

**Draft Income Tax (Digital Requirements) (Amendment) Regulations 2024 -Technical consultation  
Response from the Low Incomes Tax Reform Group (LITRG)**

**1. Executive Summary**

- 1.1. We are pleased to provide comments on The Income Tax (Digital Requirements) (Amendment) Regulations 2024 ('the amended regulations') and accompanying Notices via this technical consultation. These regulations amend the Income Tax (Digital Requirements) Regulations 2021 and implement the findings of the Small Business Review and also other MTD design changes announced over the last 12 months or so.
- 1.2. The Small Business Review concluded that from April 2027 a turnover threshold of over £30,000 for mandatory compliance with MTD for Income Tax would remain for the time being. As the threshold relates to *annual turnover* and not *annual profit*, some businesses will have turnover of over £30,000 but still have low profits, and potentially not be liable to income tax or national insurance at all. These businesses will still be in scope from April 2027. Indeed, some businesses with turnover of over £50,000 will still be making only modest profits but will be in scope of MTD from April 2026. Therefore we would stress that the scope of MTD as it currently stands will still include some small businesses who are not currently using technology to any great degree, if at all. This must be borne in mind throughout all the remaining development and implementation phases of the project.
- 1.3. HMRC must be prepared to offer significant direct taxpayer support through various channels during the early years of MTD, and they must ensure that the support model is properly tested and fit for purpose by April 2026. If there are technical issues upon the April 2026 launch then this may result in a lack of confidence in the new system and unrepresented taxpayers may become disengaged.
- 1.4. Regulation 3 does not seem to require digital links within functional compatible software, as is the case with Making Tax Digital for VAT. Does this mean there will be no similar requirement for MTD for Income Tax?
- 1.5. The interaction of Regulation 4 (digital start date) and Regulation 21 (income exemption) can be complicated as we discuss in section 4.2 below. In view of this, we are concerned that the regulations include no express formal requirement for HMRC to notify the taxpayer that they must comply with MTD with effect from a particular date, and we would like to see an amendment to include this. This would give the taxpayer certainty over when they need to begin to comply with

MTD and provide protection against penalties which might accrue without the taxpayer's knowledge.

- 1.6. In the draft Update Notice under Regulation 8 urgent clarification is required regarding the requirements under the heading 'Business expenses - allowable and disallowable' (and similarly for property expenses). If the quarterly updates now need to distinguish between allowable and disallowable expenditure, this makes the updates more complicated and onerous for the unrepresented taxpayer than was envisaged by the previous version of the Notice if they do not qualify to use the '3 line accounts' option. Also, in our view further detail should be included in the Notice (see section 4.8 below)
- 1.7. In view of the removal of Regulation 23 (election not to be exempt) we assume voluntary compliance with MTD for those who are automatically exempt due to income levels is provided for elsewhere. We would be grateful for confirmation of where this is dealt with.
- 1.8. A further specific area we remain concerned about is how the MTD process will interact with the trading and property income allowances (see paras 5.2-5.4 below). We would like to see the regulations allow for any taxpayers intending to claim the property allowance or trading allowance to not be required to return their expenses under MTD – otherwise the simplification offered by these allowances is lost.
- 1.9. There appears to be a lack of clarity as to when and how taxpayers are to provide the necessary information that would have otherwise been given within the EOPS. It is important that HMRC publish more detail on this as soon as possible.

## **2. About Us**

- 2.1. The Low Incomes Tax Reform Group (LITRG) is an initiative of the Chartered Institute of Taxation (CIOT) to give a voice to the unrepresented. Since 1998, LITRG has been working to improve the policy and processes of the tax, tax credits and associated welfare systems for the benefit of those on low incomes. Everything we do is aimed at improving the tax and benefits experience of low-income workers, pensioners, migrants, students, disabled people and carers.
- 2.2. LITRG works extensively with HM Revenue & Customs (HMRC) and other government departments, commenting on proposals and putting forward our own ideas for improving the system. Too often the tax and related welfare laws and administrative systems are not designed with the low-income user in mind and this often makes life difficult for those we try to help.
- 2.3. The CIOT is a charity and the leading professional body in the United Kingdom concerned solely with taxation. The CIOT's primary purpose is to promote education and study of the administration and practice of taxation. One of the key aims is to achieve a better, more efficient, tax system for all affected by it – taxpayers, advisers and the authorities.

