

[YYYY] No.

INCOME TAX

**The Income Tax (Digital Requirements) Regulations
[YYYY]**

Made - - - - - ***
Laid before the House of Commons ***
Coming into force - - - - - ***

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The Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of the powers conferred by paragraphs *** of Schedule A1 to the Taxes Management Act 1970(a):

PART 1

General

Citation and commencement

1. These Regulations may be cited as the Income Tax (Digital Requirements) Regulations [YYYY] and come into force on ***.

Interpretation

2. In these Regulations—

“TMA 1970” means the Taxes Management Act 1970;

“ITTOIA 2005” means the Income Tax (Trading and other Income) Act 2005(b);

“API platform” means the application programming interface that enables electronic communication with HMRC, as specified by notice made by the Commissioners;

“Commissioners” means the Commissioners for HMRC;

“designatory information” means information which enables HMRC to identify a relevant entity, the type of business carried on by a relevant entity, the commencement and cessation dates of the business or the basis used for calculating taxable profits for the purposes of income tax;

“digital records” has the meaning given by regulation 6;

“the digital requirements” has the meaning given by regulation 3;

“digital start date” has the meaning given by regulation 4;

“end of period information” means financial information(c) and other information in respect of the business of a relevant person for a relevant period;

“end of period notice” has the meaning given by regulation 13;

“functional compatible software” means a software program or set of compatible software programs the functions of which include—

- (a) recording and preserving digital records in a digital form;
- (b) providing to HMRC quarterly updates and as applicable, end of period statements or Schedule A1 partnership returns in a digital form and by using the API platform; and

(a) 1970 c. 9. Schedule A1 was inserted by section ** of the Finance Act [YYYY] (c. XX).

(b) 2005 c. 5.

(c) See paragraph 7(2) of Schedule A1.

(c) receiving information from HMRC using the API platform in relation to a relevant entity's compliance with obligations under these Regulations;

"HMRC" means Her Majesty's Revenue and Customs;

"information period"—

(a) in relation to a relevant person, means a "relevant period" within the meaning given by paragraph 8(2) of Schedule A1;

(b) in relation to a relevant partnership, means a tax year and all periods of account ending in (or with) a tax year;

"partnership information" means financial information and other information in respect of the business of a relevant partnership for a tax year and all periods of account ending in a tax year;

"property business" has the same meaning as it has in section 263(6) of ITTOIA 2005;

"quarterly deadline" has the meaning given by regulation 7(4);

"quarterly period" has the meaning given by regulation 7(1);

"quarterly update" has the meaning given by regulation 7(2);

"relevant entity" means a natural person to whom paragraph 1 of Schedule A1 applies or a partnership to which paragraph 3 of Schedule A1 applies, other than—

(a) a person acting as a trustee; or

(b) a partnership where one or more of the partners are not natural persons;

"relevant partnership" means a partnership which falls within the definition of a relevant entity;

"relevant person" means a person who falls within the definition of a relevant entity;

"retailer" has the same meaning as it does in Schedule 11 to the Value Added Tax Act 1994(a);

"retail sales notice" has the meaning given by regulation 18(1);

"Schedule A1" means Schedule A1 of TMA 1970;

"Schedule A1 partnership notice" has the meaning given by regulation 14;

"update information" means financial information and other information in respect of the business of a relevant entity for a quarterly period;

"update notice" has the meaning given by regulation 8(1).

Requirement to use functional compatible software

3. A relevant entity must use functional compatible software to comply with the following requirements ("the digital requirements")—

(a) to record digital records under Part 2;

(a) 1994 c. 23.

- (b) to preserve those digital records until the end of the relevant day as required by section 12B(1A)(b) of TMA 1970;
- (c) to provide a quarterly update under Part 3; and
- (d) to provide, as applicable, an end of period statement or a Schedule A1 partnership return, under Part 4.

Digital start date

4.—(1) The digital start date which applies to a business is the date set out in this regulation.

(2) Paragraphs (3) to (5) apply where a relevant entity is carrying on a business immediately before 6th April 2023.

(3) Where—

- (a) the business is not, or does not include, a property business;
- (b) the relevant entity draws up accounts in respect of the business; and
- (c) the period of account ends on a date (“the account end date”) which is on or after 5th April 2023,

the digital start date which applies to the business is the date after the account end date.

(4) Where the relevant entity has in respect of the business more than one account end date which is on or after 5th April 2023 and before 6th April 2024, paragraph (3)(c) applies to the earliest account end date.

(5) In any other case, the digital start date which applies to the business is 6th April 2023.

