



HM Revenue  
& Customs

# HMRC Digital Strategy – legislative changes to enable Paperless Self Assessment

## **Consultation document**

Publication date: 27 November 2013

Closing date for comments: 27 December  
2013

<b>Subject of this consultation:</b>	HMRC proposes to upgrade its Self Assessment (SA) Online service to provide a complete end-to-end digital experience for customers. This upgrade provides the opportunity for customers already registered to use HMRC's SA Online service to reduce the amount of paper communications they receive from HMRC and instead receive these electronically.
<b>Scope of this consultation:</b>	HMRC published its Digital Strategy in December 2012 and this included the proposal for Paperless Self Assessment. HMRC are seeking views on the necessary legislative changes required to enable the delivery of its Paperless Self Assessment exemplar.
<b>Who should read this:</b>	HMRC would like to hear in particular from customers, tax practitioners, representative bodies and other interested parties.
<b>Duration:</b>	27 November 2013 to 27 December 2013
<b>Lead official:</b>	Shaun Mellow (HMRC)
<b>How to respond or enquire about this consultation:</b>	Please send responses by email to:  <a href="mailto:shaun.mellow@hmrc.gsi.gov.uk">shaun.mellow@hmrc.gsi.gov.uk</a>  or by post to:  Shaun Mellow Room 1E/13 100 Parliament Street London SW1A 2BQ  Enquiries about this consultation should be directed to the above address.
<b>Additional ways to be involved:</b>	This consultation focuses on the technical changes needed to legislation in order to ensure HMRC can communicate electronically with certain customers. As such we expect interest to be limited to those with specialist interests, so we are seeking written responses only.
<b>After the consultation:</b>	A summary of responses will be published early 2014.
<b>Getting to this stage:</b>	This consultation follows the publication of HMRC's Digital Strategy in December 2012 and initial scoping and design work has been carried out to date.
<b>Previous engagement:</b>	HMRC has held, and continues to hold, informal discussions with interested stakeholders to identify the key issues that need to be addressed in moving to a digital service.

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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

## HMRC Digital Strategy

1. HMRC published the “HMRC Digital Strategy”<sup>1</sup> in December 2012. This document sets out HMRC’s ambition to deliver a transparent tax system that encourages voluntary compliance, enabled by customer-focused digital services which are so straightforward and convenient that all who can use them will choose to do so, whilst those that can’t are not excluded.
2. As part of that strategy, HMRC set out its proposals for Paperless Self Assessment. This entails upgrading the current HMRC Self Assessment Online service to provide a more complete end-to-end digital experience for customers.

## Background to Paperless Self Assessment

3. The vast majority of HMRC’s Self Assessment customers choose to file online. In 2011-12 this resulted in 7.65 million Self Assessment tax returns coming in to HMRC through the internet, 80.9% of the total. However, only 25% of their interactions with HMRC are currently online. Paperless Self Assessment will mean registered Self Assessment Online customers can opt to receive appropriate HMRC communications from HMRC electronically rather than receive them via traditional print and post channels. Customers who choose this option will be sent a message notifying them specific Self Assessment products, for example, statutory notices, reminders and statements are available to view in their online HMRC account. From there customers will, in most cases, be able to complete the transaction online.
4. Specific types of communication will be introduced via Paperless Self Assessment at the most appropriate time. Not everything will be available straight away; rather a staged approach will be taken when each type of communication can be securely delivered.
5. Changes to existing tax law are needed to enable HMRC to offer this improved service to its customers. This consultation is seeking views on the proposed changes to legislation to cater for this service.

