

**Reporting rules for digital platforms – HMRC consultation
Response from the Low Incomes Tax Reform Group (LITRG)**

1 Executive Summary

- 1.1 We are pleased to respond to this consultation which sets out the details of the new OECD rules and seeks views on the UK's proposed implementation of the rules, including the optional/discretionary elements.
- 1.2 As tax professionals with extensive experience of assisting individuals on low incomes manage their tax affairs, we offer some high-level comments about the potential impacts of the proposed implementation of the rules on those we represent.
- 1.3 In this context, we are particularly interested in the subset of people who make money by providing their services in the gig economy such as food delivery, couriers, drivers etc. Their activities can generate levels of income which can create income tax and/or National Insurance liabilities, but they can struggle with Self Assessment compliance given the difficulties that can exist as a matter of economic reality for them.
- 1.4 Until now, there has been a minimalist approach to helping such workers with their tax from the platforms. However, we note the new model rules mean that from January 2023, most platforms (other than excluded platforms) that facilitate the online selling of goods and services will have a responsibility to:

- Collect certain details about sellers, including information that identifies who the seller is, and where they are based.
- Report this and the seller's income for the calendar year just finished, to the relevant tax authority every year by 31 January,
- Pass a copy of the information onto the seller themselves.

- 1.5 HMRC say that 'implementing the OECD rules will allow the exchange of seller information with other tax authorities which will give HMRC quick, efficient and secure access to data on UK resident sellers and rental property in the UK from platforms based outside the UK'.¹ We caution that as platforms cannot determine UK tax residence properly (they can only capture where someone resides under the ordinary, natural meaning of the word not where they are 'resident' for tax purposes), HMRC may not actually receive the data they need, to help them meet this objective.
- 1.6 Provided HMRC put the data they *do* gather to best use, we think the new rules, in theory, have the potential to help tackle the problems identified of income not always being visible to tax authorities and taxpayers not always self-reporting. By best use, we mean that HMRC should use the information in a timely manner with the goal of encouraging tax compliance up front rather than to use the data to uncover mistakes further down the line. Leaving the information in abeyance for many years before acting at a much later stage is not helpful for anyone and could even mean that this initiative undermines taxpayer trust in HMRC.
- 1.7 However, we are concerned that the new rules will give people the impression that HMRC already know everything about their platform income. As such, some people might be tempted to not declare amounts if they think they have already been reported by platforms. HMRC will need to be clear where responsibilities lie and also help workers understand the significance of the information that is presented to them by the platforms so there is less chance they will do nothing with it.
- 1.8 Because we think the new rules will probably only offer a partial solution to the problems identified, we would urge the UK authorities to keep working in this space, including continuing to consider other options like withholding, and producing specific tailored guidance for workers and other targeted tools and resources. Crucially, HMRC will need to help taxpayers understand that they still have a responsibility to check for income not captured on any statement they receive.
- 1.9 HMRC will need to be adequately resourced to deal with the all issues that could arise from the introduction of these rules (see 1.12 for example). Additionally, with our eye – as ever – on the practicalities, we raise some other points around issues and impacts we have identified with HMRC's proposed implementation of the rules.
- 1.10 For example, it is evident that the new rules place onerous requirements on platforms. The exclusion threshold of €1 million therefore represents a significant cliff edge and could be at risk of

¹ Para 1.9 - <https://www.gov.uk/government/consultations/reporting-rules-for-digital-platforms/reporting-rules-for-digital-platforms-consultation>

exploitation if platforms are close to the threshold and want to avoid these obligations. We also think that the operational cost for platforms in complying with the new burdens put on them are likely to ultimately be passed on to workers, which could result in some of them moving 'off platform' to sell their goods and services¹.