(6) Paragraphs (7) to (9) apply where a relevant entity commences carrying on a business on a date (“the business start date”) which is on or after 6th April 2023.

(7) Where—

- (a) the business is not, or does not include, a property business;
- (b) the relevant entity draws up accounts in respect of the business; and
- (c) the account end date arises on or after 5th April in the second year following the business start date,

the digital start date which applies to the business is the date after the account end date.

(8) Where the relevant entity has in respect of the business more than one account end date which is—

- (a) on or after 5th April immediately following the business start date; and
- (b) before 6th April of the next year,

paragraph (7)(c) applies to the earliest account end date.

(9) In any other case, the digital start date which applies to the business is 6th April immediately following the business start date.

PART 2

Digital records

Keeping and recording digital records

5.—(1) A relevant entity must keep digital records for each business^(a) for the period on and from the digital start date which applies to the business until the date on which the business ceases.

(2) Where the relevant entity provides by no later than the quarterly deadline the quarterly update for the quarterly period in which a digital record falls, that digital record must be recorded by the relevant entity by no later than immediately before the quarterly update is provided.

(3) Where the relevant entity fails to provide by the quarterly deadline the quarterly update for the quarterly period in which a digital record falls, that digital record must be recorded by the relevant entity by no later than the quarterly deadline.

Digital records

6.—(1) Subject to paragraph (3), “digital records” for a business means records of each of the transactions made in the course of the business, including—

- (a) the amounts of the transactions;
- (b) the dates of the transactions, according to the basis used by the relevant entity for recording transactions for the purposes of income tax; and
- (c) the categories of transactions into which the transactions fall, to the extent those categories are specified.

(2) Except as provided by paragraph (3), a transaction falls within the category of transaction applicable to it which may be specified in an update notice which exists at the date of the transaction.

(3) In respect of the retail sales of the business of a retailer where a retail sales notice exists, digital records are, at the choice of the retailer, either such records of a transaction as may be specified in the retail sales notice or digital records as defined in paragraph (1).

PART 3

Quarterly updates

Quarterly updates

7.—(1) A relevant entity must provide to HMRC update information for a business, as specified in an update notice, in respect of each period of 3 months (“a quarterly period”).

(2) “Quarterly update” means the provision of information required by paragraph (1).

(3) Each quarterly update must be provided by no later than the quarterly deadline.

(a) “Business” is defined in paragraph 6 of Schedule A1.

(4) “Quarterly deadline” means the date which is one month after the end of the quarterly period to which the quarterly update relates.

Update notices

8.—(1) “Update notice” means a notice made by the Commissioners which is stated to be made further to this regulation and which specifies update information to be provided to HMRC.

(2) The update information which may be specified includes (but is not limited to)—

- (a) providing designatory information;
- (b) identifying the commencement date and end date of the quarterly period in respect of which a quarterly update is provided;
- (c) providing totals of the amounts falling within specified categories of transactions, being amounts derived from the relevant entity’s digital records;
- (d) where more than one information period falls within a quarterly period, identifying how much of those totals is attributable to each information period; and
- (e) identifying the properties which form part of a property business.

(3) For different descriptions of relevant entity, different designatory information or different categories of transactions may be specified.

Commencement and cessation of the requirement to provide quarterly updates

9.—(1) For the purposes of regulation 7(1), the first quarterly period for a business is the period beginning on the digital start date which applies to the business.

(2) A final quarterly update for the business is required for the quarterly period during which the business ceases.

(3) Where paragraph (2) applies, the relevant entity must include in the quarterly update a notice that it is the final quarterly update for the business by virtue of its cessation and include in the notice the date of cessation.

Provision of update information for periods shorter than a quarter

10.—(1) A relevant entity may provide update information as specified in an update notice for a period which is shorter than a quarterly period (“a stagger update”).

(2) A relevant entity which provides a stagger update must when doing so identify—

- (a) the commencement date of the period for which the stagger update is provided; and
- (b) the date up to which the stagger update is provided (“the end date”).

(3) At the time when a relevant entity provides a stagger update in accordance with paragraph (2), the relevant entity may give notice to HMRC that the commencement date of the next quarterly period commences on the date immediately following the end date.

Early provision of update information for quarterly periods

11.—(1) Subject to paragraph (2), a relevant entity may provide update information as specified in an update notice for the whole of a quarterly period before the end of that period.

(2) A relevant entity may do so only if—

- (a) the update information is provided by a date (“the provision date”) which is within 10 days before the end of the quarterly period;
- (b) when providing the update information, the relevant entity confirms that the update information covers the whole of quarterly period; and
- (c) the relevant entity reasonably expects that no update information will arise in respect of the period commencing with the provision date and ending with the end of the quarterly period.

