenancy create unnecessary complexity?
Question 8	Do you feel there is anything which has not been considered which could make the cash basis as simple as possible for landlords?
Question 9	Are you aware of any risks that the cash basis for unincorporated property business could present which could lead to the avoidance or reduction of liability to income tax? If so, please provide details.
Question 10	Do you have any comments, not already provided, on any aspect of the proposal?

Question 11	If the government introduces a simpler tax system for unincorporated property businesses, please provide details of how this will affect your business. This should include details of both the expected one-off and ongoing benefits and costs of: a) Familiarisation with the new basis and updating your software or systems. b) Not having to keep accruals accounts and prepare calculations in accordance with UK GAAP.
Question 12	Please tell us if you think there are any other benefits or costs not covered in the summary of impacts.

- 5.1 Additionally, if you would like to assist the government in gaining more understanding of property businesses as a whole please complete the anonymous questionnaire [here](#). This should not take long and will help to ensure the design of the proposals reflects the reality of most property business/landlords. The questions outlined in the questionnaire are as follows:

Make up of your property business

1. How many residential properties (excluding rooms let in main residence eligible for rent-a-room-relief) do you let on your own or jointly with others (but not in partnership)?
2. How many residential properties (excluding rooms let in main residence eligible for rent-a-room-relief) do you let in partnership with others?
3. How many commercial properties do you let on your own or jointly with others (but not in partnership)?
4. How many commercial properties do you let in partnership with others?
5. How many qualifying Furnished Holiday Lets (FHLs) do you let on your own or jointly with others (but not in partnership)?
6. How many qualifying Furnished Holiday Lets (FHLs) do you let in partnership with others?
7. Do you claim rent-a-room relief?
8. If you do claim rent-a-room relief, is the claim halved with someone else?
9. On average last year, how many weeks did you not have a tenant (a void period) in your residential properties?
10. On average last year, how many weeks did you not have a tenant (a void period) in your commercial properties?

11. On average last year, how many weeks did you not have a tenant (a void period) in your qualifying Furnished Holiday Lets (FHLs)?

Costs of running your property business

12. Do you have a mortgage on the property/properties used in your property business?

13. Roughly how much interest (£s) do you pay a year on this/these mortgage(s)? (Remember to exclude any repayment element)

14. What day of the month would you usually make payments towards your largest mortgage?

15. If you have another mortgage(s) please provide details here of the day of the month you would usually pay this/these mortgage(s), for example, Mortgage 2 paid on 1st of the month etc.

16. Do you claim any capital allowances for capital expenditure on your property business(es)?

17. If you do claim capital allowances, roughly how much did you claim (£s) last year?

18. Do you currently use a lettings agent?

Costs of running your property business- Letting agent

19. What service(s) does your letting agent provide?

- a) letting the property
- b) managing the property
- c) other (please provide details)

20. Roughly how much do you normally pay (£s) for this/these service(s) a year?

21. How do you normally pay for this service/these services?

- a) up-front at the start of the tenancy for a whole year
- b) monthly
- c) other (please provide details)

Calculating your profits for tax purposes

22. Do you currently prepare accounts for your property business(es)?

23. Do you use an accountant for your property business(es)?

24. If you do use an accountant, roughly what was the cost of this service last year (£s)?

25. Are you likely to continue using an accountant if/when a cash basis for landlords is introduced?

26. Do you currently calculate your taxable profits:

- a) on a cash in, cash out basis (this is allowed for simple property businesses under the non-statutory concession available in HMRC's Property Income Manual [PIM1101](#))
- b) using accruals accounting principles (i.e. when income is earned and the expenses incurred in earning that income)
- c) not sure

Cash Basis

27. Do you carry out a trade in addition to your property business(es)?

28. If you do carry out a trade in addition to your property business(es), did you opt to use the cash basis to calculate the profits for this trade last year?

29. If you were to switch to the cash basis proposed for property businesses would you expect:

- a) to make a saving
- b) to incur additional costs
- c) no change
- d) not sure

30. If you expect to make a saving by switching to the cash basis proposed, roughly how much do you think that saving (£s) might be and where do you think those savings might come from?

31. If you expect to incur additional cost from switching to the cash basis proposed, roughly how much do you think that cost (£s) might be and where do you think those costs might come from?

32. Given the cash basis would be optional, would you opt to use it if/when it is introduced?

6. 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

Written responses should be submitted by 7 November 2016 via email to:
propertycashbasis.consultation@hmrc.gsi.gov.uk

or by post to:

HM Revenue and Customs
Property Income Team
Room 3/64
100 Parliament Street
London
SW1A 2BQ

Any queries about this consultation should be directed to Sophie Sharp, on 03000 542 664 or by email to the above address.

HMRC officials are willing to meet with interested parties to discuss any aspect of this consultation and will be organising stakeholder events following publication.

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 Inside Government](#). 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 confidentiality 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: Relevant (Current) Government Legislation

Capital Allowances Act 2001

Income Tax (Trading and Other Income) Act 2005

Income Tax Act 2007

Taxation of Chargeable Gains Act 1992