EXPLANATORY MEMORANDUM TO

THE INCOME TAX (DIGITAL REQUIREMENTS) (AMENDMENT) REGULATIONS 2024

2024 No. 167

1. Introduction

1.1 This explanatory memorandum has been prepared by HM Revenue and Customs (HMRC) and is laid before the House of Commons by Command of His Majesty.

2. Declaration

2.1 Nigel Huddleston MP, Financial Secretary to the Treasury at HM Treasury confirms that this Explanatory Memorandum meets the required standard.

2.2 Nicholas Atkinson, Deputy Director for Making Tax Digital, at the HMRC confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Jim Rogers at the HMRC Telephone: 03000 588833 or email: jim.a.rogers@hmrc.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument amends the Income Tax (Digital Requirements) Regulations 2021 which provide for persons with income from a trade, profession or vocation, or income from a property business, which are chargeable to income tax and exceed a threshold amount to follow the rules for MTD for Income Tax from 6 April 2024. This instrument postpones the commencement and increases the threshold.

4.2 This instrument also removes the requirement for an annual report of income and expenditure and amends the provisions relating to quarterly updates, these are now cumulative and reporting dates for MTD for Income Tax are aligned to quarterly reporting dates for VAT. In addition, MTD for Income Tax requirements no longer apply to a person in respect of that person's provision of qualifying care or to those taxpayers without a National Insurance Number.

4.3 Other amendments in this instrument include removing the requirement for retailers to elect to keep specific records, providing clarity around the meaning of "digital records", extending the use of MTD compatible software to correct digital records, removing the election not to be exempt from this instrument and the provisions relating to an election for Schedule A1 of the Taxes Management Act 1970 to apply.

Where does the legislation extend to, and apply?

4.4 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is the United Kingdom.

4.5 The territorial application of this instrument (that is, where the instrument produces a practical effect) is the United Kingdom.

5. Policy Context

What is being done and why?

5.1 The government recognises that businesses want to get their tax right, but many businesses find this hard to do. For example, based on most recent data (https://www.gov.uk/government/statistics/measuring-tax-gaps), the difference between total taxes owed to the government and taxes paid on time, also called the tax gap is estimated at £35.8 billion of which around 30% is due to error and failure to take reasonable care.

5.2 The changes set out in paragraphs 4.1 – 4.3 of this memorandum aim to help reduce the tax gap and bring the tax system into line with what income tax Self Assessment businesses and landlords expect from other online service providers: a modern digital experience. MTD was successfully introduced for over one million VAT businesses in April 2019 and is now being extended to income tax Self Assessment businesses and landlords.

What was the previous policy, how is this different?

5.3 In 2021 HMRC introduced legislation for MTD for Income Tax requiring persons with income from a trade, profession or vocation, or income from a property business, which are chargeable to income tax and exceed £10,000 to follow the rules for MTD for Income Tax from 6 April 2024. This involved submitting an annual report of the business's trading or property income, allowable expenditure and claims for allowances or reliefs against such income in relation to each tax year, and interim reports submitted quarterly on fixed dates using approved software.

5.4 HMRC, following discussion with stakeholders, has delayed the start date from April 2024 to April 2026 and increased the minimum income threshold required to be within the scope of the legislation to £50,000 from April 2026 and to £30,000 from April 2027. Other simplifications have also been added as set out in paragraphs 4.1 – 4.3 of this memorandum. Taxpayers who could previously have elected not to be exempt from the MTD for Income Tax regulations will still be able to join on a voluntary basis but will no longer be subject to the regulations. These simplifications make it easier for everyone, including the smallest businesses, to comply with the new requirements and experience the benefits of digitalisation as well giving taxpayers more time to prepare for MTD for Income Tax.

5.5 It is anticipated that these changes will make it easier for income tax Self Assessment businesses and landlords to get their tax right the first time, reducing the risk of errors and the worry that businesses face when HMRC intervenes to put things right. Businesses and landlords will not need to adjust their reporting dates or be required to provide any more tax information than they do already.

6. Legislative and Legal Context

How has the law changed?

6.1 Section 60(1) to (3) of the Finance (No. 2) Act 2017 (FA(No2)17) inserts section 12C and Schedule A1 into the Taxes Management Act 1970 (TMA 1970). Schedule A1 provides the powers to make the Income Tax (Digital Requirements) Regulations 2021 and this instrument. Section 61 of, and Schedule 14 to, the Finance (No. 2) Act

2017 also makes consequential amendments to TMA 1970 and to other acts to allow for the new reporting regime.

6.2 Appointed day regulations (the Finance (No. 2) Act 2017, Sections 60 and 61 and Schedule 14 (Digital Reporting and Record-Keeping) (Appointed Day) Regulations 2021; S.I. 2021/1079 (C. 62)) were made under sections 60(4) and 61(6) FA(No2)17 by the Treasury on 23 September 2021 in order to bring sections 60(1) to (3), 61(1) to (5) and Schedule 14 FA(No2)17 into force on 6 April 2024. These appointed day regulations will also be amended to postpone the commencement of those provisions to 6 April 2026.

Why was this approach taken to change the law?

6.3 This is the only possible approach to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

7.1 In January 2024 HMRC concluded a technical consultation on draft legislation. HMRC received 16 written responses from individuals (including businesses) (3), accountants (6), and representative bodies (7). The technical consultation was published on GOV.UK (https://www.gov.uk/government/consultations/draft-legislation-income-tax-digital-requirementsamendment-regulations-2024).

7.2 Most respondents supported the direction of travel of the MTD for Income Tax proposals, in particular the increase in the income threshold and longer time frame to prepare for MTD for Income Tax. Some raised concerns about the need for quarterly interim reports, administrative burdens and adjusting to digital change.

8. Applicable Guidance

8.1 Additional guidance and notices, which will provide information that supports the changes legislated for in this instrument, will be published on GOV.UK in due course prior to 6 April 2026.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A Tax Information and Impact Note covering this instrument will be published on the website at http://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins

Impact on businesses, charities and voluntary bodies

9.2 The impact on business, charities or voluntary bodies is that approximately 1.75 million unincorporated businesses and individuals with trading and/or property income over £30,000 will need to follow the rules for MTD for Income Tax, maintaining digital records of income and expenditure, and reporting summaries of this income and expenditure quarterly as set out in this instrument.

9.3 The legislation does impact small or micro businesses.

9.4 For many small businesses, MTD will improve the quality of record keeping, reducing the likelihood of mistakes (and attendant risk of unwelcome and costly HMRC compliance interventions), helping businesses to manage their cash flow more effectively.

9.5 Once businesses are familiar with the new process in this instrument it is expected to improve businesses' experience of dealing with HMRC as managing their tax affairs will be simpler.

9.6 There is no significant impact on the public sector.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 HMRC will monitor the impact of the changes introduced by this instrument periodically using information collected from its internal systems and processes, as well as regular engagement with affected stakeholder groups.

10.2 The instrument does not include a statutory review clause because the legislation relates to taxes, duties, levies or other charges and falls within the exemption in section 28(3)(a) of the Small Business, Enterprise and Employment Act 2015.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 This instrument is made under powers in Schedule A1 to TMA 1970, which is not yet in force. In making this instrument, HMRC relies on section 13 of the Interpretation Act 1978, which provides that those powers may be exercised at any time after the passing of Schedule A1, so far as may be necessary or expedient for the purpose of giving full effect to Schedule A1 when it comes into force.

12. European Convention on Human Rights

12.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").