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<sup>1</sup> See <https://www.gov.uk/government/publications/digital-strategy-december-2012>

## 2. The proposal

6. HMRC has over 10 million Self Assessment customers, the vast majority of whom choose to file their tax return online. However, only 25% of their interactions and communications with HMRC can be delivered online at the moment. For example, despite filing online, HMRC uses paper to tell the customer about the outcome of their filing.
7. HMRC proposes that customers registered to use its Self Assessment Online service will be able to provide their consent to HMRC using electronic communications in connection with their tax affairs rather than receiving paper notifications and outputs by post.
8. Consenting customers who opt in to the new service will be sent a message by HMRC informing them information has been delivered to their secure mailbox and is available to view via their online account. Customers logging in to their online account will be able to read the delivered notice or reminder, and if necessary act on it. Statutory notices and reminders made available to customers in this way will have the same legal validity as a paper statutory notice and reminder sent by letter and post. Where possible, the customer will be able to respond to the statutory notice or reminder and complete their transaction online.
9. The specific types of Self Assessment products within the initial scope of this proposal include:

### **Statutory notices – tax returns, enquiries, determinations and assessments**

- Notice requiring a customer to file a tax return;
- Notice of a correction of a customer's tax return by HMRC;
- Notice of the opening of an enquiry into a customer's tax return;
- Notice requiring information or documents as part of an enquiry into a customer's tax return;
- Notice of the amendment of tax during an enquiry to prevent loss of tax;
- Notice of the completion of an enquiry into a customer's tax return;
- Notice of the determination of tax by HMRC where no return has been delivered;
- Notice of amendment of partnership statement where loss of tax discovered.

### **Statutory notices – penalties**

- Notice of penalties where return is late or not delivered;
- Notice of penalties/surcharges on unpaid tax;
- Notice of penalties for failure to comply with an information notice or deliberately obstructing an HMRC officer's inspection;
- Notice of penalties for errors in a tax return.

### **Reminders and other tax related communications**

- Self Assessment Statement is available to view online;
- Confirmation of payments and repayments made;
- Reminders to file a tax return;
- Reminders to pay tax due;
- 'Exit' message for customers deregistering for self-assessment.

10. HMRC proposes to offer each of the specific types of Self Assessment product at the most appropriate time when the technical capacity is available. It is not envisaged that all the products will be available at the same time; rather a staged approach to implementation will be used. This will help ensure each product is made available electronically when it can be best delivered.
11. To offer this new service to its customers HMRC needs to amend the Income and Corporation Taxes (Electronic Communications) Regulations 2003 (S.I. 2003/282) to ensure it has the lawful authority to deliver the statutory notices and reminders (set out in paragraph 9 above) electronically. Amendments will also be required in relation to obtaining the customer's consent for electronic delivery and the use of the Self Assessment Online service for this purpose.
12. The proposed changes will rely on the power HMRC already has under section 132 of the Finance Act 1999 that provides for the use of electronic communications. The draft legislation and Commissioners' Directions are set out in Annex A. HMRC welcomes comments on whether this legislation works as intended and facilitates HMRC's digital interaction with its customers.

### **The opt-in process**

13. Under this proposal, any person registered for Self Assessment Online will be able to opt-in to the new electronic service.
14. The consequences for opting in to the new service will be clearly explained and set out.
15. If the customer does opt-in, they will have to provide HMRC with a valid e-mail address and telephone number.

16. HMRC is exploring how social media accounts could potentially be used as part of the new electronic service.
17. HMRC will take appropriate security measures to verify the contact details with the customer. HMRC will not send any messages to the email address or telephone number provided by the customer until they have been verified. That is, the customer will remain a 'paper' customer until HMRC have a verified route to send the customer electronic messages. HMRC will continue to send paper outputs until the customer responds to the link in the verification email or SMS message and the opt-in process is complete.
18. The consent provided by the customer to opt-in to the service will remain in force unless the customer opts out of the service.
19. When HMRC generates a notice to be issued to the customer, or when the customer has to do something, HMRC will initially send an email or SMS message to the customer using their verified contact details. The message will inform the customer that information has been delivered to their secure mailbox and is available to view via their online account. Customers logging in to their online account will be able to read the delivered notice or reminder, and if necessary act on it.
20. The statutory notice or reminder will be legally valid even if the customer does not take action to view the message online (see also paragraph 33 below which relates to effective delivery). This will be explained to the customer as part of the opt-in process.
21. The explanation provided as part of the opt-in process, together with the Commissioners' directions will make clear that a customer will not revert back to paper unless HMRC have received their explicit prior consent. The customer will be made aware of the limitations and implications for any such change and the impact on their statutory obligations and rights.

