



MAKING TAX DIGITAL DRAFT LEGISLATION AND REGULATIONS

Issued 12 September 2025

ICAEW welcomes the opportunity to comment on the Making Tax Digital Draft Legislation and Regulations published by HMRC on 21 July 2025, a copy of which is available from this [link](#).

ICAEW has consistently supported the overall aim of digitalising the tax system and improving accuracy through digital record-keeping. However, ICAEW remains firmly opposed to the mandated quarterly update element of the MTD income tax requirements. In its view, quarterly updates add complexity and cost with little tangible benefit to taxpayers or HMRC.

ICAEW continues to advocate for keeping the familiar annual reporting cycle, augmented by the digital record-keeping requirements of MTD income tax. It has suggested that quarterly updates should be optional rather than mandatory, allowing businesses and landlords to decide what works best for their circumstances.

With less than seven months to go before the new requirements take effect, there is considerable work to be done by both HMRC and software developers to ensure that systems and products are robust, user-friendly and capable of meeting the diverse needs of taxpayers at a reasonable cost. Uncertainty around the detail and how HMRC will support taxpayers remain.

ICAEW makes some detailed comments on the draft legislation and regulations in the main body of this representation.

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This response of 12 September 2025 has been prepared by the ICAEW Tax Faculty. Internationally recognised as a source of expertise, ICAEW's Tax Faculty is a leading authority on taxation and is the voice of tax for ICAEW. It is responsible for making all submissions to the tax authorities on behalf of ICAEW, drawing upon the knowledge and experience of ICAEW's membership. The Tax Faculty's work is directly supported by over 130 active members, many of them well-known names in the tax world, who work across the complete spectrum of tax, both in practice and in business. ICAEW Tax Faculty's Ten Tenets for a Better Tax System, by which we benchmark the tax system and changes to it, are summarised in Appendix 1.

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SPECIFIC POINTS

1. The primary legislation for Making Tax Digital (MTD) income tax covers partnerships as well as individuals who receive income from self-employment and/or property. Partnerships are out of scope for MTD income tax only because no regulations have been laid. We recommend that the primary legislation be amended to exclude partnerships until such time as the current, or a future, government makes a decision that MTD income tax should be extended to partnerships. It is likely that the policy and design of MTD income tax would need significant further development to work for partnerships, and it would be appropriate for primary legislation to be required to implement such a significant change.

2. The legislation setting out who is in and out of scope of MTD income tax is being rewritten. The draft contains an extra-territorial deeming provision that says:

“A “relevant activity”, in relation to a person, means any activity which may give rise to profits or other income for which the person would be liable to income tax chargeable under Part 2 or Part 3 of ITTOIA 2005 if the person were UK resident.”

ICAEW is concerned that this potentially brings all individual trades and property businesses in the world into MTD income tax, irrespective of whether they are within the territorial scope of income tax. If the draftsmen consider that this provision is necessary, then ICAEW asks that it is matched by an exclusion that takes back out any activities that are not chargeable to income tax.

3. The draft legislation confirms that MTD-compatible software will be required to submit the digital tax return (ie, HMRC will not be providing software for any part of the process). This means that taxpayers will be responsible for selecting a suitable product with all the necessary functionality, including submitting the digital tax return.

This creates a host of new challenges. Many individuals, particularly those new to digital record-keeping, will struggle to understand the differences between available software products or even know what questions to ask when choosing a solution. This is especially true for landlords and small businesses with relatively simple tax affairs, for whom the new requirements could represent a disproportionate compliance burden.

We consider that HMRC should provide a free service that would allow the digital tax return to be filed. While there are some free software products, they may not be available to all taxpayers.

4. The draft regulations would implement the previously announced reduction of the qualifying income threshold to £20,000 from April 2028. We consider that legislating for such a reduction is premature. The filing date for the first tax returns for those mandated into MTD income tax is 31 January 2028 (for the 2026/27 tax year). This timing allows insufficient opportunity to assess the impact of the new requirements before they are extended to taxpayers with lower qualifying income. The impact on this cohort of taxpayers of the additional costs of complying is likely to be very significant and we consider the extension should require a ministerial decision once MTD income tax has been implemented for the initial cohort.
5. We note that the draft regulations give HMRC the power to amend the qualifying income threshold by direction rather than regulations (for any year after 2026/27). We consider that such a power should be reserved to government and parliament rather than HMRC.

6. The draft regulations do not implement the deferral, until April 2027, of the start date for MTD income tax for individuals who have information that they would need to submit using the SA109 schedule. We understand that this is to be consulted on and included in the final regulations. Alternatively, it may be possible for HMRC to use draft regulation 33 which gives powers for additional exemptions by HMRC direction. We welcome this general exemption power being available if other exemptions prove to be needed.
7. Further guidance will be required on the exemption where a power of attorney is in place.
8. Draft regulation 20(b)(i) includes an exclusion for taxpayers who do not have a national insurance number, but the drafting does not make clear that, as we understand it, this exclusion will not need to be applied for.
9. The cross reference in draft regulation 20(b) concerning verification of identity to regulation 33 should be corrected to refer to regulation 34.

APPENDIX 1

ICAEW TAX FACULTY'S TEN TENETS FOR A BETTER TAX SYSTEM

The tax system should be:

1. Statutory: tax legislation should be enacted by statute and subject to proper democratic scrutiny by Parliament.
2. Certain: in virtually all circumstances the application of the tax rules should be certain. It should not normally be necessary for anyone to resort to the courts in order to resolve how the rules operate in relation to his or her tax affairs.
3. Simple: the tax rules should aim to be simple, understandable and clear in their objectives.
4. Easy to collect and to calculate: a person's tax liability should be easy to calculate and straightforward and cheap to collect.
5. Properly targeted: when anti-avoidance legislation is passed, due regard should be had to maintaining the simplicity and certainty of the tax system by targeting it to close specific loopholes.
6. Constant: Changes to the underlying rules should be kept to a minimum. There should be a justifiable economic and/or social basis for any change to the tax rules and this justification" should be made public and the underlying policy made clear.
7. Subject to proper consultation: other than in exceptional circumstances, the Government should allow adequate time for both the drafting of tax legislation and full consultation on it.
8. Regularly reviewed: the tax rules should be subject to a regular public review to determine their continuing relevance and whether their original justification has been realised. If a tax rule is no longer relevant, then it should be repealed.
9. Fair and reasonable: the revenue authorities have a duty to exercise their powers reasonably. There should be a right of appeal to an independent tribunal against all their decisions.
10. Competitive: tax rules and rates should be framed so as to encourage investment, capital and trade in and with the UK.

These are explained in more detail in our discussion document published in October 1999 as TAXGUIDE 4/99 (see [Tax Guide](#)).