- 1.11 Platforms will also not be required to report 'excluded sellers' income to HMRC – however people who make less than 30 sales totalling less than €2,000 in a particular period could still be trading and vice versa.
- 1.12 We think the new rules have the potential to throw up a number of cases where there has been inadvertent under-reporting of income (due to the use of apps which may be pulling the incorrect income figures from people's bank accounts) and historic non-compliance – in particular, regarding UK resident migrants and rental income from foreign properties. HMRC need to consider carefully, and pragmatically, how to deal with these issues.
- 1.13 We consider that National Insurance numbers appear to be the obvious solution to the TIN question, though we note that these are not universal. Making platforms use a Unique Taxpayer Reference (UTR) as the TIN could be problematic, as it could leave people at risk of not being able to work (not everyone will have a UTR at the point they start work) or becoming entangled in the Self Assessment system unnecessarily, for example if their income is completely covered by the trading allowance.
- 1.14 In terms of a Government Verification Service (GVS), because some gig workers will be migrant or transient and may not be able to get through the Government Gateway (and because, even if they can, there is often an accumulation of address data on standalone systems within HMRC), we are concerned that some people will not be able to get verified quickly and easily. Steps must therefore be taken to mitigate any impacts on particular groups.
- 1.15 The reporting deadline of 31 January following the calendar year end is problematic for workers in the context of the UK's tax year end on 5 April. The introduction of Making Tax Digital for Income Tax Self Assessment (MTD for ITSA)² in April 2024 – which will require some people to report income and expenses to HMRC each quarter – and basis period reform³ (if it goes ahead) will likely make this even more so. HMRC should require platforms to provide information to workers monthly or quarterly and should ensure that the requirement is formally underpinned in order to provide certainty to workers.
- 1.16 The new rules mean that some workers may feel the need to use an accountancy service to help manage their taxes (especially where an international tax angle has the potential to surface), which

¹ Income that might previously have been received in a digital setting might now be received as cash in hand for instance, which could undermine the policy intention.

² <https://www.gov.uk/government/publications/extension-of-making-tax-digital-for-income-tax-self-assessment-to-businesses-and-landlords/extension-of-making-tax-digital-for-income-tax-self-assessment-to-businesses-and-landlords>

³ <https://www.gov.uk/government/publications/income-tax-basis-period-reform>

will obviously come at a cost to them (albeit a necessary one). To limit **unnecessary** costs accruing for taxpayers, HMRC need to *intelligently* use the data they have before issuing nudge letters or enquiries. We would have thought there was significant scope for the data to throw up ‘false positives’ due to the fact that reliefs and allowances may be available and that the source data may not be easily reconciled to aggregate figures reported on a tax return.

- 1.17 We are also concerned about the potential for this data to be used for other purposes. Although not specifically mentioned in the consultation document, we would caution against using this data automatically for other purposes, such as UC because it does not provide a full picture of income (for example as defined under the UC regulations)¹.

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 Background comments

- 3.1 As tax specialists with expertise in tax and related issues affecting the low-paid, LITRG welcomes any changes that help people, especially those in the gig economy, navigate their tax affairs easily and accurately.
- 3.2 Platforms provide many people with the opportunity to make some money who might otherwise struggle to find work. The gig economy in particular, is a big economic phenomenon that has expanded quickly in recent years.
- 3.3 However, many people are at best confused and at worst completely unaware of their tax obligations especially when participating in the gig economy. Most people understand little about

¹ <https://www.legislation.gov.uk/ukdsi/2013/9780111531938/contents>

our tax system. Historically there has hardly been any consistent tax education; even now, tax education is variable. The PAYE system then usually steps in when people enter the workforce, discouraging employees from engaging with their tax affairs. People often have no tax antennae when it comes to recognising taxable income – especially where the amounts involved are very small, or a secondary source of income.

- 3.4 We recognise that not everyone in the gig economy is in this position. Some who are higher paid, providing freelance IT services, copywriting or tutoring for example are, in our experience, likely to have established businesses, will already be in Self Assessment and lay outside our immediate area of concern.
- 3.5 On the other hand, however, there are workers, such as food delivery, couriers, drivers etc, where activities can generate levels of income which can create income tax and/or National Insurance liabilities, for whom the complex Self Assessment (SA) system means they can easily fall into non-compliance. It is mainly on behalf of these workers that we are responding to this consultation, although the same points apply to other low-income workers who set up in the sharing economy – for example selling crafts.
- 3.6 SA is daunting for many people – and probably even more so for low-paid gig economy workers who may be young and inexperienced, may not have good English or may have lower levels of literacy or numeracy skills. This can mean that some workers do not have a good grasp of UK tax and may not have the confidence they need to navigate the system.
- 3.7 At the same time, having undertaken some basic online research, we can see that many online platforms do not really help people with tax at all, restricting themselves to providing signposts about checking with an accountant or financial advisor regarding the tax implications. This is particularly unhelpful to the low-paid because often they do not already have such an adviser in place and/or cannot afford one (or do not think they can afford one).
- 3.8 Other online platforms provide help by setting up ‘community’ forums where users can share information or solicit advice, including about tax matters. In such spaces however, there is no control over the accuracy of the content and so individuals could easily be misled by incorrect information posted in good faith by another user. Even where the information provided is correct, there are often multiple messages and/or ‘information overload’. For people unfamiliar with what to look for, it could be hard to pick out the objective and reliable information in all of the user-generated content.
- 3.9 In many ways this is to be expected – platforms are commercial businesses, and they want to concentrate on helping people run and develop their activity (which is how they themselves make their money), not helping people get to grips with tax.
- 3.10 However, these factors (and others, as set out in our response to the 2018 HMRC call for evidence in ‘The role of online platforms in ensuring tax compliance by their users’¹) have many ramifications for

