



ICAEW Tax Conference

Friday 5 July 2019

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Croydon District Society

ICAEW TAX FACULTY

21 MAY 2019

This evening.....

- Making tax digital
- Off-payroll working in the private sector

Making Tax digital

- MTDV is now **go**
- VAT registered businesses with turnover > VAT threshold (£85,000)
 - From 1 April 2019: first VAT period starting on or after 1 April 2019
 - Deferred to 1 October 2019 for certain traders
 - VAT registered businesses below the threshold – not before April 2021
 - 100,000 business signed up. Over 20,000 submissions
- HMRC communications
 - Letters to all businesses explaining the requirements
 - Letters to deferred group. These have legal status

Making Tax digital – myths exploded

- Businesses below the VAT threshold will need to comply with MTD for VAT
 - No
- Spreadsheets are only temporary
 - No
- Paper records are adequate so long as the totals are recorded in MTD compliant software
 - Books of prime entry onwards must be digital with digital links to carry information onward
- HMRC will receive details of each and every transaction
 - No they won't
- Businesses on special schemes or who have made particular arrangements with HMRC will not be able to comply
 - Spreadsheets
- MTD for other taxes has stalled.....**NO**

Making Tax digital – VAT Notice 700/22

- Functional compatible software (FCS)
 - Record and preserves digital records
 - Provides information to HMRC from data held in those records using the API platform
 - Can receive information from HMRC using the API platform
- What happens if the business deregisters from VAT?
 - No longer need to keep digital records in functional compatible software
- Digital links
 - Data transfer is electronic
 - Not cut/copy and paste*
 - *Soft landing for the first year of mandation

Making Tax digital – VAT Notice 700/22 cont.

- Supplies
 - Time, value, VAT rate are required for each supply
 - Do not need to record supplies that do not need to go on a VAT return in FCS eg intra group sales
 - Multiple supplies on a single invoice charged at the same VAT rate can be recorded as one entry
 - Meal deals? Single price but mixed rate supply – split into one standard rate and one zero rate, or record at one rate then do a VAT adjustment at the quarter end
- Turnover test, following the rules when you're exempt, digital links, supplies made by third party agents and supplies received.
- There is also guidance on how and where supplier statements can be used, recording petty cash transactions and charity fundraising events.

Before you start

- Understand the MTD for VAT requirements
<https://www.icaew.com/technical/tax/making-tax-digital/mtd-guidance/mtd-and-vat>
- Acquire MTD for VAT compatible software
<https://www.icaew.com/technical/tax/making-tax-digital/mtd-guidance/software>
- Agree responsibilities with clients
 - Who will keep the digital records?
 - Who will file the return?
 - Who will sign the client up to MTD for VAT?
- 4 steps for the practice:
 - Set up an agent services account (ASA)
 - Link existing agent credentials to ASA
 - Sign each client up to MTD for VAT
 - Authorise your MTD software

Making Tax digital – signing up tips

- Ensure the business is using MTD compatible software
- Do not sign up for MTD before the right software is in use
 - This could prevent further submissions of VAT returns
- Wait until the final non-MTD VAT return has been submitted successfully
- Signing up for MTD effectively closes the old HMRC portal
 - Signing up too early is a common mistake made by businesses in the MTD pilot and is difficult for HMRC to resolve

Making Tax digital – sign up window

- No direct debit
 - Sign up at any time from **immediately after the submission** of the final non-MTD return until **72 hours before the first MTD submission** due date
 - eg 'Stagger 1' taxpayer (return periods Jan-Mar, Apr-Jun etc.) the due date for the final non-MTD return will be 7 May 2019 and the due date for the first MTD return will be 7 August 2019 so MTD sign up can take place anytime from 8 May to 4 August 2019
- Paying by direct debit
 - Allow 5 working days immediately following submission of the final non-MTD return
 - Allow 15 working days immediately before the due date for the first MTD return
 - Sign up in between these periods
 - Eg 'Stagger 1' taxpayer, MTD sign up can take place anytime from 15 May to 17 July 2019
- For businesses that submit monthly returns and pay by direct debit the sign up window is extremely short – these businesses can only sign up on 15 or 16 May 2019
 - Based on HMRC's current advice. It is aware of the problem so could change

Making Tax digital – issues arising now

- Clients may have signed up to MTDV before 1 April to be helpful
 - Once signed up to MTD, VAT returns must be submitted using MTD-compatible software; so don't sign up unless you are ready
- Transfer of clients into MTDV is not automatic
 - Allow time to do this

Making Tax digital – member support

- www.icaew.com/mtd is updated regularly FREE
- Weekly Tax Faculty newswire <https://ion.icaew.com/taxfaculty/> FREE
- Webinars www.icaew.com/taxfacevents FREE
- TAXtalk
 - second Wednesday of every month www.icaew.com/taxtalk FREE
- TAXline articles **PLEASE JOIN US**
 - icaew.com/jointf
- Digital Practice workshops, CABA change management workshops