PART 4

End of period statements and Schedule A1 partnership returns

Provision of end of period statements and Schedule A1 partnership returns

12.—(1) A relevant person must provide to HMRC an end of period statement(a) in relation to each relevant period.

(2) An end of period statement must include—

- (a) end of period information for the relevant period specified in an end of period notice; and
- (b) a declaration by the relevant person that the information contained in the end of period statement is correct and complete to the best of that person’s knowledge.

(3) A relevant partnership must provide to HMRC a Schedule A1 partnership return(b) in relation to each tax year.

(4) A Schedule A1 partnership return must include—

- (a) partnership information for the tax year and all periods of account ending in the tax year specified in a Schedule A1 partnership notice; and
- (b) a declaration by a nominated partner that the Schedule A1 partnership return is correct and complete to the best of that person’s knowledge.

End of period notices

13. “End of period notice” means a notice made by the Commissioners which is stated to be made further to this regulation and which specifies end of period information to be provided to HMRC.

Schedule A1 partnership notices

14. “Schedule A1 partnership notice” means a notice made by the Commissioners which is stated to be made further to this regulation and which specifies partnership information to be provided to HMRC.

(a) See paragraph 8 of Schedule A1. The date by which an end of period statement must be provided is set out in paragraph 8(5).

(b) See paragraph 10(5) of Schedule A1. The date by which a Schedule A1 partnership return must be provided is set out in paragraph 10(5).

Specified information

15.—(1) The end of period information and partnership information which may be specified includes (but is not limited to)—

- (a) providing designatory information;
- (b) identifying the tax year or relevant period, as applicable, to which the information relates;
- (c) providing totals of the amounts falling within specified categories of transactions for, as applicable, the relevant period or tax year;
- (d) identifying the properties which form part of a property business;
- (e) providing information concerning any—
 - (i) adjustments, allowances, balancing charges or costs;
 - (ii) losses or exemptions; or
 - (iii) reliefs and allowances; or
- (f) in relation to relevant partnerships and the partners of relevant partnerships, providing information concerning—
 - (i) disposals of chargeable assets;
 - (ii) the share of a partnership profit or loss;
 - (iii) the source of such profit or loss;
 - (iv) the sources of different forms of income; or
 - (v) other tax paid or payable in respect of trading income.

(2) For different descriptions of relevant entity, different designatory information or different categories of transactions may be specified.

Commencement and cessation of requirements under Part 4

16.—(1) Paragraphs (2) to (4) apply for the purposes of regulation 12(1).

(2) The first end of period statement is required for the relevant period in which falls the digital start date which applies to the business.

(3) A final end of period statement is required for the relevant period in which the business ceases.

(4) Where paragraph (3) applies, the relevant person must include in the end of period statement a notice that it is the final statement for the business by virtue of its cessation.

(5) Paragraphs (6) to (8) apply for the purposes of regulation 12(3).

(6) The first Schedule A1 partnership return is required in relation to the tax year in which falls the digital start date which applies to the business.

(7) A final Schedule A1 partnership return is required in relation to the tax year in which the business ceases.

(8) Where paragraph (7) applies, the relevant partnership must include in the Schedule A1 partnership return a notice that it is the final return for the business by virtue of its cessation.

PART 5

Retail sales of retailers

Retailers – elections

17.—(1) This regulation applies to a relevant entity which carries on a business of a retailer.

(2) The relevant entity may decide that the digital records in relation to the retail sales of that business are those provided by a retail sales notice, where such a notice has been made.

Digital records in relation to retail sales

18.—(1) The Commissioners may specify in a notice (“a retail sales notice”) digital records in respect of the retail sales of the business of a retailer.

(2) Such digital records may include categories of transactions other than the categories specified in an update notice.

(3) A retail sales notice must be stated to be made further to this regulation.

PART 6

Corrections and omissions

Digital records – corrections and omissions

19.—(1) Where a relevant entity discovers an error or omission in the entity’s digital records, the relevant entity must correct the digital records as soon as possible.

(2) Paragraph (3) applies where—

- (a) in consequence of such an error or omission a quarterly update is provided to HMRC which contains incorrect or incomplete information; and
- (b) an end of period statement or Schedule A1 partnership return, as applicable, has not been provided for the information period to which the quarterly update applies.

