

**Tax Administration Framework Review: information and
data
Comments from Saffery Champness LLP**

20 July 2023

Saffery Champness
CHARTERED ACCOUNTANTS

1. Executive summary

- 1.1 We welcome the chance to comment on the call for evidence on potential changes to the information and data framework as part of the wider Tax Administration Framework Review.
- 1.2 In summary, our key points are as follows:
- We are supportive of increased pre-population and, where possible, standardisation of the format in which information is provided to HMRC;
 - Suitable mechanisms need to be in place to allow taxpayers to update incorrect information;
 - We believe further information is needed to assess whether there is a real case to update information powers. Wherever possible these should, in our view, remain prescriptively framed and subject to full Parliamentary scrutiny.
- 1.3 Section 2 below makes some general comments on the proposals, and section 3 covers our responses to the specific questions raised in the consultation document.
- 1.4 We would be happy to discuss the points raised here in further detail. If you have any questions, or would like any further information, please contact: Robert Langston, National Tax Partner, on 0207 841 4129 or email robert.langston@saffery.com or Alison Kerrey, Director, National Tax, on 0207 841 4016 or email alison.kerrey@saffery.com.

2. General points

- 2.1 The call for evidence covers two distinct areas and it is not immediately clear to us why the proposals have been grouped together. We are supportive of greater pre-population (assuming that it is played back to taxpayers in a clear way which allows them to identify where information has come from, and that there are suitable mechanisms in place for them to correct erroneous data). We do not, however, believe that this necessitates a widening of HMRC's general information powers.
- 2.2 As plans for increased use of third party data progress, HMRC should ensure that they take a holistic view on how data is submitted to avoid duplication of effort. In particular, we can see potential in future for information to be provided by third parties such as letting agents, where a taxpayer is also required to report the same information to HMRC under the Making Tax Digital for income tax (MTD ITSA) regime. HMRC should consider whether any third party reporting overlapping with the MTD ITSA requirements should lead to a change in those requirements, perhaps so that taxpayers are required to check figures rather than report them again.

3. Specific consultation questions

- 3.1 Question 1: Do you have any other examples of international approaches to data-gathering/are you aware of any drawbacks or advantages in the international approaches mentioned?**
- 3.1.1 We do not have any specific examples to raise.
- 3.1.2 We continue to support HMRC drawing from international best practice. In doing so, however, it will be important to take into account the underlying tax systems in other jurisdictions as these may differ significantly from that in the UK.

3.1.3 In considering international examples we believe that HMRC should also look, where possible, at feedback showing taxpayers' and agents' experience of different methods of data-gathering. Even where a data-gathering model might not translate particularly well to the UK tax system this information could provide valuable insight.

3.2 Question 2A: What are your views on retaining the principle that taxpayers are responsible for the accuracy of their returns?

3.2.1 We believe that it is right to retain this overarching principle, even where data is increasingly pre-populated.

3.2.2 As the use of third party data increases, however, it may be appropriate to consider what obligation should sit with third party data providers to provide accurate information. We feel that this is an area that should be considered further as third-party data reporting models develop.

3.2.3 As the Office of Tax Simplification (OTS) noted in their 2021 report on third party data, it is key that "taxpayers (and their agents, where one is appointed) are able to see the data reported by third parties to verify it". This information should be presented in a user-friendly and easy to navigate format so that taxpayers are clear exactly where information has come from, allowing taxpayers to move to a 'check and correct' approach rather than having to recreate data themselves.

3.3 Question 2B: What processes should be available for challenging and resolving discrepancies in information and data pre-populated in taxpayer returns?/Question 2C: Are there any specific alternative approaches to accountability HMRC should consider?

3.3.1 In our view it is key that, as well as being able to see the detailed information provided by third parties, taxpayers and their agents are able to update that data where it is incorrect. This updating should happen within the tax system and, in our opinion, must not require the taxpayer to go to the third party in order to have the record corrected. Ideally, taxpayers (and agents) should be able to amend all pre-populated figures in their tax return, either in HMRC's online portal or through software.