Off-payroll working in the private sector - the characters

- The client/engager
- The fee-payer or agency – pays the PSC
- The worker
- The intermediary - worker's personal service company (PSC) or other vehicle
- The villains – cost (mainly National Insurance) and uncertainty

The off-payroll working rules apply where an individual (the worker) provides their services through an intermediary to another person or entity (the client)

Off-payroll working in the private sector - the current landscape

- Until April 2017 it had always been the case that the individual would assess whether their contract was inside IR35 or not
- From April 2017, the rules were changed in the **public sector**
 - Known as “off-payroll rules”
 - The responsibility to assess the employment status of the individual now rests with the engager ie, the public sector body (Ministry of Defence or NHS, for example)
 - The person closest to the intermediary must account for the additional taxes due, ie the intermediary company will be paid net of income tax and national insurance (like an employee)
- In April 2020 the operation of IR35 in the **private** sector will change to be in line with the **public** sector
 - New rule: the responsibility for determining employment status will move to the end client/engager
 - The person closest to the intermediary must account for the additional taxes due, ie the intermediary company will be paid net of income tax and national insurance (like an employee)

Off-payroll working in the private sector - the private sector change in a nutshell

- **Pre April 2020**
- **Worker** makes status determination
- **PSC** calculates and pays employment income tax and NIC due. Reports on an FPS and produces a P60 to give to the worker
- Worker enters as employment income on SA tax return
- **Post April 2020**
- **Client** makes status determination
- Client communicates this determination
- **Fee payer** makes deductions for employees income tax and NIC and also pays any employers NIC
- Responsibility for failure to make deductions??
- Small engager carve out is proposed - they would continue with old rules
- NB – all proposals except ‘small’ carve out would be extended to public sector too

Off-payroll working in the private sector – small engager exemption

- There will be an exemption for small engagers
- ‘Small’ to be defined as per s382 Co Act 2006
 - Turnover not more than £10.2m
 - Balance sheet total not more than £5.1m
 - Number of employees not more than 50
- Satisfy two of the three conditions in current year AND prior year to qualify as small
- Once the client grows, the rules switch from the start of the next following tax year
- Additional rules to consider if in a group
- When should the test be performed?
- Is the end client obliged to inform the fee-payer (agency) and worker of their size?
- Is there a more straightforward alternative?

Off-payroll working in the private sector – information requirements

- Government will legislate to ensure the employment status decision is passed down the supply chain
- Proposal – end client to inform the person they contract with (agency) and the worker with employment status determination and reasons
- Agency to pass on to next in chain (fee-payer) - when?
- Impact on lengthy supply chains
- Timing – worker needs certainty about tax treatment before contract accepted?

Off-payroll working in the private sector – addressing non-compliance

- Proposal to shift liability for income tax and NIC
- Liability to rest with party who does not fulfil its obligations to pass information down the chain
- Where HMRC cannot collect the tax from that party (ie an agency goes bankrupt...) liability ultimately moves back to the end client
- Ensures end client only engages with reliable agencies?
 - What about factors outside the end client's control?
 - How much due diligence work is reasonable?
 - Relies on smooth communication flows
- Concerns:
 - End client suffers an unexpected liability despite fulfilling its obligations
 - HMRC unable to police the process

Off-payroll working in the private sector – client-led dispute process

- Proposal to introduce a client-led dispute process to allow worker/fee-payer to dispute employment status determination
- Concerns:
 - Places an additional burden on business to design a process
 - Should be statutory and independent
 - Needs to be real-time and not as part of self assessment tax return
 - One single mechanism needed to reclaim income tax and NIC incorrectly paid

Off-payroll working in the private sector - ICAEW's headline concerns

- the tax and legal status of work should be the same, certain and comprehensible;
- the tax and benefit differentials between different types of work need to be addressed; and
- off-payroll working in the private and public sectors should be taxed in the same way.
- April 2020 is too soon

Off-payroll working in the private sector - prepare now

- How many contractors do you engage?
- How many operate through a limited company?
- What are your staffing requirements going forward?
- Contract reviews – engage with IR35 specialists
- Use CEST
- Systems review
- HMRC guidance available - <https://tinyurl.com/HMRCpreparenow>

Off-payroll working in the private sector - support for members

- Regularly updated practical guidance on www.icaew.com/ir35
- Tax Faculty weekly newswire
- TAXguide 10/18 - **IR35 contract reviews**
- TAXbite – **IR35: an overview**
- TAXline articles
- Webinars and events – www.icaew.com/taxfacevents
 - Off-payroll working in the private sector: the consultation proposals – recording available
 - IR35 cases -18 June 2019
 - Off-payroll update - 7 August 2019

Future webinars and events

- Webinars 2019
 - 18 June : IR35 cases
 - 10 July : Employment taxes update
 - 07 August : Off payroll working in the private sector
 - 25 Sept : Entrepreneurs' relief – what's new?
- Events 2019
 - 19 June : Wyman debate
 - 5 July : Tax Annual Conference
 - 30 October: Hardman lecture
- TAXtalk
 - Wednesday 15 May

Further information regarding Tax Faculty events programme for 2017 can be found at icaew.com/taxfacevents

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