¹ <https://www.litrg.org.uk/sites/default/files/180608-LITRG-response-online-platforms-FINAL.pdf>

workers. For example, they may not realise they need to register for income tax in the first place, given the irregular and often 'on demand' nature of the income, leaving themselves open to action and penalties from HMRC. Furthermore, where SA tax returns should be filed but are not, workers can find themselves in significant debt very quickly. This can turn into a life-changing situation, including bankruptcy in some cases, if HMRC pursue collection and the worker cannot pay and/or does not engage with HMRC to resolve the issues arising. Ultimately this can threaten workers' livelihoods and cannot be good for long-term sustainable growth of the sector.

- 3.11 Taking all of this into account, we have said for a long time the government needs to think more strategically about how to tax workers in the gig economy and consider other potential approaches. Indeed, we have said previously that one option might be to ask certain gig economy platforms to operate something akin to the construction industry tax deduction scheme to help workers better manage their taxes¹.
- 3.12 It is therefore positive that the government is implementing the OECD model rules, which seek to ensure that tax authorities and taxpayers get timely access to high-quality and relevant information on the money earned by platform sellers, in order to enhance compliance and minimise compliance burdens for tax administrations and taxpayers alike.
- 3.13 While we can see the rules should help make sure that more people are aware of their obligations and how to meet them, we highlight some potential issues and challenges for HMRC in implementing them. In addition, as our concerns are about the practicalities of new measures such as these, we make some other points and observations around the implementation of the rules, that we think should be considered as part of this overall process.
- 3.14 We have not answered questions where we believe we cannot really provide any constructive insight, namely 4 and 10.

4 Questions

4.1 Question 1

Do you agree with the government's proposals on excluding certain platform operators? Please indicate whether you think platforms would make use of the exclusions in practice and what factors might influence these decisions.

- 4.1.1 As acknowledged in the consultation impact assessment, the new rules will have a significant impact for digital platforms who will have to collect and verify information about sellers, something they may not currently do.

¹ We made this point most recently in our response to this APPG inquiry:
<https://appgentrepreneurship.org/sharing-economy>

- 4.1.2 HMRC can exclude certain platforms from the requirements and has proposed that those facilitating less than €1m of relevant services in the preceding 12 months are exempt. HMRC states that this will remove the administrative burden for small platforms.
- 4.1.3 However, we wonder whether the availability of an exclusion such as this, will lead to market fragmentation or other types of distortive behaviour so that platforms can stay below the relevant threshold, and thus, minimise their costs and obligations. Having an exclusion also risks undermining the policy objectives of making it easier for sellers to get their tax right and identifying and tackling evasion and non-compliance in respect of those sellers/workers who use the smaller platforms.
- 4.1.4 We think that, ideally, if the rules are implemented for certain types of economic activity, then they should be implemented across all platforms of a similar kind dealing with that activity in order to promote fairness, ensure the policy objectives are met and to prevent platforms potentially exploiting the differences.
- 4.1.5 We recognise that there is a balance to be struck and that onerous rules may discourage start-up platforms. Before making a final decision, we suggest that further work is carried out. HMRC should explore the administrative burdens for small platforms in more detail, to understand the full extent and costs of these and whether there are ways to reduce them. In addition, before a final decision is made, there should be a full understanding of what percentage of the seller/worker population are covered by the smaller platforms who would be covered under the exclusion rules.
- 4.1.6 If the excluded platform categories remain in the final policy proposal, then HMRC should consider what more they can do to work directly with smaller platforms to help their users meet their tax obligations.

