



HM Revenue
& Customs



HM Treasury

Royalties Withholding Tax

Consultation document

Publication date: 1 December 2017

Closing date for comments: 23 February 2018

Subject of this consultation:	The circumstances in which royalties and other types of payment made to connected persons not resident in the UK have a liability to income tax.
Scope of this consultation:	The government will introduce legislation in Finance Bill 2018-19 that broadens the circumstances in which certain payments made to non-UK residents have a liability to income tax. These changes will have effect from April 2019. The consultation focuses on the design of that legislation.
Who should read this:	The government welcomes comments from those who would be affected by these changes, including companies, advisors and representative bodies.
Duration:	The consultation runs from 1 December 2017 to 23 February 2018.
Lead official:	Laura Rankine – Business, Assets and International Directorate, HMRC Lizzie Arnold – Business and International Tax Group, HMT
How to respond or enquire about this consultation:	Responses, requests for hard copies and general queries about the content or scope of the consultation can be sent by email to withholding-tax.mailbox@hmrc.gsi.gov.uk or by post to: Royalties WHT Consultation, Room 3C/21, HMRC, 100 Parliament Street, London SW1A 2BQ. For queries over the phone, please call 03000 599915.
Additional ways to be involved:	As this consultation largely concerns complex technical issues the government is keen to arrange meetings with external bodies, but equally welcomes written technical responses. It is envisaged that meetings with those with specialist interests will be held both during the consultation and after all responses have been evaluated.
After the consultation:	The government will publish its response and draft legislation in Summer 2018.
Getting to this stage:	This is a new consultation.
Previous engagement:	This consultation is at the third stage of the consultation process.

Contents

1	Introduction	4
2	Arrangements in Scope	5
3	Proposal	6
4	Payments in Scope	8
5	Reporting and Payment	13
6	Double Taxation	16
7	Assessment of Impacts	17
8	Summary of Consultation Questions	18
9	The Consultation Process	19
Annex A	Relevant (current) government legislation	21

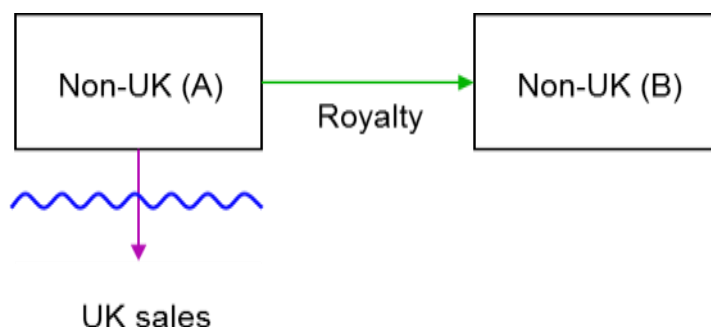
On request this document can be produced in Welsh and alternate formats including large print, audio and Braille formats

1. Introduction

- 1.1 It is a feature of most countries' tax systems that non-residents are taxable on certain types of income that arise in that country. Royalties are typically one such type of income and, to enforce their taxing right, countries will generally require the payer of the royalty to withhold tax from the payment and account for it to the tax authorities. The UK is no exception to this approach, which is subject to international agreements, such as Double Taxation Agreements (DTAs), that allocate taxing rights over such payments.
- 1.2 Rules were introduced in Finance Act 2016 (FA16) to reinforce this position by ensuring that all royalties arising in the UK will be subject to the deduction of income tax (IT) at source unless the UK has explicitly given up its taxing rights under an international agreement.
- 1.3 At Autumn Budget 2017, the government announced a further extension to the FA16 rules. This measure will mean that payments for the exploitation of certain property or rights in the UK that are made to connected parties in low or no tax jurisdictions will be subject to appropriate taxation.
- 1.4 This is another step towards the government's longer term ambition of domestic and international reform of the taxation of digital businesses. Whilst this measure will predominantly affect digital businesses, it may also affect groups operating in other sectors.
- 1.5 This measure does not represent a change in the UK's general approach to taxation of UK source payments, but is a targeted rule aimed at intra-group arrangements that achieve an artificially low effective rate that is distortive to competition in the markets in which they operate, including the UK.
- 1.6 The government intends to respect all of its international obligations in the application of the measure.
- 1.7 This consultation considers how the application of withholding tax can be expanded to deliver on the above policy aims.
- 1.8 The policy will be given effect through legislation introduced in Finance Bill 2018-19 and will be effective from April 2019. This aim of this consultation document is to seek views on design of elements of these rules.
- 1.9 Chapter 2 set out the arrangements in scope, Chapter 3 discusses the policy proposal, Chapter 4 the payments in scope, Chapter 5 reporting and payments and Chapter 6 double taxation.
- 1.10 Annex A provides links to the rules introduced by FA16, as well as the broader rules charging royalty payments to IT, and imposing a duty to deduct tax on the payer.

