



PAYE: REAL TIME INFORMATION POST IMPLEMENTATION REVIEW

Issued 2 February 2018

TEXT OF LETTER SENT ON 2 FEBRUARY 2018 TO HMRC BY ICAEW TAX FACULTY

Internationally recognised as a source of expertise, ICAEW Tax Faculty is a leading authority on taxation. It is responsible for making submissions to tax authorities on behalf of ICAEW and does this with support from over 130 volunteers, many of whom are well-known names in the tax world. Appendix 1 sets out the ICAEW Tax Faculty's Ten Tenets for a Better Tax System, by which we benchmark proposals for changes to the tax system.

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We should welcome the opportunity to help HMRC implement its PAYE real time information (RTI) post implementation review (PIR) published on 7 December. We want to help RTI to fulfil its potential of servicing government, employers and taxpayers. In order for RTI data robustly to underpin personal and business tax accounts, particularly since the recent deployment of dynamic coding, rigorous testing and ongoing stakeholder engagement is vital if the system is to deliver benefits, rather than impose continuing burdens on employers, intermediaries, agents and HMRC.

Nearly six years since the implementation of RTI, there are several long-term ongoing problems acknowledged in the PIR, in particular:

- first, data quality issues, which mean that HMRC's records of liabilities and payments differ from those of employers, intermediaries and agents and even within HMRC, and which result in, for example, unwarranted debt collection contact by HMRC's field force (78% of debt is spurious as stated in the PIR),
- secondly, duplicated employments in HMRC's database which lead, inter alia, to incorrect code numbers and feed into the incorrect liabilities, and,
- thirdly, the earlier year update (EYU) process which is not fit for purpose as it uses delta values instead of the normal PAYE convention of overwriting values.

We believe that there are some quick fixes that would help to achieve congruence between HMRC's records and those of employers, intermediaries and agents, improve code number accuracy, and reduce unnecessary contact between HMRC and employers, intermediaries and agents.

First, code numbers for an employee's new job are sometimes issued as if the new job were a secondary employment. This happens where the new employer submits an FPS for the first payment to its new employee before the old employer has filed an FPS for the final payment to its departing employee. If an FPS could be submitted containing non-financial data, then employers could advise employee leaving dates to HMRC earlier than at present, which would mean that HMRC would know when issuing a code number for an employee's new job that the new job will be the sole or main job, not a secondary job. There are other issues which could quickly be fixed around starters and payments to ex-employees; eg, start dates can only be supplied up to 30 days ahead and cannot be changed.

Secondly, duplicate employments seem commonly to arise when an employer changes its payroll software supplier, or employees are moved to a different PAYE scheme, or there is a TUPE transfer, and HMRC's software does not pick up the fact that the same employment has continued. We know this can be because the payroll ID may have not been used correctly (although this appears to be inconsistent as the cause of duplicates) but given the volume of duplicates we need to work together to progress the work on payroll ID that was shelved some years ago. The PIR says 0.5% of records contain errors and, based on the assertion that HMRC receives 100 million records per month, that means 6 million records contain errors which is surely a worrying statistic.

Thirdly, presently an employer who needs to amend a prior year after 19th April needs to submit an earlier year update (EYU). The design of the file (a very late addition to the RTI project) requires the submitter to know the values held by HMRC, which, as acknowledged in the PIR, is not always easy to ascertain. As noted in para 6 on page 22 of the PIR, we recommend that the EYU process should be changed so that the values that are input into

EYU are the replacement year-to-date (YTD) figures, rather than corrective figures. We were told by HMRC in December 2014 that this was in hand but it has not progressed.

As a separate point, we agree with the January 17 Update to para 6 on page 22 that RTI employee level data needs to be visible to employers, intermediaries and agents, but this needs to be implemented as well as, not instead of, changing EYU from corrective to replacement YTD figures.

We would also suggest that two new ‘flags’ be introduced. First, a marker for modified payrolls to ensure that appropriate code numbers can be applied to expat employees. And, secondly, a ‘deemed worker’ marker, to enable HMRC to both have the right status information in its database and collect statistics measuring the effectiveness of the public sector off-payroll working regime, and payrolls to disregard online student loan repayment notifications for deemed employees.

I suspect that others on HMRC’s Employment and Payroll Group (EPG) who represent users and developers would also welcome the opportunity to contribute, and perhaps the ball might be started rolling by calling for volunteers to form a subgroup of the EPG.

APPENDIX 1

ICAEW Tax Faculty's ten tenets for a better tax system

The tax system should be:

- Statutory: tax legislation should be enacted by statute and subject to proper democratic scrutiny by Parliament.
- 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.
- Simple: the tax rules should aim to be simple, understandable and clear in their objectives.
- Easy to collect and to calculate: a person's tax liability should be easy to calculate and straightforward and cheap to collect.
- 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.
- 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.
- 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.
- 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.
- 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.
- 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 <https://goo.gl/x6UjJ5>).