### **What this means for agents**

22. HMRC's Self Assessment for Agent's online service allows an agent to carry out many tasks online on behalf of their clients including filing tax returns over the internet and viewing statements online. The service is available to agents who use HMRC Online Services or commercial software to send in their clients' tax returns. The new service will expand the functionality of the Self Assessment for Agent's online service. It will enable agents to use third party software to view relevant communications online that HMRC has sent to their clients and for which the appropriate authorisations are in place.
23. An agent can receive notifications digitally whilst their client continues to receive paper letters. This means that the customer and their agent make a separate and independent choice over whether to opt for electronic communications or continue to receive paper output.

24. HMRC will ensure it has the customer's consent that they wish to opt in to the new service. HMRC will not be providing agents with the ability to automatically enrol their clients in the new service without the customer having consented to the change. HMRC intend to put in place a process to enable that consent to be captured. Many customers registered to use the Self Assessment Online service do not personally access the system, but allow their appointed agent to file returns on their behalf. HMRC welcomes suggestions on how customer consent can be best achieved in circumstances such as these.

## Timeline

25. Subject to the legislation being in place HMRC proposes to start trialling the new service early next tax year (which starts in April 2014).

## Legislation

26. HMRC needs to make changes to the existing legislation to ensure it can lawfully offer this new service. These changes relate primarily to the ability for HMRC to serve and deliver some of its Self Assessment products electronically rather than by delivering hard copies by traditional print and post channels.
27. The proposed changes rely on the legal power HMRC already has under section 132 of Finance Act 1999 that provides for the use of electronic communications.
28. The draft legislation states that HMRC may send electronic communications to Self Assessment customers who have consented for HMRC to do so. It establishes a presumption of effective delivery in respect of information delivered by electronic communications where the conditions specified in the Commissioners Directions are met. These Directions set out the mechanics by which HMRC will offer the digital service.
29. The draft legislation is set out in Annex A and consists of two parts: (1) Regulations; (2) Commissioners Directions.

### *Draft legislation: Income and Corporation Taxes (Electronic Communications) (Amendment) Regulations 2013*

30. The Income and Corporation Taxes (Electronic Communications) Regulations 2003 (S.I. 2003/282) ("the Electronic Communications Regulations") provide for the electronic delivery of information by HMRC in connection with specific tax matters.
31. Some but not all of the statutory notices and reminders which HMRC intends to make available to customers via the Self Assessment Online service come within the scope of the Electronic Communications Regulations. Regulation 2(1) of those Regulations will be amended to ensure that all relevant statutory notices and reminders forming part of Paperless Self Assessment are within the scope of the specific tax matters to which the Electronic Communications Regulations apply.



32. The Electronic Communications Regulations already provide that consent is required in order for HMRC to deliver information electronically in connection with the specific tax matters. Regulation 3 of those Regulations will be amended to allow the Commissioners for HMRC to issue Directions providing a mechanism for how the customer may provide or withdraw consent.
33. The Electronic Communications Regulations will also be amended to ensure that the presumption of effective delivery (that is set out in regulation 5 of those Regulations) will apply to information delivered by HMRC to the secure mailbox as part of the Self Assessment Online service. The amendments include the introduction of a definition of 'secure mailbox'. The presumption of effective delivery will only apply if all relevant conditions, including those set out in a Direction given by the Commissioners, are satisfied. Where the conditions are satisfied the effect of the presumption will be to treat the information made available to the customer via the Self Assessment online service as having been delivered. As is the case for paper-based delivery, a notice made available to a customer does not have to be read for delivery to be effective.