(3) The relevant entity must—

- (a) provide the correct or complete information to HMRC; and
- (b) do so when the relevant entity next provides a quarterly update or the end of period statement or Schedule A1 partnership return, as applicable, whichever the relevant entity is first required to provide after the digital records are corrected.

End of period statements – corrections by relevant persons

20.—(1) A relevant person may amend an end of period statement which that person has provided.

(2) The relevant person must give notice of the amendment to HMRC.

- (3) An amendment may only be made before the earlier of—
- (a) the date by which the relevant person is required to comply with section 8(1AC)(b) or 8A(1AC)(b) TMA 1970(a), as applicable; or
 - (b) the time when the relevant person has so complied.

End of period statements – corrections by HMRC

21.—(1) HMRC may amend an end of period statement so as to correct it.

(2) The corrections which may be made to an end of period statement by virtue of this regulation are corrections of the type as may be made to a return by virtue of section 9ZB(1) of TMA 1970(b).

(3) A correction must be made by notice to the relevant person whose end of period statement it is.

(4) A correction may only be made before the earlier of—

- (a) the date by which the relevant person is required to comply with section 8(1AC)(b) or 8A(1AC)(b) TMA 1970, as applicable; or
- (b) the time when the relevant person has so complied.

(5) A correction is of no effect if the relevant person whose end of period statement it is gives notice rejecting the correction.

(6) Notice of rejection must be given before the end of the period of 30 days beginning with the date on which the notice of correction is given.

PART 7

Nominated partners

Nominations and revocations of nominations by relevant partnerships

22.—(1) The partners of a relevant partnership must ensure that at all times that there is a nominated partner(c).

(2) Notice of a nomination or a revocation of a nomination by the partners must be given to HMRC in the quarterly update which is next required to be provided after the date of the nomination or revocation.

(3) No revocation of a nomination has effect unless another partner is a nominated partner at the date of the revocation.

(a) Sections 8(1AC)(b) and 8A(1AC)(b) are inserted by [section ** of][paragraph ** of Schedule ** to] the Finance Act [YYYY] (c. XX).

(b) Section 9ZB (correction of personal or trustee return by Revenue) is inserted by paragraph 2 of Schedule 29 to the Finance Act 2001. Subsection (1) is amended by section 119(1) of the Finance Act 2008 (c. 9).

(c) See paragraph 5(2) of Schedule A1.

Nominations by HMRC

23.—(1) HMRC may nominate a partner as a nominated partner where the partners of a relevant partnership by notice request HMRC to do so.

(2) Where HMRC is satisfied that—

- (a) the partners of a relevant partnership have failed to comply with regulation 22(1), HMRC may nominate a partner as a nominated partner; or
- (b) a nominated partner is not complying with any of the requirements imposed on a relevant partnership by these Regulations, HMRC may appoint another partner as a nominated partner in substitution for the partner who is not in compliance.

(3) Where HMRC nominates a partner as a nominated partner, it must—

- (a) as soon as practicable give notice of the nomination to the persons whom HMRC believes to be the partners of the relevant partnership; and
- (b) in the notice, state the date the nomination has effect.

PART 8

Digital exclusion exemption

Exemption for the digitally excluded

24.—(1) The digital requirements do not apply to a person or partnership in respect of an information period if—

- (a) at the time any of those requirements would otherwise apply the person or partnership is digitally excluded(a);
- (b) the person or partnership gives notice to HMRC that the person or partnership is digitally excluded; and
- (c) the Commissioners confirm they are satisfied that the person or partnership is digitally excluded.

(2) A notice under paragraph (1)(b) must—

- (a) be in writing;
- (b) specify how the digital exclusion condition is met in relation to the person or each partner in the partnership; and
- (c) specify the date from which the digital exclusion condition is met and, if the person or partnership has since ceased to be digitally excluded, the date on which the condition ceased to be met.

(3) On receipt of a notice under paragraph (1)(b), the Commissioners must give a notice that either they are or are not satisfied that the person or partnership is digitally excluded.

(4) A notice by the Commissioners under paragraph (3) must—

- (a) be given within [28 days] of receiving the notice under paragraph (1)(b); and

(a) Paragraph 14(2) to (4) of Schedule A1 give the meaning of a person or partnership being digitally excluded.

(b) be in writing.

(5) Where—

(a) the Commissioners have given notice that they are satisfied that a person or partnership is digitally excluded; and

(b) the person or partnership then ceases to be digitally excluded,

the person or partnership must give notice of so ceasing to HMRC within 3 months of the person or partnership ceasing to be digitally excluded.

(6) A notice under paragraph (5) must specify the date on which the person or partnership ceased to be digitally excluded.