## **3. Introduction**

- 3.1. It is now over a year since it was announced<sup>1</sup> that the introduction of Making Tax Digital for Income Tax (MTD) would be delayed until 6 April 2026 for those with gross income of over £50,000 and until 6 April 2027 for those with gross income of over £30,000. It was further announced that the government would review the MTD requirements for smaller businesses with gross income below the £30,000 threshold, which came in the shape of the Making Tax Digital Small Business Review ('the Small Business Review').
- 3.2. LITRG was supportive of the decision to delay the introduction of MTD and welcomed the Small Business Review<sup>2</sup>. We were also pleased to be able to have the opportunity to input into the Small Business Review throughout the first half of 2023.
- 3.3. We now welcome the opportunity to provide comments on the draft Income Tax (Digital Requirements) (Amendment) Regulations 2024 ('the amended regulations') and accompanying Notices via this technical consultation. The regulations implement the findings of the Small Business Review and also other MTD changes announced over the last 12 months or so.
- 3.4. Our detailed technical comments are set out in section 4 below, but firstly we would like to reiterate some more general comments about MTD for Income Tax, some of which were raised in our response to the original consultation on draft Notices in July 2022.<sup>3</sup>
- 3.5. The Small Business Review concluded that from April 2027 a turnover threshold of over £30,000 for mandatory compliance with MTD for Income Tax would remain for the time being, although this is subject to ongoing review. This means that the smallest businesses are not going to be required to comply with MTD for at least several years yet, if at all. This can lead to the conclusion that MTD will not now affect relatively small businesses. However as the threshold relates to *annual turnover* and not *annual profit* we believe such a conclusion would be a mistake as many businesses can have turnover of over £30,000 pa but still have low profits, and potentially not even be liable to income tax or national insurance at all. Indeed, some businesses with turnover of over £50,000 pa will still be making only modest profits. We are concerned at the lack of certainty the decision of the small business review gives those with turnover under £30,000 and those who support them.
- 3.6. It might be helpful to profile the businesses who will be mandated into MTD in April 2026 and April 2027 respectively according to profit levels if this has not already been done so there is more clarity as to what the size of the businesses are that are currently subject to mandation. This should include data about whether these businesses are represented or unrepresented. But we would stress that in our view the scope of MTD as it currently stands will still include some businesses who are not currently using technology to any great degree, if at all and who will require significant support from

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<sup>1</sup> Ministerial statement 19 December 2022.

<sup>2</sup> See [Press release: Digital reporting delay provides time for rethink on thresholds and mandation | Low Incomes Tax Reform Group \(litrg.org.uk\)](#)

<sup>3</sup> <https://www.litrg.org.uk/latest-news/submissions/220812-making-tax-digital-income-tax-draft-tertiary-legislation>

HMRC to comply with their obligations. This must be borne in mind throughout all the remaining development and implementation phases of the project.

- 3.7. In our view it is quite likely that many of these kinds of businesses (including tradesmen, small local shops, seasonal businesses such as cafes etc) will be unrepresented and trying to navigate their MTD obligations themselves. Alternatively, they may have an adviser who currently deals with their annual self assessment obligations but who they may not want to engage to deal with their quarterly update obligations under MTD due to the additional costs they would incur and so they will deal with these themselves. Therefore although HMRC are clearly relying heavily on tax agents to help deliver and support MTD, HMRC must still be prepared to offer significant direct taxpayer support through various channels during the early years of MTD, and they must ensure that the support model is properly tested and fit for purpose by April 2026. If there are technical issues upon the April 2026 launch then this may result in a lack of confidence in the new system and unrepresented taxpayers may become disengaged. In particular detailed and effective guidance must be available on GOV.UK and easily accessible.
- 3.8. Also, while the income threshold remains ‘under review’ there is a lack of certainty for those with turnover under £30,000 (and those who support them) as to whether they need to prepare for any eventual mandation into MTD . This is not very satisfactory and we urge the government to make a final decision for this group of taxpayers public as soon as possible.<sup>1</sup>
- 3.9. With regard to digital records, some of these types of businesses may also challenge HMRC’s assumption that businesses will maintain digital records in software that enables the full end-to-end MTD journey to be dealt with within it. We believe it is possible they will keep their digital records in either spreadsheets or basic (and therefore cheaper – or possibly free) commercial software. Both these options will give more limited functionality than more sophisticated products. For example, it may be that they are limited to just being able to submit quarterly updates, either through the commercial software or using bridging software. Therefore we want to stress the importance of HMRC continuing to develop their Submission Service to ensure there will be a straightforward way of linking information such as quarterly update details between commercial products and the HMRC service to enable these taxpayers to meet all their MTD obligations and eventually file their tax return.