*Draft legislation: Commissioners' Directions*

34. The Directions under regulation 3 of the Electronic Communications Regulations set out the process for providing and withdrawing consent via the Self Assessment Online service. Consent provided in this way will be effective until it is withdrawn.
35. The Directions under regulation 5 of the Electronic Communications Regulations set out the conditions that must be satisfied in order for information made available to consenting customers via the Self Assessment Online service to be treated as delivered. These include a requirement for HMRC to send the customer a message.

## Questions

**Question 1:** HMRC intends to make available electronically the Self Assessment products listed at paragraph 9 to those who have opted in to Self Assessment Online. Views are sought on the suitability of those products being made available online.

**Question 2:** Many customers registered to use the Self Assessment Online service do not personally access the system, but allow their appointed agent to file on their behalf (see paragraph 22). HMRC welcomes suggestions on how customer consent can be best achieved in circumstances such as these.

**Question 3:** Comments are sought on whether the draft legislation set out in Annex A works as intended and facilitates HMRC's electronic interaction with its customers. In particular HMRC welcomes views on the definition of 'secure mailbox', the deemed delivery provisions and conditions and the provision and withdrawal of consent.

**Question 4:** HMRC welcomes comments on the assessment of the impacts of these proposals in the Tax Impact and Information Assessment on page 12 including but not limited to the equalities impacts, impacts on individuals and burden reductions.

### 3. Assessment of Impacts

#### Summary of Impacts

Exchequer impact (£m)	2014-15	2015-16	2016-17	2017-18	2018-19
	Negligible	Negligible	Negligible	Negligible	Negligible
<b>Economic impact</b>	The measure is not expected to have any significant economic impacts.				
<b>Impact on individuals and households</b>	This measure is expected to have some positive impact in reducing compliance burdens for individuals affected by the proposals. There will be a one-off administration burden for the opt-in process.				
<b>Equalities impacts</b>	There is no evidence to suggest that the measure will have any adverse equalities impacts for any particular groups.				
<b>Impact on businesses and Civil Society Organisations</b>	It is not expected that there will be any significant direct impact on businesses and Civil Society Organisations. There will be a one-off administration burden for the opt-in process.				
<b>Impact on HMRC or other public sector delivery organisations</b>	It is not anticipated that implementing this change will incur any significant costs for HMRC.				
<b>Other impacts</b>	<p>Individual's impact test: individuals will be positively affected to the extent that they form part of the population affected by the proposals.</p> <p>Other impacts have been considered and none have been identified.</p>				

## 4. Summary of Consultation Questions

**Question 1:** HMRC intends to make available electronically the Self Assessment products listed at paragraph 9 to those who have opted in to Self Assessment Online. Views are sought on the suitability of those products being made available online.

**Question 2:** Many customers registered to use the Self Assessment Online service do not personally access the system, but allow their appointed agent to file on their behalf (see paragraph 22). HMRC welcomes suggestions on how customer consent can be best achieved in circumstances such as these.

**Question 3:** Comments are sought on whether the draft legislation set out in Annex A works as intended and facilitates HMRC's electronic interaction with its customers. In particular HMRC welcomes views on the definition of 'secure mailbox', the deemed delivery provisions and conditions and the provision and withdrawal of consent.

**Question 4:** HMRC welcomes comments on the assessment of the impacts of these proposals in the Tax Impact and Information Assessment on page 12 including but not limited to the equalities impacts, impacts on individuals and burden reductions.

## 5. 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 purpose of the consultation is to seek views on draft legislation in order to confirm, as far as possible, that it will achieve the intended policy effect with no unintended effects.

### How to respond

A summary of the questions in this consultation is included at chapter 4.

Responses should be sent by 27 December 2013, by e-mail to [shaun.mellow@hmrc.gsi.gov.uk](mailto:shaun.mellow@hmrc.gsi.gov.uk) or by post to: Shaun Mellow, Room 1E/13 100 Parliament Street, London SW1A 2BQ.