2. Arrangements in Scope

2.1 The measure, as outlined in Chapter 1, is intended to target at a narrow range of arrangements that achieve low effective tax rates through holding intellectual property in low or no tax jurisdictions. A simplified structure is illustrated below:



2.2 In this example, A and B are connected parties. A pays a royalty for exploitation of IP under a licence entered into with B. This IP is exploited by A to make sales in the UK. The group does not have a taxable presence in the UK, for example through a permanent establishment or, in the context of diverted profits tax, an avoided permanent establishment of A. The measure will apply regardless of which group company make sales into the UK, provided the royalty is paid for exploitation of IP in the UK.

2.3 Under existing legislation, the royalty payment would not have a source in the UK because the payment is not made by a UK resident entity, nor in connection with a PE (or avoided PE) in the UK. This is despite the fact the payment is made for exploitation of those rights in the UK.

2.4 In addition, the relevant licensing agreement may provide for a range of intellectual property rights, including some that are not included in the existing definition of an intellectual property right.

2.5 The profits made in A may suffer limited taxation as A has a tax effective deduction for the royalty payment. The jurisdiction in which B is resident is a low or no tax jurisdiction and so the receipts are either lightly taxed, or not taxed at all.

2.6 The combination of these factors lead to the outcome noted in Chapter 1, namely the use of intra-group payments to achieve a low effective tax rate.

2.7 There may be variations on such structures, for example, there may be an additional sub-licence with a further entity in a third jurisdiction inserted between A and B. In such arrangements, this is likely to have been inserted to limit any withholding tax liability in the jurisdiction in which A is located.

2.8 The measure would apply to such arrangements by creating an IT liability on the UK-element of the payment described as 'royalty' in the diagram above. A would be required to report and return such liability in the UK.

3. Proposal

- 3.1 The charge to IT on royalties is contained in Part 5 Income Tax (Trading and Other Income) Act 2005 (ITTOIA). Rules defining the territorial scope of charges under Part 5 are contained in section 577 ITTOIA. Section 577(2) provides that income arising to a non-UK resident is chargeable to UK income tax “only if it is from a source in the United Kingdom.”
- 3.2 The income must have a UK source to fall within the charge to income tax, but the term “source” is not currently defined. The changes introduced in FA16 (found at S577A ITTOIA) provide that the payment of a royalty by a non-UK resident will always have a UK source when:
- The payer is a non-UK resident carrying on a business in the UK through a PE in the UK; and
 - The payments (or part of them) are made in connection with the trade of the non-resident carried on through its PE in the UK.
- 3.3 In such circumstances, the recipient of the royalty will be within the charge to UK IT as the income arising will be from a UK source. The definition of payments in scope of the charge is found at S579 ITTOIA and includes payments for use of patents, trade marks, registered designs, copyright, and design rights.
- 3.4 The payment will then be subject to rules governing the deduction of tax at source from royalty payments contained in Part 15 Income Tax Act 2007 (ITA). The tax deducted at source is collected on account of the recipient’s liability.
- 3.5 The aim of the proposed measure is to extend the circumstances in which there is a liability to IT, and a consequent duty to deduct tax at source. The measure will do this by ensuring that payments made for exploitation of IP or certain other rights in the UK have a source in the UK for the purposes of withholding tax. The measure will only apply to payments between connected parties.
- 3.6 A liability will arise regardless of whether the payer has a taxable presence in the UK. The changes made in FA16 require the non-UK resident payer of a royalty to trade through a permanent establishment (PE) in the UK and that the royalty be connected with the trade of that PE. There will be no such requirement under the proposed legislation. The payments in scope of the proposed legislation - including the types of payments and arrangements - are discussed in Chapter 4.
- 3.7 A liability will only arise where the payment is made to certain jurisdictions. As outlined at Chapter 4, the effect will be that a liability only arises if the payment is made to a jurisdiction with whom the UK does not have a DTA, or with whom the UK does have a DTA, but that DTA does not contain a Non-Discrimination Article (NDA).
- 3.8 It is also proposed that the measure will contain anti-abuse rules, including anti-forestalling provisions. These are also discussed in Chapter 4.