#### **4. Comments relating to the amended Regulations and Notices**

##### **4.1. *Regulation 3 – Use of functional compatible software***

- 4.1.1. Neither this Regulation nor the Software Notice seem to mention a requirement to have digital links within functional compatible software, as is the case with Making Tax Digital for VAT. Does this mean there will be no similar requirement for MTD for Income Tax?

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<sup>1</sup> See press release <https://www.litrg.org.uk/latest-news/news/231124-press-release-hmrc-must-mitigate-burden-digital-tax-reporting-smallest>

- 4.1.2. Also, the Software Notice contains terms that are not everyday terms and may be unfamiliar to many in this context, such as ‘transfer, recapture or modification’ of a digital record. It also distinguishes between manual and digital actions, and it might not always be clear which actions are classed as digital and which are classed as manual. These terms/actions need to be defined in this Notice for the avoidance of doubt.
- 4.2. *Regulation 4 -Digital start date*
- 4.2.1. When this Regulation is considered alongside the threshold test set out in Regulation 21 (income exemption) it raises concerns as to whether the resulting timescales are actually practical in some cases.
- 4.2.2. For those trading when MTD goes live, their 2024/25 tax returns form the basis of their potential mandation into MTD from 6 April 2026. Clearly the lead time they have to get ready for MTD depends on when their 2024/25 tax return is filed, which in most cases will be 31 January 2026 at the latest. Hopefully, the ‘go live’ publicity will have made most mandated people aware that they need to be MTD ready by 6 April 2026 anyway, and also GOV.UK says HMRC will write to those who are mandated beforehand too.<sup>1</sup> Therefore although the timescales are tight they are potentially achievable for this initial cohort.
- 4.2.3. However, when a new business starts up, their first period’s income will not be confirmed until they submit their tax return for the tax year in which they first start trading. This could be as late as 31 January before their potential MTD start date on the following 6 April, which gives only a short period to get MTD ready, i.e. to choose software, get it set up and learn how to use it etc, on top of the pressure of trying to develop a new business.
- 4.2.4. But in some circumstances the window for getting prepared for MTD could be even smaller than this. For example, someone starts a self-employed business on 1 June 2026 and notifies HMRC that they have started a self-employment in September 2027. HMRC issue a notice to file a tax return for the 2026/27 tax year in November 2027, and so the filing date for the tax return is in February 2027. This really gives very little time at all to get MTD ready.
- 4.2.5. Further, as Regulation 21(6) requires turnover to be annualised when considering the income thresholds, it might still not be immediately clear, even after submitting their first tax return, that they are mandated into MTD from the following 6 April, if their actual turnover shown on the tax return is less than the threshold due to it being for a period of less than 12 months.
- 4.2.6. In view of these complicated scenarios and short timeframes, we are concerned that the regulations include no express formal requirement for HMRC to notify the taxpayer that they must comply with MTD with effect from a particular date. This would give the taxpayer certainty over when they need to comply with MTD and also some protection against being at risk of accruing penalties in the background for inadvertently missing their digital start date. This is in contrast to the existing situation where late filing penalties are impossible without a notice under s8 Taxes Management Act

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<sup>1</sup> <https://www.gov.uk/guidance/check-when-to-sign-up-for-making-tax-digital-for-income-tax>

1970, which currently provides a certain level of protection to taxpayers (albeit they are likely to suffer a failure to notify penalty if the tax is not paid on time).

4.2.7. Finally, for clarity, for businesses commencing on or after 6 April 2025, should this Regulation specify that it is the first time that the taxpayer receives a s8 notice to file that triggers the digital start date, ie para 4(2)(b) should read 'is *first* required to make or deliver a return under section 8....'?

#### 4.3. *Regulation 6 – Digital records*

4.3.1. We are concerned that the terminology used in this Regulation makes the requirements of a digital record unclear. The term 'financial information' needs to be defined. Also, the terms 'received' and 'incurred' used in Regulation 6(1)(c) are confusing unless they are specifically defined for this purpose. Using the term 'received' in the context of income generally implies cash basis accounting whereas the term 'incurred' in the context of expenses generally implies the accruals basis of accounting. Mixing terms like this causes confusion. How the amounts and dates of income/expenses are recorded as part of your financial information surely depends on which accounting basis you are using, so they will either be recorded according to when earned/incurred under the accruals basis or according to when received/paid under the cash basis. The Regulations need to define key terms for the avoidance of doubt and they should not be ambiguous. Good guidance can then be provided to support and expand upon the definitions in the Regulation, with examples as necessary.