4.2 *Question 2*

Are the definitions on the scope of the model rules sufficiently clear? Are there scenarios not anticipated by the rules where guidance is needed?

- 4.2.1 Under the rules, the tax authority that initially collects the data (the one where the platform is 'resident, incorporated or managed'), should exchange information with other participating tax authorities in the jurisdiction where the seller is 'resident' (where there is a difference).
- 4.2.2 The rules seem to conflate where someone resides under the ordinary, natural meaning of the word with where they are 'resident' for tax purposes. Although the two will usually be the same, they won't always be. For example, where you have a migrant worker into the UK for a short period – they may 'live' in the UK at the time they work for a UK platform, but actually they are tax resident in their home country. The UK platform will report the income to HMRC but how will HMRC know to pass the information to the jurisdiction in which the individual is tax resident if the individual has a

UK address when it is reported to them?¹ It would be technically incorrect for the worker to only pay UK tax on their UK platform earnings in this scenario because tax may also be due in the other country (with double tax relief in that country as appropriate).

- 4.2.3 We understand the rationale behind the requirement that platforms only collect/return information about the country in which the seller is 'resident' on the basis of their address (we do not believe that many platforms would be familiar with the concept of tax residence, let alone how to determine the residence status of any of their individual users, perhaps with the exception of a person who has always lived and worked in the UK).
- 4.2.4 However, this definition of the word 'resident' does seem to leave a potential gap for HMRC, as technical tax residence (certainly in the UK) considers all manner of other factors. For example, a UK national working abroad for a few months via a platform in that country, may 'reside' in the overseas location for the time being, but may be tax resident in UK and as such, have to declare their worldwide income here (with a credit given for any foreign taxes paid).
- 4.2.5 In our experience, the concept of tax residence and the obligations that come with it, is poorly understood. Yet it doesn't seem likely to us that the new rules will help change this. HMRC would probably not have access to data from the platform based outside the UK in order to be able to encourage compliance – the person is likely to be noted as resident in the overseas country by the overseas platform on the basis of their address, and the overseas jurisdiction is unlikely to know that the individual is UK resident for tax purposes in order to send the information to HMRC.
- 4.2.6 HMRC need to find another way of reaching this person to explain the reach of the UK system and their tax position or the rules need to be rethought in order to capture someone's tax residence more accurately. For example, perhaps it could be possible for the seller to self-declare their tax residence? We appreciate some people might get it wrong² (this may be inadvertent or not – it seems to us that there would be nothing to stop workers declaring a tax residence status that achieves the best outcome for them at the time), but overall, we think this would increase the accuracy of the assumption. At the very least it might also prompt people to consider their tax residence status if they had not done so already.

¹ Given there is no longer any 'arrival' documentation for migrant workers to complete (which we comment on in section 9 of our Tax Administration Framework response: <https://www.litrg.org.uk/sites/default/files/files/210712-LITRG-response-Tax-Administration-Framework-Review.pdf>) we are not aware that HMRC have anything in their own records that say when an individual is might actually be resident in another particular country.

² Deciding one's residence for tax purposes is not always straightforward. Of course there is the statutory residency test (SRT) in place since 6 April 2013 to help those with fewer than 183 days in the UK determine their position. It would be necessary to provide all workers with the HMRC Guidance Note RDR3: <https://www.gov.uk/government/publications/rdr3-statutory-residence-test-srt/guidance-note-for-statutory-residence-test-srt-rdr3>. There would also have to be other channels for assisting workers as this guidance is more than 100 pages long, some of the concepts are complex, and some individuals would not be able to understand it due to language difficulties and/or use it to make an accurate declaration.