(7) If the Commissioners cease to be satisfied that a person or partnership is digitally excluded they must give notice to the person or partnership that they have ceased to be so satisfied.

(8) A notice under paragraph (7) must—

(a) be in writing; and

(b) specify the date on which the Commissioners ceased to be satisfied that the person or partnership was digitally excluded.

(9) If a person or partnership ceases to be digitally excluded, the digital requirements apply in respect of the information period following that in which the person or partnership ceased to be digitally excluded and to subsequent information periods.

PART 9

Other exemptions

Income exemption: persons

25.—(1) The digital requirements do not apply to a person in respect of a relevant period to which the exemption in this regulation applies.

(2) The exemption does not apply if the person has elected not to be exempt.

(3) The exemption applies to a relevant period if the amount of the person's qualifying income for the tax year which ended two years before the tax year in (or with) which the relevant period in question ends is not more than £10,000.

(4) If a person's qualifying income for a tax year is in respect of a relevant period of more or less than 12 months, the qualifying income must be increased or decreased proportionately on a time basis, or, if it appears that that method would work unreasonably or unjustly, on a just and reasonable basis.

(5) A person's qualifying income for a tax year is the sum of the amounts of income which, for each business carried on by the person in that tax year, are included in that person's return under section 8 or 8A of TMA 1970 for that tax year^(a).

(a) References to a return under section 8 of TMA are defined in subsection (7) of that section, that subsection was inserted by *** of the Finance Act [YYYY].

(6) If a person is not carrying on a business in a tax year the qualifying income is treated as nil.

Income exemption: partnerships

26.—(1) The digital requirements do not apply to a partnership in respect of a tax year to which the exemption in this regulation applies.

(2) The exemption does not apply if the partnership has elected not to be exempt.

(3) The exemption applies to a tax year if the amount of the partnership's qualifying income for the tax year which ended two years before the tax year in question is not more than £10,000.

(4) If a partnership's qualifying income for a tax year is in respect of a period of account of more or less 12 months, the qualifying income must be increased or decreased proportionately on a time basis, or, if it appears that that method would work unreasonably or unjustly, on a just and reasonable basis.

(5) A partnership's qualifying income for a tax year is the amount of income which, for the business carried on by the partnership in that tax year, is the income included in the partnership return for that tax year(a).

(6) If a partnership is not carrying on a business in a tax year the qualifying income is treated as nil.

(7) In this regulation, reference to an exemption applying to a tax year includes reference to the exemption applying to a period of account which ends in (or with) a tax year.

Election not to be exempt

27.—(1) An election by a person or partnership not to be exempt under regulation 25 or 26 must—

(a) be made before the start of the information period in which the exemption would otherwise apply; and

(b) specify the date that the information period begins.

(2) An election has effect for the information period referred to in paragraph (1)(a) and for subsequent information periods in which the exemption would otherwise apply.

(3) An election may be withdrawn at any time specifying the date of the withdrawal.

(4) The digital requirements and regulations 25 and 26 apply to the information period in which the date specified in the withdrawal falls.

(5) An election and any withdrawal of an election must be made by notice to HMRC.

(a) "Partnership return" is defined in section 118 of TMA 1970, this definition was inserted by * of the Finance Act [YYYY].

PART 10

Election for Schedule A1 to apply

Election for Schedule A1 to apply

28.—(1) An election under paragraph 2 or 4 of Schedule A1 must—

- (a) be made before the start of the information period in which the exclusion of Schedule A1 would otherwise apply; and
- (b) specify the date that the information period begins.

(2) An election has effect for the information period referred to in paragraph (1)(a) and for subsequent information periods in which the exclusion would otherwise apply.

(3) An election may be withdrawn at any time specifying the date of the withdrawal.

(4) The withdrawal has effect for the information period in which the date specified in the withdrawal falls.

(5) An election and any withdrawal of an election must be made by notice to HMRC.

PART 11

Notices

Notices

29.—(1) This regulation applies to a notice which may be made, or which may be required to be made, by a person or partnership under any of the following regulations—

- (a) 10(3);
- (b) 17(5);
- (c) 20(2);
- (d) 21(5);
- (e) 23(1);
- (f) 24(5);
- (g) 28(5);
- (h) 30(5).

(2) Such a notice must be made in such form and provided in accordance with such method, including electronic, as HMRC may specify from time to time.

(3) In the case of a partnership, such a notice must be made by the nominated partner.

Name 1

Name 2

Date

Two of the Commissioners for Her Majesty's Revenue & Customs

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Regulations [].