Any enquiries should be directed to Shaun Mellow on Tel: 03000 586 483 ([shaun.mellow@hmrc.gsi.gov.uk](mailto:shaun.mellow@hmrc.gsi.gov.uk))

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 the [GOV.UK](http://GOV.UK) website. 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:

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

Email: [hmrc-consultation.co-ordinator@hmrc.gsi.gov.uk](mailto:hmrc-consultation.co-ordinator@hmrc.gsi.gov.uk)

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

# Annex A: Draft legislation

## Draft legislation: Income and Corporation Taxes (Electronic Communications) (Amendment) Regulations 2013

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### STATUTORY INSTRUMENTS

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2013 No.

### INCOME TAX

### The Income and Corporation Taxes (Electronic Communications)(Amendment) Regulations 2013

<i>Made</i>	- - - -	***
<i>Laid before the House of Commons</i>		***
<i>Coming into force</i>	- -	***

These Regulations are made by the Commissioners for Her Majesty's Revenue and Customs in exercise of the powers conferred by section 132 of the Finance Act 1999<sup>(2)</sup>, and now exercisable by them<sup>(3)</sup>.

#### Citation and commencement

1. These Regulations may be cited as the Income and Corporation Taxes (Electronic Communications)(Amendment) Regulations 2013 and come into force on [1st January 2014].

#### Amendment of the Income and Corporation Taxes (Electronic Communications) Regulations 2003

2. The Income and Corporation Taxes (Electronic Communications) Regulations 2003<sup>(4)</sup> are amended as follows.

#### Interpretation

3. In regulation 1(2), after the definition of "official computer system"—
- (a) omit "and"; and
  - (b) insert—  
" "secure mailbox" means a facility or feature which—

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<sup>(2)</sup> 1999 c. 16.

<sup>(3)</sup> The functions of the Commissioners of Inland Revenue were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5(2) of the Commissioners for Revenue and Customs Act 2005 (c. 11) ("CRCA").

<sup>(4)</sup> S.I. 2003/282; amended by S.I. 2005/3338, S.I. 2009/3218 and S.I. 2010/2942 and Part 10(1) of Schedule 1 to the Statute Law (Repeals) Act 2013 (c. 2).

- (a) forms part of an official computer system; and
- (b) can be accessed by an individual permitted to use electronic communications by an authorisation given by means of a direction by the Board<sup>(5)</sup> [in accordance with regulation 3(3)].”

## Scope

### 4. In regulation 2(1)(a)—

#### (a) in paragraph (i)—

- (i) after “9,” insert “9ZB”<sup>(6)</sup>;
- (ii) after “12AB,” insert “12ABA, 12ABB”<sup>(7)</sup>;
- (iii) after “12AE,” insert “28A, 28B, 28C, 30B, 59C<sup>(8)</sup>,”; and
- (iv) for “59DA or 59E” substitute “59DA, 59E or 100<sup>(9)</sup>”;

#### (b) in paragraph (iii) after “,” omit “or”;

#### (c) in paragraph (iv) for “; and” substitute “, or”;

#### (d) after paragraph (iv) insert—

“(v) paragraph 13 of Schedule 24 to the Finance Act 2007<sup>(10)</sup>

(vi) paragraphs 1 or 46 of Schedule 36 to the Finance Act 2008<sup>(11)</sup>, or

(vii) paragraph 18 of Schedule 55, or paragraph 11 of Schedule 56, to the Finance Act 2009<sup>(12)</sup>; and”

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<sup>(5)</sup> Regulation 1(2) of S.I. 2003/282 abbreviates “the Commissioners for Inland Revenue” to “the Board”. This must now be taken as a reference to the Commissioners for Her Majesty’s Revenue and Customs, as stipulated by section 50(1) of CRCA.

<sup>(6)</sup> Regulation 1(2) of S.I. 2003/282 abbreviates the Taxes Management Act 1970 (c. 9) to “the Management Act”. Section 9ZB was inserted by paragraph 2 of Schedule 29 to the Finance Act 2001 (c.9) and amended by section 119(1) of the Finance Act 2008 (c. 9).