- 4.2.7 It is also important that HMRC are aware that the definition of ‘consideration’ at paragraph 2.16 of the consultation may mean quite a lot of transactions aren’t captured – for example, where a seller is paid directly outside the platform, perhaps in cash, or where they are paid in kind or gifts.
- 4.2.8 Guidance for workers on these scenarios is needed so that they understand that these things *are* classed as income and that HMRC expects them to include cash/the monetary value of gifts etc. in their total income for the year when they do their tax return, and that they will not already be included in the figures provided by the platforms. (Workers will of course also need guidance on allowable expenses, to limit instances of workers thinking the income, per the statement, is the end of the story and overreporting.)
- 4.2.9 We also note that the platform will need to report to the tax authority and the seller the amount of ‘consideration’ (as after fees and commissions withheld from the platform), and then the fees and commission separately¹.
- 4.2.10 Some workers use apps and software that use open banking source code to allow the gathering of data from bank accounts. As such, the workers may have, until now, been counting the ‘amount paid to them’ per their bank account, which presumably, is the net amount – i.e. *after* any fees and commissions etc. – as their income figure.
- 4.2.11 Assuming the information on the statements is provided in a clear and understandable format, the new insight provided to workers by the statement could prompt confusion as to which figures are the correct ones when considering ‘income’. Previously, for example, people may have been comparing the net amount (per their bank statements) to the £1,000 trading allowance threshold, when actually, it should have been the gross. This will be very important when establishing whether someone has exceeded the turnover threshold of £10,000 and so needs to comply with the Making Tax Digital for Income Tax regime from April 2024.
- 4.2.12 The new rules may also highlight that mistakes have been made in the past, for example with expenses (where people may have been claiming the flat rate £1,000 trading allowance, against their already reduced net income). Given this unfortunate situation, it is natural to ask whether HMRC will offer reassurance to workers that enquiries or assessments for previous years would not automatically be triggered, following the introduction of these rules save, perhaps, where there is reason to suspect fraud or criminal behaviour².

¹As an aside, we wonder if the platforms will also need to report any other deductions made, for example, we are aware that some platforms charge if workers want to cash out their earnings before pay day.

² There is a precedent for this type of approach in the April 2021 changes to the off-payroll working rules where HMRC made a commitment that that they won’t use information acquired as a result of the changes to the off-payroll working rules to open a new compliance enquiry into returns for tax years before 2021/22, unless there is reason to suspect fraud or criminal behaviour.

4.3 *Question 3*

Is any additional guidance needed in light of the government's plans to adopt the extension of scope in its implementation of the model rules?

- 4.3.1 The government plans to adopt the extension to the sale of goods. In addition, the definition of 'excluded seller' has been extended to cover occasional sellers, who make less than 30 sales of goods during the reportable period totalling not more than €2,000. This means that the platform will not be required to report their income to HMRC – presumably on the basis that there is a low risk of such activity actually amounting to 'trading'.
- 4.3.2 In a similar vein to the points raised in para 4.2.9 onwards, the meaning of the €2,000 limit is not clear. At para 2.25 the consultation says 'total consideration paid or credited was not more than €2,000 during the reportable period' but is it the gross amount of income or the net amount (that is, the amount received by the worker after deductions for platform fees, commissions etc)?
- 4.3.3 It is important that HMRC are clear with sellers (see our comments to question 12 about ways that HMRC could reach workers) that even where they are not within scope of the new rules, because they are under the €2,000 threshold in a particular calendar year, they could still be trading and so still have an obligation to notify HMRC and complete a Self Assessment tax return.
- 4.3.4 For example, there could be smaller amounts of income on record because it is the beginning or end of their business, or they could be selling things they have bought or made specifically to sell on with a view to making a profit on a fairly regular basis, albeit on a small scale. This is particularly important given the mismatch between the €2,000 threshold and the trading allowance – that is, there will be some with taxable platform income above the trading allowance but whose income is not being reported by the platform. (And vice versa, even if people do exceed the threshold, they may still be selling things they do not need any more or because they want to clear some space which probably does not amount to trading even if they are within scope of the new rules.¹)

4.4 *Question 4*

Do you have any comments on how you would like the interactions of the model rules and DAC 7 to operate in practice?

- 4.4.1 No comments

¹ Although they may be subject to capital gains tax, many sales of personal items are exempt and in any case their capital gains may be within their annual exempt amount.

4.5 Question 5

Do you have any comments on the practical application of the rules on collecting the required information about sellers and rental property?