3.3.2 We would also suggest that taxpayers should be able to provide an explanation for the change where this would be helpful, to reduce the need for HMRC to carry out compliance activity. For example, where an individual taxpayer has income attributed to them in their personal capacity that relates to their position as a trustee, they should be able to note this.

3.3.3 HMRC should also consider what back-end mechanisms are required to ensure that income erroneously attached to one taxpayer can be reallocated to the correct individual or entity so that the misallocation is not replicated going forward.

3.3.4 We would recommend that HMRC consult further on whether and how third party data providers should be required to update incorrect information, and whether they should be obliged to provide taxpayers with information at the same time it is sent to HMRC. This last would increase the amount of time available for a taxpayer to check and correct data, but would also place an increased burden on the data provider.

3.4 Question 3A, 3B & 3C: What are your views on the prescriptive framing of HMRC's current information and data powers and on the alternative approaches mentioned?

3.4.1 It is unclear from the call for evidence whether the proposals for change here are driven by any particular issues or failings in HMRC's current information powers. We would recommend that if

HMRC feel that change is required in this area they consult in more detail, setting out the issues that create the need for change. This will help ensure that any changes are proportionate and address the underlying need.

- 3.4.2 In general we believe that retaining a prescriptive approach is preferable unless a pressing need for change in a particular area is identified. This allows for proper Parliamentary scrutiny of any changes. The introduction of new legislation or changes to existing legislation is also a good trigger for wider scrutiny and debate and allows an opportunity for those affected by a proposed change to engage with HMRC to ensure that changes will achieve their intended effect whilst minimising the additional burden on data holders.

3.5 Question 3D: Would it be beneficial to taxpayers for HMRC's current, and/or reformed powers to be consolidated into a single piece of legislation?

- 3.5.1 Yes, we believe that consolidating legislation would be of benefit. In line with our comments above, we believe that this should be done in a way which retains the principle of Parliamentary scrutiny where HMRC want to collect new data. Areas of the legislation covering taxpayer safeguards should also be kept in primary legislation.

3.6 Question 4: What are your views on aligning data-holder requirements and considering a mandatory requirement for data-holders to collect and provide HMRC with common information and data fields to support better matching?

- 3.6.1 In principle we are in favour of this suggestion. Aligning requirements and providing common information and data fields will assist with digitisation and with the accuracy of pre-populated information.
- 3.6.2 However, this is an area where HMRC should consult more widely before reaching a final conclusion. It will be important to understand how easy standardisation will be in practice, whether it is possible to align requirements across all types of data provider (particularly if and when the types of data being collected expands) and what the associated costs for data providers would be.

3.7 Question 5: Unique taxpayer identifiers

- 3.7.1 We agree that a unique identifier would help with accurate data-matching and support greater use of third party data and pre-population. We would also agree that neither National Insurance numbers (NINOs) nor existing Unique Taxpayer Reference numbers (UTRs), are suitable for this purpose, as not all taxpayers have them.
- 3.7.2 We would recommend that HMRC consult more specifically on the best way to take forward a unique identifier, including consideration of whether the existing NINO or UTR system could be effectively expanded.

3.8 Question 6: What are your views on the advantages and disadvantages of adopting a set of 'schema' like the OECD model, to standardise information and data reporting from third parties?

- 3.8.1 We agree with standardising reporting where possible, as this will allow for increased use of process automation, with consequential potential cost and efficiency benefits. We would recommend that HMRC carries out further work to identify where a schema approach would be viable in practice.

3.9 Question 7: What are your views on adopting a different approach for submitting information and data on a regular basis to HMRC, including alternatives to the current notice regime?