<sup>(7)</sup> Section 12ABA of that Act was inserted by paragraph 3(2) of Schedule 29 to the Finance Act 2001 and amended by section 91(4) of the Finance Act 2007 (c. 11). Section 12ABB was inserted by paragraph 3(2) of Schedule 29 to the Finance Act 2001 (c.9) and amended by section 119(2) of the Finance Act 2008.

<sup>(8)</sup> Section 28A of the Management Act was substituted by paragraph 8 of Schedule 29 to the Finance Act 2001 and was amended by S.I. 2009/56. Section 28B was substituted by paragraph 9 of Schedule 29 to the Finance Act 2001 and was amended by S.I. 2009/56. Section 28C was inserted by section 190 of the Finance Act 1994 (c. 9) and amended by s 125 of, and part V(6) of Schedule 41 to, the Finance Act 1996 (c. 8); paragraph 17 of Schedule 29 to the Finance Act 2001; section 91(5) of the Finance Act 2007; and paragraphs 1 and 2 of Schedule 39 to the Finance Act 2008. Section 30B was inserted by paragraph 6 of Schedule 19 to the Finance Act 1994 and amended by s115(5) of the Finance Act 1995 (c. 4); paragraph 14 of Schedule 19 to the Finance Act 1998 (c. 36); paragraph 24 of Schedule 29 to the Finance Act 2001 and paragraphs 1 and 4 of Schedule 39 to the Finance Act 2008. Section 59C was inserted by section 194 of the Finance Act 1994, amended by S.I. 2009/56; S.I. 2010/530 and later repealed by SI 2011/702 with effect from 1 April 2011. This repeal has no effect in relation to a return or other document which is required to be made or delivered to HMRC or an amount of tax which is payable in relation to the tax year 2009–10 or any previous tax year.

<sup>(9)</sup> Section 100 of the Management Act was substituted by section 167 of the Finance Act 1989 (c. 26) and amended by paragraph 3(2) of Schedule 11 to the Finance Act 1990 (c. 29); SI 1994/1813; paragraph 38 of Schedule 19 to the Finance Act 1998; sections 315(2) of the Finance Act 2004 (c. 12); paragraphs 65 and 74 of Schedule 36 to the Finance Act 2008; paragraph 13(2) of Schedule 57 to the Finance Act 2009 (c. 10); and SI 2011/702.

<sup>(10)</sup> 2007 c. 11. Paragraph 13 of Schedule 24 was amended by paragraphs 1 and 12A of Schedule 40 to the Finance Act 2008 with effect from 1 April 2009 (by virtue of SI 2009/571); paragraph 5 of Schedule 57 to the Finance Act with effect from 21 July 2009 and paragraph 1 of Schedule 50 to the Finance Act 2013 (c. 29) with effect in relation to any assessment of a penalty under Schedule 24 to the Finance Act 2007 made on or after 17 July 2013.

<sup>(11)</sup> 2008 c. 9. Paragraph 46 of Schedule 36 was relevantly amended by paragraph 17 of Schedule 47 of the Finance Act 2009 with effect from 21 July 2009.

<sup>(12)</sup> 2009 c. 10; Schedule 55 was brought into force on 6 April 2011 under S.I. 2011/702 (C. 27) in relation to a return or other document which is required to be made or delivered to Her Majesty’s Revenue and Customs in



## Use of electronic communications

### 5. After regulation 3(1) insert—

“(1ZA) The Board may specify by specific or general direction the manner in which consent may be provided and withdrawn, including the time from which consent and withdrawal of consent is to take effect.”

### 6. In regulation 3(1A) for the words “Paragraph (1) does” substitute “Paragraphs (1) and (1ZA) do”.

## Effect of delivering information by means of electronic communications

### 7. In regulation 5—

(a) in paragraph (1) after “the Taxes Act” insert “, Income Tax Acts”;

(b) after paragraph (4) insert—

“(5) For the purposes of this Part, information which is delivered by means of electronic communications includes information delivered to a [secure mailbox] [but only in respect of information delivered to a secure mailbox by the Board in connection with the matters mentioned in regulation (2)(1)].”