- 4.5.1 HMRC should be aware that the information collected on rental property located in the UK may highlight significant mismatches in terms of income generated versus transactions/activities which have been declared to HMRC (and not just because of the fees/commissions point above or the calendar year/tax year issue discussed later).
- 4.5.2 This is because of the rent-a-room scheme which allows homeowners to earn up to £7,500 a year tax-free from letting out furnished accommodation in their home.
- 4.5.3 Despite a government consultation several years ago¹ seeking views on cutting short-term holiday lets out of the scope of rent-a-room relief, we think it is possible that the relief is still being used when an entire property is let out (as opposed to just a room in a property), even though this was not the original intention behind rent-a-room relief. However, given that the government response to the consultation acknowledged that ‘the rules around what type of activity qualifies for [the relief] are not currently clear’² and that no clarification was made, it seems likely to us that some ‘entire house’ hosts using rent-a-room relief are likely to be doing so under the belief their situation is covered.
- 4.5.4 In terms of rental property outside the UK, in our experience, there is an unfortunate misconception amongst foreign nationals living in the UK, that property income from a property in their home country is only taxable in the jurisdiction in which the property is located. Although this is intuitive, it is probably incorrect.³ They may well have to pay tax on it here in the UK (and then deal with the double taxation if they have also paid tax in the other location).
- 4.5.5 Once these proposals are implemented, HMRC will have a huge amount of information available about rental income from overseas jurisdictions to cross reference. Such an exercise is likely to

¹ <https://www.gov.uk/government/consultations/rent-a-room-relief>

² Response document, page 3:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/723126/rent_a_room_relief_summary_of_responses_web.pdf

³ Most double tax treaties say something like ‘Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State’. If someone is resident in the UK and has property income arising in another country, this means that both countries can tax the income – with the country of residence (UK) then giving a foreign tax credit. It would be different if the wording said ‘Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State **shall only** be taxed in that other State’ – in which case the income would be exempt from UK tax.

identify some historic non-compliance, as well as some ‘worried well’¹. HMRC will need to consider their response to these situations carefully. In particular they will need capacity to deal with contact from those affected and the ability to explain the technical situation correctly to them.

4.6 Question 6

Which number, or combination of numbers, would be appropriate to use as a Tax Identification Number (TIN)? Please give reasons to support your view.

- 4.6.1 To ensure the accurate transmission of data, platforms and tax authorities need a way to identify taxpayers. HMRC’s consultation acknowledges that there are four potential tax identification numbers (TINs) for UK resident sellers (unique taxpayer reference, national insurance number (NINO), company registration number, VAT registration number), each with advantages and disadvantages.
- 4.6.2 Most low-income workers in the gig economy, won’t have VAT or company registration numbers.
- 4.6.3 Of the two remaining numbers, we would have thought NINO would suffice as the default – it should be unique to the individual and should not change throughout their life once allocated; it underpins key administrative processes associated with filing, payment, assessment, and collection and we would have thought that most people using platforms to generate income from physically performing services in the UK will have one² (unless they are completely undocumented).
- 4.6.4 Given the prevalence of scams, there is, of course, a risk that third parties legitimately collecting NINOs could be hijacked by fraudsters to obtain personal data under false pretences and the platforms would need to make sure the data was secure. If concerns remain about the ability of platforms to keep data secure, perhaps by meeting minimum standards of security, then we agree the suggestion in para 3.16 of the consultation (a new verification service which could be used to generate a bespoke code that could be used as a TIN) would be an appropriate alternative providing the issues we identify in 4.8.2 below could be overcome.
- 4.6.5 For those that do not have a NINO (as opposed to can’t find it), which we think would be rare but could include some foreign nationals who do not work but who have rental income for example, then a Unique Taxpayer Reference (UTR) could be requested. Hopefully they already have one as

¹ There are a number of reasons that a person may not need to pay tax in the UK on their overseas rental income: <https://www.litrg.org.uk/latest-news/news/191011-migrant-workers-uk-are-you-receiving-rental-income-property-your-home>

² If you are born, live and work in the UK, you usually get your National Insurance number (NINO) automatically at age 16, however HMRC should be aware that as this is connected to a child benefit claim having been made, there will be an issue with non-issuance of NINOs in the future as some parents do not claim child benefit because of the high income child benefit charge. Other categories of people (e.g., migrants working in the UK) can apply for a NINO: <https://www.gov.uk/apply-national-insurance-number>

they probably meet the SA criteria, even if they don't qualify for a NINO – and if they don't then they can apply for one via the SA1 form (although there may be a delay in receiving it). There will be a few who legitimately have no NINO or UTR who might receive platform income in the UK (e.g., their only source of income is a small amount of income within the property allowance or rent-a-room limit), for whom a workaround will need to be put in place¹.