- 3.9 The payer will be required to deduct IT at source and return any liability to HMRC. The circumstances in which the IT charge arises mean that the payer may be a non-UK resident and have no UK presence. Chapter 5 discusses reporting obligations and settlement of liabilities, including joint and several liability.
- 3.10 It may be that another jurisdiction also seeks to tax a payment that is within scope of the propose measure. The extent to which double taxation might be relieved is discussed further at Chapter 6.

4. Payments in Scope

Types of payment

- 4.1 FA16 amended the definition of a royalty for the purposes of Part 15 ITA and the duty to deduct IT at source. This definition follows the Organisation for Economic Co-operation and Development (OECD) definition, as used in the Model Tax Convention (MTC). This ensured there was a duty to deduct IT from all payments that attract an IT liability under Part 5 ITTOIA. It also provided consistency with the UK's DTAs.
- 4.2 The proposed measure will apply to royalty payments meeting the above definition. The measure will also apply to payments for the use or exploitation of rights over intellectual property and other intangible assets in the UK. This will include, for example, the right to distribute specified goods or provide specified services in the UK. It will not include payments for services.
- 4.3 The extended scope provided by this measure is required because the existing definition – introduced in FA16 with the intention to align domestic withholding requirements with obligations under DTAs – may not always capture the range of payments intended to fall within the policy objectives.
- 4.4 The proposed measure will not apply where the UK has a DTA with a NDA¹. As such, the extended scope provided by this measure, relative to the current definition of royalty for WHT purposes, should not affect the operation of any of the UK's international agreements.
- 4.5 This section of the consultation considers the payments to which the measure will apply.
- 4.6 One option is to define such payments taking a generic approach. For example the measure could apply to any payment for rights over, or interests in, the exploitation of intellectual property and intangible assets of any description in the UK. This approach would be broad in scope, minimising uncertainty as to whether a payment was in scope. An agreement for the use of IP and other rights is generally explicit in its description of such rights and as such this approach will provide certainty of treatment.
- 4.7 An alternative option would be to define the specific types of payments within scope of the measure. This approach would ensure the most common current types of payments would be within scope, but in order to be fully effective the statutory list would need to be comprehensive and kept up to date as business models changed. Inclusion of some payments but not others could give rise to valuation difficulties.

¹ As found at Article 24 of the OECD MTC

4.8 Given the above factors, and the nature of the arrangements that the government wants to fall within the scope of this measure, the government's preferred approach is to take a generic approach.

Q1: Do you agree that a generic approach will provide greater certainty in the application of this measure? If not, what do you see as the likely areas of difficulty arising from this approach?

Q2: If a more targeted approach is preferred, how should the types of payment within scope best be described?

Recipient entity

4.9 In addition to the types of payment, the relationship between the payer and recipient should be considered. The arrangements the measure seeks to address typically involve payments between entities of a multinational group and so are between related parties. As such, it would be appropriate for the measure to apply to payments between related parties and it is proposed that a suitable test is that provided by the participation condition, outlined at S148 Taxation (International and Other Provisions) Act 2010 (TIOPA).

4.10 There is a risk that this limitation in scope could be used to sidestep the measure through arrangements involving insertion of unrelated parties in a series of payments. The initial position being taken is that such arrangements can be dealt with through anti-avoidance provisions, rather than any broader application to unrelated parties.

4.11 In line with the existing approach to deduction of tax at source, the withholding obligation will apply regardless of the activity undertaken in the recipient jurisdiction.

Q3: Do you agree that the primary scope of the rules should be payments between related parties? Are there any circumstances in which the rules should apply to payments between unrelated parties?

Sub-licencing

4.12 It may be that there is more than one licence under which payments within scope of the measure are made. For example, an ultimate licence-holder (A) may sub-licence the relevant IP and rights to a connected intermediary (B) who in turn further sub-licences that same IP and rights to another connected party (C). Unless specific provision is made, it might be that payments are taxed twice, once under each sub-licence. The government proposes to design the measure so that such payments are subject to IT under this measure only once, where they relate to the same assets and rights.