#### 4.4. *Regulation 7 – Quarterly updates*

4.4.1. We note the filing deadlines for quarterly updates are 5 August, 5 November, 5 February, 5 May respectively. We understand consideration is being given to aligning this with the VAT deadline of one month and 7 days after the end of the VAT period, so the due dates become 7 August, 7 November, etc. We would strongly recommend that this is done to avoid potential confusion between VAT return deadlines and MTD quarterly update deadlines. This would mean that VAT registered businesses could choose to align their VAT quarters with their MTD quarters to significantly simplify their overall ongoing tax compliance obligations.

#### 4.5. *Regulation 20 – Digital exclusion and NINO exemption*

4.5.1. It is not clear from the wording of this Regulation whether someone who has been allocated a temporary national insurance number, such as a foreign national, would be exempt from MTD under this Regulation until they receive a permanent NINO. We would expect the Regulation to cover this situation so suggest it should be amended to deal with circumstances like this.

#### 4.6. *Regulation 21 -Income exemption*

4.6.1. The current wording of Regulation 21(3)(b) remains difficult to understand. In particular we are not clear how this applies where someone notifies their chargeability to tax late and so is issued with a notice to file a tax return which has a filing due date AFTER both 31 January and the start of the next tax year. For example, suppose a taxpayer fails to notify HMRC that they started a new business in

June 2025 until December 2026 (i.e. after the notification deadline of 5 October 2026) and so a s8 notice to file a tax return for the 2025/26 tax year is not issued until February 2027. This tax return will have a filing due date of 3 months after the date of issue, so May 2027. Does this Regulation mean that this taxpayer would be exempt from MTD from 6 April 2028 (being the start of the next tax year following the filing deadline of May 2027) provided their qualifying income for the 2025/26 tax year was £30,000 or less? But what about the 2026/27 tax year – would they be exempt or not? We suggest further re-wording is considered to improve understanding, particularly in relation to late notification cases.

- 4.7. *Regulation 22 – Income exemption: person to whom the digital requirements have applied for three tax years*
- 4.7.1. We are aware that locking someone into MTD for three tax years once their income level falls below the income exemption threshold for all those years is currently being re-considered. We think this 3 year period is too long and would encourage an amendment to the Regulation for this. We think a taxpayer should be able to come out of MTD once their income for the previous tax year is below the income exemption threshold unless they know their income will exceed the threshold again in the coming tax year (in a similar way to how VAT deregistration works). An alternative might be to exempt them for the requirement to submit quarterly updates during the 3 year lock-in period.
- 4.7.2. If the taxpayer finds the MTD process efficient and useful and it generates some of the benefits HMRC believe it will, then they may decide to continue to use it even if strictly they are exempt under this Regulation. Therefore consideration needs to be given as to how the exemption could be disapplied, particularly in light of the removal of Regulation 23 (see paragraph 5.1 below).
- 4.8. *Update Notice – made further to Regulation 8*
- 4.8.1. In our view, it is not clear from this Notice exactly what is required with regard to expense information as the heading for the expenses column is ‘Business expenses - allowable and disallowable’ with similar wording for the various property expenses columns. Does this mean the total amount of expenditure (i.e. both allowable and disallowable, if any) must be reported in the quarterly update, or is it necessary to distinguish between what is allowable and what is disallowable, so figures for both the allowable amount and any disallowable amount must be reported for each category of expenditure? If the latter is the case, then this makes the updates more complicated and onerous for the unrepresented taxpayer than was envisaged by the previous draft of the Notice if they do not qualify to use the ‘3 line accounts’ option.
- 4.8.2. In our original submission to the consultation on the draft Notices in July 2022 we made several observations regarding the additional details that we thought should be included in this Notice, such as whether the quarterly updates have been prepared on a cash basis or an accruals basis (not least because this is likely to affect what information they may need to provide in their update, for example in the category ‘cost of goods bought for resale or goods used’), how unrepresented

taxpayers will work out the interest element of bank loan and credit card repayments and some issues specifically relevant to CIS subcontractors.<sup>1</sup> These all still seem to be relevant.