- 4.6.6 We do not think that platforms should request a UTR for those with NINOs automatically. It is not a given that people will already have one, as in Self Assessment there is often a delay in receiving a UTR due to the fact that the deadline to notify HMRC that someone has started to trade is not until 6 months after the end of the tax year in which the taxable activity starts. The request for a UTR up front could lead to people getting themselves entangled in the complex Self Assessment system where they don't need to (for example, because they are selling personal items or have only a small amount of income which is covered by the trading allowance or property allowance).

4.7 *Question 7*

Do you have any comments on the practical application of the rules for collecting and verifying the data?

- 4.7.1 Under the new rules, there will be due diligence procedures to be followed by platform operators to identify the sellers and determine the relevant jurisdictions for reporting purposes.
- 4.7.2 The requirements seem complicated and potentially administratively time consuming for platforms. Some costs will be involved for platforms, and we think it is possible that these costs will be passed on to the worker in the form of higher fees and commissions, rather than be absorbed by the platform.
- 4.7.3 Low-income workers are probably treated as self-employed by the platform², and thus do not have the protection of the minimum wage rules for example and given their often 'subordinate and dependent' relationship with the platforms³, are unlikely to be in a position to insist on higher gross pay rates to compensate for this. So, the government need to be aware that the effect of the new rules could be to impact the income of some of the lowest paid and most vulnerable workers in society, which will have consequences and knock on effects (for example, in terms of increased

¹ We recognise the suggestion in para 3.16 of the consultation (a new verification service which could be used to generate a bespoke code that could be used as a TIN) could potentially help address this.

² Gig workers are most likely to be categorised as self-employed by default even if they are actually 'limb (b) workers' for employment law purposes, although the recent Uber decision could open the door for people in the gig economy to challenge this: <https://www.supremecourt.uk/press-summary/uksc-2019-0029.html>

³ See comments in the Uber judgement: <https://www.litrg.org.uk/latest-news/news/210311-curious-case-worker-status-and-statutory-sick-pay>

reliance on welfare benefits or workers moving 'off platform' to sell their goods or services), that will need analysing.

4.8 *Question 8*

Would stakeholders (both sellers and platforms) find a Government Verification Service useful if one was available? Please give reasons for your view.

- 4.8.1 A digital Government Verification Service (GVS), enabling platforms to check the identity and/or residence of sellers, would be useful from a platform's perspective, as this would ensure that the process is made as streamlined as possible (although as far as we are aware HMRC do not have an accurate database of individual tax residence statuses, and as we set out in our response to question 2, the sellers address may be an inaccurate proxy). Given the prevalence of scams, we can also see that a GVS could help counter the potential problem of fraudsters spotting an opportunity with the new rules, to obtain personal data under false pretences.
- 4.8.2 However, often gig workers using platforms can have chaotic and transient lives, and we would have thought there is a risk of many of them not being able to be verified by the system.
- 4.8.3 This isn't because they can't transact digitally (although HMRC would also need to provide a non-digital means of taxpayers accessing the system in case of glitches or access issues and for those who are unable to transact digitally at that moment), it is because, depending on the design of the system, and whether it is put behind the Government Gateway or not (as is intended for the new 'tax check' system referenced in the consultation¹), they may face challenges in proving their identity – for example, where they have neither a passport nor a driving licence.
- 4.9 Even if they can access it, we would have thought there was risk of the system returning mismatches. This is because HMRC do not have a single, well-maintained database of registered taxpayers. There, must, undoubtedly be concerns about data quality – while people's addresses may be correct under the Self Assessment system for example, their address in another system may be different. It is foreseeable that the GVS will not be able to verify people where there are conflicts in information held by HMRC. HMRC must therefore make every effort to cleanse their data so it is reliable and accurate before such a system goes live. There should also be an alternative method that can be followed where the GVS can't verify a worker.
- 4.9.1 Migrants to the UK could be particularly disadvantaged if their data cannot be matched as readily as for others. Indeed, equality issues might be raised which HMRC need to look at, so that people aren't prevented from working unnecessarily. This should be considered further as part of the

¹ <https://www.gov.uk/government/publications/new-tax-checks-on-licence-renewal-applications/new-tax-checks-on-licence-renewal-applications>

impact assessment for this proposal. This could have short-term effects for both workers and platforms and could even risk driving workers into the hidden economy¹.