- 4.13 To achieve this outcome, credit would be given for tax on payments for the same IP and rights. In the above example, this would mean comparing the payments attributable to the UK under the agreement between A and B with those under the agreement between B and C. If the payment between C and B were 100 and the payment from B to A 90, then total payments of 190 would have a potential liability. However, to acknowledge that the payments are for use of the same rights, credit would be given for 90 as this amount would have attracted a liability under both legs of the arrangement. This would leave a liability on 100.
- 4.14 This rule will only apply if the IP and rights under each agreement are essentially identical. If the two agreements provided for exploitation of different IP and rights, then there may be an IT liability under each agreement. The effect on reporting arrangements is discussed further in Chapter 5.

Calculation of payment

- 4.15 A licence may cover a geographic area broader than just the UK. In such circumstances there is a need to apportion payments between the UK and the other jurisdictions covered by the agreement on a just and reasonable basis. Generally sales will form the basis of such an apportionment, but ultimately this will have to be done in a just and reasonable way.
- 4.16 Royalties payable under licence agreements between independent parties are typically determined by reference to sales made by the licensee from using IP, rather than the profits the licensee made. In most cases therefore it will be appropriate to determine the quantum of the royalty which will attract an IT liability by reference to sales made in the UK. This will be a variable amount.
- 4.17 However, payments for rights may not be determined by reference to sales. For example, a payment may be a fixed annual amount in transactions between third parties. In such circumstances, the fixed fee would attract an IT liability. For rights not determined by sales volume in independent transactions, the proportion of the payment arising from exploitation of that right will need to be determined on a just and reasonable basis, which may also be UK sales as a proportion of total sales.

Q4: Do you agree that such an approach is appropriate in determining the amount of any payment that has a liability to IT? In your experience, what are the most common approaches taken to determine the amounts payable under these and similar arrangements?

Interaction with existing legislation

- 4.18 The proposed measure will apply alongside existing legislation on cross-border royalties. The tax liability will be the highest of that under existing rules in ITTOIA, ITA, the Diverted Profits Tax rules in Part 3 Finance 2015 and the changes made by this measure.

Recipient jurisdiction

- 4.19 As set out above, the government's aim is to tax royalty and other payments which are paid to no or low tax jurisdictions, and the government intends to respect its international obligations in the application of this measure. In order to achieve this outcome, and ensure the measure is appropriately targeted, the measure will only apply where a payment is made to a jurisdiction with whom the UK does not have a DTA with a NDA, or with whom the UK does not have a DTA.
- 4.20 Such an approach is taken in the transfer pricing rules (S173 TIOPA), the Qualifying Private Placement Regulations (SI2015/2002) and the dividend exemption (S931C Corporation Tax Act 2009 (CTA09)). This approach would remove complexity from the measure, whilst focussing on payments to low or no tax jurisdictions.
- 4.21 The government acknowledges there are jurisdictions that are not low or no tax regimes with whom the UK does not have a DTA. The government wishes to understand the extent to which groups would be affected by the measure in circumstances where the royalty payment would be made to jurisdictions where the royalty is subject to taxation. The government is particularly keen to understand the relative impact in terms of the amount of royalties paid.
- 4.22 Where a payment meets all the conditions of the proposed measure other than that it is made to a DTA jurisdiction, it is proposed that a 'reasonable belief' test, as found at S911 and S914 ITA, would apply. While this is expected to reduce the compliance burden, a reporting obligation may still arise – see Chapter 5.

Q5: Do you agree with the government's preferred approach of a liability arising only when payment is made to a jurisdiction with whom the UK's DTA does not contain an NDA, or where there is no DTA in place?

Q6: Given the types of payments likely to be made, to what extent would the rules impact on payments made to jurisdictions that are not low or no tax regimes?

Anti-avoidance

- 4.23 The measure will contain an anti-abuse rule that will in part act as an anti-forestalling rule. It is intended that this will apply to arrangements that have as the main purpose, or one of the main purposes, the avoidance of a liability under this measure. This will apply to payments made after the operative date of the measure even if made under arrangements entered into before that date. This rule will not affect genuine commercial restructuring.