Date

Two of the Commissioners of Her Majesty’s Revenue and Customs

*Name*

*Name*

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

Under regulation 3(1) of the Income and Corporation Taxes (Electronic Communications) Regulations 2003 (S.I. 2003/282) (“the Electronic Communications Regulations 2003”) the Commissioners for Her Majesty’s Revenue and Customs (“the Commissioners”) are permitted to use electronic communications for the purposes mentioned in regulation 2(1) providing the consent of the recipient has been provided and has not subsequently been withdrawn. Regulation 5(1) establishes a presumption of effective delivery in respect of information delivered by electronic communications providing all the prescribed conditions relating to the use of electronic communications are satisfied.

These Regulations amend the Electronic Communications Regulations 2003 with the following effect.

A new definition of ‘secure mailbox’ is inserted into regulation 1 of the Electronic Communications Regulations 2003.

The list of specified statutory provisions to which the Electronic Communications Regulations 2003 applies is extended to include: sections 9ZB (correction of personal or trustee return by Revenue), 12ABA (amendment of partnership return by taxpayer), 12ABB (correction of partnership return by Revenue), 28A (completion of enquiry into personal or trustees return), 28B (completion on enquiry into a partnership

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relation to the tax year 2010/11 or subsequent years and falls within item 1, 2 or 3 of the Table of paragraph 1 of that Schedule. Paragraph 18 of Schedule 55 was relevantly amended by section 26 of, and paragraphs 1 and 10 of Schedule 10 to, the Finance (No 3) Act 2010 (c. 33) (“F(No 3)A 2010”), with effect from 6 April 2011 by virtue of S.I. 2011/703 (c. 28). Schedule 56 was also brought into force on 6 April 2011 under S.I. 2011/702 (C. 27) in relation to an amount of tax which is payable in relation to the tax year 2010/11 or subsequent years and falls within item 1, 12, 18 or 19 of the Table in paragraph 1 of that Schedule or, in so far as the tax falls within item 1 of the Table, item 17, 23 or 24 of that Table. Paragraph 11 of Schedule 56 was relevantly amended by section 27 of, and paragraphs 1 and 9 of Schedule 11 to, F(No 3)A 2010, with effect from 6 April 2011 in relation to the tax year 2010/11 or subsequent years by virtue of S.I. 2011/703 (C.27).

return), 28C (determination of tax where no return delivered), 30B (amendment of partnership statement where loss of tax discovered), 59C (surcharges on unpaid income tax and capital gains tax)<sup>(13)</sup>, and 100 (determination of penalties by officer of Board) of the Taxes Management Act 1970 (c. 9); paragraph 13 of Schedule 24 to the Finance Act 2007 (c. 10); paragraphs 1 and 46 of Schedule 36 to the Finance Act 2008 (c. 9) (information and inspection powers); and paragraph 18 of Schedule 55 (penalty for failure to make returns etc) and paragraph 11 of Schedule 56 (penalty for failure to make payments on time) to the Finance Act 2009 (c. 10).

The Commissioners may issue a specific or general direction to provide a mechanism for a taxpayer to provide their consent to the Commissioners delivering information by the means of electronic communications and when such consent, or withdrawal of consent, shall take effect. This amendment does not apply to information delivered in respect of a company tax return.

The presumption of effective delivery applies to information delivered by the Commissioners to a secure mailbox providing the conditions which relate to the use of the secure mailbox are satisfied.

A full and final Impact Assessment has not been produced for this instrument as a negligible impact on the private or voluntary sectors is foreseen.

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<sup>(13)</sup> In so far as section 59C of the Taxes Management Act 1970 remains in force in respect of the tax year 2009/10 and earlier years.