- 3.9.1 Where data holders are already required to submit information on a regular basis, we would agree that HMRC should consider moving from the current approach. This should be done in consultation with those affected to ensure that any changes genuinely reduce the burden on HMRC and the third party
- 3.10 Question 8: What are your views on the frequency with which information and data should be reported to HMRC, particularly with a view towards the increasingly real-time nature of tax reporting, and other taxpayer services?**
- 3.10.1 In our view this will depend on the type of information and data being collected and (perhaps most importantly) the use to which it will be put. This will mean that there is no one-size-fits-all approach. When considering what frequency would be suitable for a particular type of information, HMRC could perhaps start from a general assumption that it would be useful for data to be updated before they or taxpayers need to use it for a particular purpose. So if data only needs to be used once a year (say as part of the annual Self Assessment cycle) it would only need to be updated once.
- 3.11 Question 9: Do you agree that these are the main challenges with the information notice process as set out in Schedule 36 Finance Act 2008? In your view, are there any additional challenges HMRC should consider?**
- 3.11.1 No comment.
- 3.12 Question 10: What are your views on HMRC exploring the introduction of a more graded information and data power to reduce administrative burdens and delays for taxpayers and HMRC? Do you have any suggested alternative approaches that could help to improve the process for taxpayers and HMRC?**
- 3.12.1 We would not be in favour of a more graded power. This would seem to add significant additional complexity to the system and (depending on the scope of such a power) might make it more difficult to automate processes effectively.
- 3.12.2 We would also be concerned by any attempt to categorise taxpayers as ‘collaborative’ or to treat those differently who have previously been ‘non-compliant’ with information notices. In our view it would be difficult to differentiate situations where ‘non-compliance’ was for a legitimate reason, with the result that some taxpayers would have the usual safeguard processes truncated unnecessarily. Similarly, determining whether someone has acted ‘collaboratively’ is a subjective judgement and we do not think it is appropriate to apply a different treatment as a result of such a judgement.
- 3.13 Question 11: Are there cases where a more coordinated approach to issuing information notices (for example, issuing one notice to a class of taxpayer and/or to a third-party about a class of taxpayers) could improve the experience for taxpayers and third parties?**
- 3.13.1 It is not clear to us that this would offer a real benefit to HMRC or to taxpayers. HMRC would still need to follow up with individual taxpayers (or promoters or other third parties) separately, so any time saving would be limited. In addition, HMRC would need to ensure that a combined information notice is GDPR compliant but also provides enough information for taxpayers and their agents to deal with them effectively.
- 3.14 Question 12: What are your views on creating a category of information notice that covers connected persons or third parties (this could cover the ‘person with significant control’, in the case of a company)?**
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- 3.14.1 We would not be in favour of this change without significant taxpayer safeguards. Further consultation would be needed in order to ensure that potential risks had been identified and appropriately mitigated.
- 3.14.2 There is a risk that it could lead to an enquiry into one taxpayer widening in scope to cover others, and suitable safeguards would need to be put in place to prevent this from happening.
- 3.14.3 Care would also need to be taken in defining 'connected persons'. The call for evidence gives the example of 'persons with significant control' as connected to a company. The call for evidence is silent on whether HMRC would also consider (for example) registrable beneficial owners (RBOs) of overseas entities holding UK property as 'connected persons'. The scope of the Register of Overseas Entities legislation is sufficiently broad that an RBO may well not be "closely intertwined" with that of the company. If HMRC do take these proposals forward they should consult more widely on whether, and if so how, suitable safeguards can be put in place to ensure that there is a genuinely close connection between the parties involved.

3.15 Question 13: What are your views on updating Section 114 Finance Act 2008 to take into account the issues set out above?

- 3.15.1 We agree that, in principle, this is an area that HMRC should consider further given the way in which technology is changing. Further consultation should be undertaken before any changes are introduced.

4. About Saffery Champness

- 4.1 Saffery Champness is the 15th largest UK accountancy firm by fee income. We presently have more than 80 UK partners and over 700 staff in nine offices in the UK and further offices in Guernsey, Geneva, Zurich, Dublin and Dubai.
- 4.2 We are a firm with a deliberate focus; we do not try to be all things to all people. Instead we choose to specialise in specific sectors and areas of business where we have real in-depth expertise and experience. These include not-for-profit, private wealth, landed estates and rural businesses, professional practices, financial services, recruitment, entrepreneurs, sports and entertainment, international, and real estate.