4.24 The rule will also apply to payments made to a jurisdiction with whom the UK has a DTA that contains a NDA if the payments are made to that jurisdiction as part of arrangements designed to obtain a tax advantage contrary to the object and purpose of a foreign DTA. This will include payments made under the Interest and Royalties Directive (2003/49/EC). This will follow the approach taken in S42(7)-(9) FA16. For example, this would apply if royalties are paid to a conduit. If that arrangement is contrary to the object and purpose of the DTA between the source state and the conduit jurisdiction, then the proposed measure will ignore the fact the UK has a DTA with a NDA with the jurisdiction being used as a conduit.

5. Reporting and Payment

Reporting

- 5.1 The existing framework for reporting an IT liability on amounts deducted from payments at source relies on use of Form CT61. This form must be requested from HMRC. A return is required for all payments made during a return period. A return period is a period:
- of up to 3 months,
 - starting at the beginning of the accounting period, or after the end of a previous return period in that accounting period,
 - ending on 31 March, 30 June, 30 September, 31 December or at the end of the accounting period.
- 5.2 The payment of tax is due within 14 days of the end of the return period. The government believes this remains an appropriate reporting mechanism and as such does not propose to introduce a bespoke return for payments in scope of the proposed measure.
- 5.3 In addition to Form CT61, Form CT600H requires an entity with a UK corporation tax liability to submit details of royalties paid gross, following the 'reasonable belief' test contained in S911 and S914 ITA. This process allows HMRC to risk-assess application of these rules. The government believes that this mechanism may provide an appropriate method of reporting payments that would have been in scope of the proposed measure, but for the recipient being in a jurisdiction with whom the UK has a DTA with an NDA. The CT600H will only be required, under the existing approach, if the person making the payment is UK resident.
- 5.4 When the group has a UK taxable presence, the rules will be modified such that any group UK taxable presence that makes a corporation tax return is required to submit a CT600H detailing payments made by a group member.
- 5.5 Whilst the government believes that the groups making payments in scope of the measure will have a UK taxable presence, there should be a mechanism for groups that do not. It is the view of the government that payments in scope of the proposed measure should be reported in the UK to allow appropriate risk assessment.
- 5.6 In such circumstances, the payer would need to be registered in the UK to allow a return of the relevant information. One solution might be introduction of a return containing the specific information (which would in practice be that required on a Form CT600H) to an Officer of HMRC.

5.7 In addition, such an approach would cater for a scenario whereby there is more than one licence under which relevant payments are made, as outlined in Chapter 4. Reporting in such a way would provide visibility on payments in scope but where credit against such payments is due such that any liability on a second or subsequent payment is reduced to nil.

5.8 The government welcomes views on how this might be done in a proportionate fashion.

5.9 Penalties for failure to submit a return may be levied on a UK connected party, should the relevant group have a UK presence. This is discussed further below. The penalties for failing to notify a payment in scope will follow those for failing to submit a Form CT61, found at Schedule 41 Finance Act 2008 (FA08).

5.10 The existing powers for requiring additional information would also apply, notably Schedule 36 FA08. Penalties for failure to comply with such a notice may also be levied on any UK presence, as discussed below. The UK may also use its various international agreements for the exchange of information to help assess the extent of any IT liability.

Q7: Do you agree that the existing CT61 and CT600H framework, as adapted, are an appropriate way to return a liability under the proposed measure?

Q8: Do you agree that provision of a return of specific information to an Officer of HMRC is a proportionate way of collecting information from groups?

Q9: Are there any other administrative easements that would reduce the compliance burden on groups, whilst ensuring provision of appropriate information?

Payment

5.11 As noted above, the government believes the CT61 mechanism provides an appropriate framework for the reporting and payment of IT. However, the government is conscious that pursuit of a liability from a non-UK resident may be difficult and costly, even following the UK's international agreements, such as Assistance in Collection (AIC) provisions in the UK's DTAs and the Mutual Assistance in the Recovery of Debt Directive (MARD).

5.12 As such, the government proposes joint and several liability for a group that has a liability under the proposed measure. This would mean that any liability of a non-UK resident can be paid and collected through any related party with a UK presence. As noted above, the government is of the view that in practice, groups within the scope of the measure will have a presence in the UK and as such will have assets over which a charge may be made.

5.13 This has the benefit of making payment easier for the group in question (which can make use of existing methods of payment and, if relevant, the group's Customer Compliance Manager). It also ensures the government is able to collect any liability due, should a non-UK resident be non-compliant.