- 4.8.3. Also, as we have previously explained<sup>2</sup>, many self-employed individuals currently make use of the simplified expenses regime when completing their tax returns, particularly with regard to motor expenses. This does not appear to be taken into account in quarterly updates, but we think it should be now the EOPS stage has been abolished.
- 4.8.4. With regard to the requirements for property income quarterly updates, we again refer to the points made in our previous submission on this area as they remain relevant.<sup>3</sup>
- 4.9. *Joint property owners Notice – made further to regulations 6 & 8*
- 4.9.1 The notice suggests that a relevant person must only include their share of income and expenses ‘when appropriate’ under both the heading ‘Digital record-keeping’ and ‘Quarterly update information’. We do not believe this first bullet point is necessary under the ‘Quarterly Update Information’ section as it is clearly stated in subsequent bullet points that it is the owners share of income/expenses that is relevant.
- 4.9.2 Under ‘Digital record-keeping’ it is stated that “one digital record for each category of income and expenses” can be created. We assume this refers to the categories required to be reported in the quarterly updates as set out in the Update Notice and should be grateful for confirmation of this. Also we note the terminology used under this heading includes references to income received and expenses incurred. Therefore our comments in paragraph 4.3.1 above are relevant here too.
- 4.9.3 Under the heading ‘Quarterly update information’, it is explained that taxpayers have the option to provide the details of their share of property expenses “before they deliver a return under section 8...” – this provides no mention as to the form in which these details must be provided. We assume further details as to how this is to be done will be announced in due course. It would be helpful if the Notice covered this too.
- 4.9.4 The Notice does not explain some key details such as whether a specific election is required to use the simplified reporting permissible under the notice and/or whether it is possible to vary the basis of digital record keeping/reporting year on year. We think these aspects should be covered in this Notice.

## 5. **Other related matters now arising**

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<sup>1</sup> See paras 4.1.1-4.1.8 in our response: [220728 LITRG response - Tertiary legislation - MTD for ITSA.pdf](#)

<sup>2</sup> See para 4.1.11-4.1.12 in our response: [220728 LITRG response - Tertiary legislation - MTD for ITSA.pdf](#)

<sup>3</sup> See section 4.2 of our response: [220728 LITRG response - Tertiary legislation - MTD for ITSA.pdf](#)



- 5.1. We note that Regulation 23 (election not to be exempt under regulation 21 or 22) has been removed as part of these amendments. Our understanding was that this Regulation provided for those with income under the income exemption level to join MTD voluntarily nonetheless. In view of the removal of this Regulation we assume voluntary compliance with MTD for those who are automatically exempt due to income levels is provided for elsewhere and we should be grateful for confirmation of where this is dealt with.
- 5.2. A further specific area we remain concerned about is how the MTD process will interact with the trading and property income allowances. The trading and property income allowances were originally introduced to simplify tax matters for those to whom they are relevant, and they only require the taxpayer to keep records of income, but not expenses. Taxpayers who claim the trading and/or property allowances against their income (rather than their actual expenses) could be within the scope of MTD for ITSA and therefore be required to submit MTD quarterly updates. For example, the kind of scenarios that may arise include taxpayers with the following income profiles:
- self-employed income with turnover of say, £35,000 (and so mandated into MTD from 6 April 2027) and property income of say, £4,000, against which they claim the property allowance on their tax return.
  - self-employed income with turnover of say, £28,000 and property income of say, £4,000 (and so mandated into MTD from 6 April 2027 by virtue of the combined turnover of £32,000). The property allowance is claimed against the property income on their tax return.
  - property income of say, £25,000 and self-employment income of say, £7,000 (and so mandated into MTD from 6 April 2027 by virtue of the combined turnover of £32,000). The trading allowance is claimed against the self-employment income on their tax return.
- 5.3. In these circumstances taxpayers will be required to send details of their expenses to comply with the MTD requirements even though they will be claiming the trading/property allowance when they complete their tax return and so are not required to keep details of expenses.
- 5.4. In view of this we suggest that the Regulations allow for any such taxpayers to only make a return of income in their quarterly updates and not expenses.
- 5.5. Following the removal of Part 4 of the regulations there appears to be a lack of clarity as to when and how taxpayers are to provide the necessary information that would have otherwise been given within the EOPS. Whilst we are supportive of these measures as a simplification, we are concerned that it is not now clear how the various adjustments to profit will be made. It is important HMRC publish more detail on this as soon as possible.

LITRG  
12/01/2024