

The latest VAT developments that could affect you or your clients' businesses

Making Tax Digital (“MTD”) - what you need to know

Part 1 - who needs to know and when?

If you are an accountant, none of this Insight should be any surprise to you. But are you sure all your clients are equally clued in?

I recently had a coffee with a friend of mine who runs his own very successful VAT-registered business. When I mentioned MTD he looked blank and confessed that he knew nothing about it. I learned later that numerous surveys have revealed that around half of VAT-registered businesses are blissfully unaware of the changes facing them. My friend files his own returns so it could have been a bit of a shock when he came to do his first return under MTD.

In this first of two Insights on MTD I will look at:

- (a) What MTD means in very broad terms;
- (b) Whether your business has to comply with MTD at all;
- (c) If it does, from what date; and
- (d) When HMRC's “soft landing period” ends.

A later Insight will look in more detail about how MTD is supposed to work.

What MTD means

HMRC wants to make the majority of UK taxpayers keep their tax records and submit their returns digitally. MTD is the name it has given to this project. The ultimate goal is to remove all manual intervention from these processes. HMRC has used VAT as its starting point for MTD.

Does your business have to comply?

Even if you are VAT-registered, you have to comply with MTD after the start date only if your turnover exceeds the registration limit, currently £85,000. You do not have to comply so long as your turnover is below the limit and either:

- (a) you are voluntarily registered, or

- (b) you are registered because you make taxable supplies in the UK but are not established here.

After the start date, once you are in MTD you cannot escape even if your turnover falls below £85,000, unless you deregister or fall within another exemption.



Exemptions

These include:

- A religious exemption.

This applies where a business is entirely run by practising members of a religious society whose beliefs are incompatible with the MTD regulations, for example, their beliefs prevent the use of computers.

The scope of this exemption is hard to pin down. A similar let out is available in relation to the current obligation to submit returns online. The scope of that exemption was tested by Mr and Mrs Blackburn, who traded as Cornish Moorland Honey. The Blackburns are Seventh Day Adventists, which, as a church, does not forbid the use of computers. The refusal of the Blackburns to file VAT returns online reflected their personal interpretation of their Church's teaching. The Tribunal accepted that HMRC had correctly approached the question by assessing the right to exemption by reference to the beliefs of a religious society or order, as opposed to the religious views of an individual. HMRC argued that this was also a practical approach. Nonetheless, the Tribunal decided that the Blackburns' religious convictions meant that HMRC could not require the Blackburns to file online without contravening Human Rights legislation.

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So, when faced with a claim for religious exemption, HMRC may need to investigate the beliefs of individuals rather than simply research the beliefs of a group (a much more straightforward and less intrusive process).

- Practical obstacles

This covers situations where MTD would not be reasonably practicable because of age, disability or remoteness of location. Age will only be a barrier to computer literacy and agility where an individual chooses to make it one. The reference to remote locations presumably means areas where poor broadband makes MTD impossible.

- A person is subject to an insolvency procedure.

When will it apply?

If your turnover is over £85,000 and you do not fall within an exemption and are not in one of the deferred groups (see below), you must comply with MTD from your first return beginning on or after 1 April 2019. This means, for example, that if you make calendar quarterly returns, you must be compliant by 7 August 2019, assuming you pay by direct debit. Your soft-landing period ends on 31 March 2020.

However, if you fall within one of the following deferred groups, then you do not need to follow the MTD regulations until the first return period starting on or after 1 October 2019:

- Unincorporated not for profit organisations
- Trusts
- Companies in a group registration
- Companies that are registered as divisions
- Government Departments
- NHS Trusts
- Local authorities
- Public corporations
- Traders based overseas
- Those in the payments on account scheme
- Those in the annual accounting scheme

The suspicion is that HMRC can't work out yet how MTD will work in the above cases. The soft-landing period for these categories will end on 30 September 2020.

This rule means, for example, that a business in one of these categories that makes calendar quarterly VAT returns has to be MTD compliant by 7 February 2021

(the date by which they have to have submitted their return to 31 December 2020, assuming they pay by direct debit).



Coming soon

My next Insight will deal with what MTD involves and how it goes beyond filing online.

To discuss how this may affect your clients or your business, or to talk about a VAT issue in general - contact:

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