5.14 Where the group does not have a UK presence, there would be reliance upon AIC provisions and the MARD.

Q10: Do you agree that creation of joint and several liability is an appropriate way to enable debt collection in the case of non-compliance?

6. Double Taxation

5.1 The proposed measure seeks to address arrangements involving payments for exploitation of IP in the UK that result in a low effective tax rate. The government believes the measure as outlined will achieve this outcome.

5.2 However, the government welcomes views on circumstances where this approach might lead to inequitable double taxation, for example because the jurisdiction in which the resident making the payment is located withholds tax on that payment.

Q11: Are there circumstances in which the proposed measure will give rise to inequitable double taxation?

7. Assessment of Impacts

Summary of Impacts

Exchequer impact (£m)	2018-19	2019-20	2020-21	2021-22	2022-23
	-	+285	+225	+160	+130
Economic impact	This measure is not expected to have significant macroeconomic impacts.				
Impact on individuals, households and families	The measure is not expected to impact on family formation, stability or breakdown.				
Equalities impacts	It is not anticipated that this measure will impact on groups sharing protected characteristics.				
Impact on businesses and Civil Society Organisations	This measure is expected to impact on all businesses who make royalty and other payments for use of exploitation of right in the UK. These businesses will now have to operate a withholding tax regime if those payments are made to certain jurisdictions.				
Impact on HMRC or other public sector delivery organisations					
Other impacts	Other impacts have been considered and none have been identified.				

Q12: Do you have any comments on the assessment of equality and the impact on business as a result of this change?

8. Summary of Consultation Questions

Q1: Do you agree that a generic approach will provide greater certainty in the application of this measure? If not, what do you see as the likely areas of difficulty arising from this approach?

Q2: If a more targeted approach is preferred, how should the types of payment within scope best be described?

Q3: Do you agree that the primary scope of the rules should be payments between related parties? Are there any circumstances in which the rules should apply to payments between unrelated parties?

Q4: Do you agree that such an approach is appropriate in determining the amount of any payment that has a liability to IT? In your experience, what are the most common approaches taken to determine the amounts payable under these and similar arrangements?

Q5: Do you agree with the government's preferred approach of a liability arising only when payment is made to a jurisdiction with whom the UK's DTA does not contain an NDA, or where there is no DTA in place?

Q6: Given the types of payments likely to be made, to what extent would the rules impact on payments made to jurisdictions that are not low or no tax regimes?

Q7: Do you agree that the existing CT61 and CT600H framework, as adapted, are an appropriate way to return a liability under the proposed measure?

Q8: Do you agree that provision of a return of specific information to an Officer of HMRC is a proportionate way of collecting information from groups?

Q9: Are there any other administrative easements that would reduce the compliance burden on groups, whilst ensuring provision of appropriate information?

Q10: Do you agree that creation of joint and several liability is an appropriate way to enable debt collection in the case of non-compliance?

Q11: Are there circumstances in which the proposed measure will give rise to inequitable double taxation?

Q12: Do you have any comments on the assessment of equality and the impact on business as a result of this change?

9. 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 3 of the process. The government has announced its intention to make changes to give effect to the policy objectives set out in this consultation document, and to do so in the way described.

While there are some aspects of detailed policy design that are still open, this consultation is predominantly about ensuring that the objectives stated in the consultation document are achieved without unexpected impacts. Further technical consultation on draft legislation is envisaged, with the legislation coming into force from April 2019.

How to respond

A summary of the questions in this consultation is included at chapter 8.

Responses should be sent by 23 February 2018, by e-mail to <mailto:withholding-tax.mailbox@hmrc.gsi.gov.uk> or by post to: Royalties WHT Consultation, Room 3C/21, HMRC, 100 Parliament Street, London SW1A 2BQ.

Telephone enquiries 03000 599915 (from a text phone prefix this number with 18001).

Please do not send consultation responses to the Consultation Coordinator.

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 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

The full text of the legislation referred to in this document can be found on the Office of Public Sector Information ([OPSI](#)) web site. Links to the legislation are provided below:

[Income Tax Act 2007](#)

[Income Tax \(Trading and Other Income\) Act 2005](#)

[Finance Act 2015](#)

[Finance Act 2016](#)

[Corporation Tax Act 2009](#)

[Finance Act 2008](#)

[Taxation \(International and Other Provisions\) Act 2010](#)