## **Draft legislation: Commissioners' Directions**

### **DRAFT Directions under regulations 3(1ZA) of the Income and Corporation Taxes (Electronic Communications) Regulations 2003 (S.I. 2003/282)**

These directions apply in relation to the delivery of information by the Commissioners for Her Majesty's Revenue and Customs in relation to the matters referred to by regulation 2(1)(a)(i) and (v) - (vii) of the Income and Corporation Taxes (Electronic Communications) Regulations 2003 ("the Electronic Communications Regulations 2003").

#### **1. Providing consent**

The Commissioners for Her Majesty's Revenue and Customs hereby direct that the manner in which a person may provide consent to the Commissioners using electronic communications for the delivery of information and when consent takes effect is as follows:

(a) Only a person who is a registered user of the Self Assessment Online service can provide consent to the Commissioners.

(b) Consent is provided when a person confirms via the Self Assessment Online service that they consent to the Commissioners using electronic communications in connection with the matters referred to in regulation 2(1)(a)(i) and (v) - (vii) of the Electronic Communications Regulations 2003.

(c) Consent provided in accordance with paragraph 1(b) will take effect [immediately] after it has been submitted to HMRC via the Self Assessment Online service and will remain in force until it is withdrawn.

#### **2. Withdrawing consent**

The Commissioners for Her Majesty's Revenue and Customs hereby direct that the manner in which a person may withdraw consent to the Commissioners using electronic communications for the delivery of information and when withdrawal takes effect is as follows:

(a) A person can only withdraw consent via the Self Assessment Online service.

(b) Withdrawal of consent will take effect [48 hours] after the person has confirmed that their consent is withdrawn.

#### **Commencement**

3. These Directions shall have effect from [1 January 2014].

#### **Signature**

The Commissioners of Her Majesty's Revenue and Customs make these directions in relation to matters referred to in regulation 3(1ZA) of the Income and Corporation Taxes (Electronic Communications) Regulations 2003 (S.I. 2003/282).

[Date]

[Two of the Commissioners for Her Majesty's Revenue and Customs]

## **DRAFT Directions under regulations 5(1) of the Income and Corporation Taxes (Electronic Communications) Regulations 2003 (S.I. 2003/282)**

These directions apply in relation to the delivery of information by the Commissioners for Her Majesty's Revenue and Customs in relation to the matters referred to by regulation 2(1)(a)(i) and (v) - (vii) of the Income and Corporation Taxes (Electronic Communications) Regulations 2003 ("the Electronic Communications Regulations 2003").

### **Use of the secure mailbox to deliver information**

1. The Commissioners for Her Majesty's Revenue and Customs hereby direct that the conditions that apply in relation to information delivered to a secure mailbox are that:

(a) The Commissioners have delivered information to the secure mailbox of a person who is a registered user of the Self Assessment Online service; and

(b) The Commissioners have despatched:

(i) an email message to the person's last known verified email address, or

(ii) a text message to the person's last known verified mobile telephone number

notifying the person that information has been delivered to their secure mailbox;

Condition 1(b) will be taken as satisfied if:

(i) the despatch of the email or text message is recorded on an official computer system, unless:

- the official computer system also records that the email or text message was not delivered to the person's email address or mobile phone number, or
- it is proved in some other way that the email or text message was not delivered to the person's email address or mobile phone number; or

(ii) the Commissioners can demonstrate in some other way that the email or text message was delivered to that person.

### **Commencement**

2. These Directions shall have effect from [1 January 2014].

### **Signature**

The Commissioners of Her Majesty's Revenue and Customs make these directions in relation to matters referred to in regulation 5(1) of the Income and Corporation Taxes (Electronic Communications) Regulations 2003 (S.I. 2003/282).

[Date]

[Two of the Commissioners for Her Majesty's Revenue and Customs]

# Annex B: Relevant (current) Government legislation

[Section 132 Finance Act 1999](#)

[SI 2003/282 The Income and Corporation Taxes \(Electronic Communications\) Regulations 2003](#)

[Taxes Management Act 1970](#)

[Commissioners for Revenue and Customs Act 2005](#)