4.10 Question 9

Do you have any comments on the practical application of the rules in relation to the timing, active seller option and third-party due diligence requirements?

- 4.10.1 Under these rules, HMRC will receive information that they hope will enable them to check if an individual has declared the correct level of income for tax purposes (although see our comments to question 15 where we raise concerns about the likelihood of HMRC being able to match up data exactly) or is, in fact, even registered under the Self Assessment regime.
- 4.10.2 In terms of the latter, the reporting deadline of 31 January following the calendar year end should (providing HMRC use the information in a timely fashion) allow HMRC to help many taxpayers meet their legal obligations in relation to notification of liability and in completing a Self Assessment tax return.
- 4.10.3 There is obviously an issue due to the non-coterminous UK tax year end however, and – in addition – we note the proposal to offer transitional protection for some ‘new platforms’ via an extended due diligence/reporting deadline.
- 4.10.4 Practically speaking, we think this timing delay will have a high impact on HMRC’s ability to use the information to enhance compliance. For example, a seller could start working for a platform in January 2023 and thus, need to notify his chargeability to tax for 2022/23 in October 2023. If they fail to do this (because they do not realise they have tripped a registration requirement for example), then our understanding of what is being proposed – if they are working through a platform that only needs to report on the 31 January following the second reportable period – is that HMRC may not receive the information until 31 January 2025 (and then, only information for the 2024 calendar year).
- 4.10.5 The earliest the individual will be contacted by HMRC is therefore sometime in 2025, by which time their non-compliance will have drifted and grown considerably and will be much harder to deal with.
- 4.10.6 Ideally, in order to make a difference, nudges and prompts from HMRC need to be in time for taxpayers to meet their legal obligations in relation to notification of liability or otherwise to meet the deadline for paying the tax (and hence avoiding a penalty for the failure to notify). If it is not possible for HMRC to help taxpayers get things right up front (and there may be a way to help plug

¹ This is an area we have done some work on in the past, for example, see our most recent submissions on the hidden economy and conditionality: <https://www.litrg.org.uk/sites/default/files/files/LITRG-Finance-bill-briefing-2021-Clause-121-Schedule-32-Licensing-authorities.pdf> and <https://www.litrg.org.uk/sites/default/files/files/LITRG%20response-Hidden-economy-conditionality-Scotland-NI.pdf>

this gap via the use of messaging on monthly or quarterly worker statements as per our comments to questions 11 and 12), then it needs to be as soon as possible thereafter, to minimise the impact on taxpayers, in terms of stacking up problems and incurring severe penalties.

4.11 Question 10

What are your views on the government only offering the option to submit reports directly in an XML file format and removing the manual reporting option? Would you use an API to share info with HMRC if it was available? Please explain your answer.

4.11.1 No comment

4.12 Question 11

How could platform operators provide information to sellers about their income at an earlier point to make it more useful?

4.12.1 As has been identified in the consultation, the 31 January reporting date, in respect of prior year income, does not sit comfortably within the current UK tax administration framework.

4.12.2 Most self-employed platform workers will have a 31 March or 5 April year end, meaning their tax affairs are synchronised with the tax year. We anticipate that the proposed basis period reform will result in even more self-employed people having a 31 March or 5 April year end if the reform goes ahead (unless there is a commercial reason not to do so).

4.12.3 The fact that most sellers completing Self Assessment tax returns would not be sent data for the period 1 January and 31 March or 5 April until 31 January the following year, which is the date upon which their Self Assessment return is due, is problematic.

4.12.4 It would be hugely beneficial for them to have an early report of their transactions, for example quarterly or even monthly (which could also be useful to help the individual comply with their universal credit obligations, as self-employed people on universal credit have to report their income and expenses once a month to DWP¹).

¹ <https://www.gov.uk/government/publications/universal-credit-and-self-employment-quick-guide/how-to-report-your-earnings-from-self-employment>

- 4.12.5 We know that some platforms, like Uber¹ and Etsy² already provide monthly statements. Furthermore, the transactions are maybe not as complex, but if you choose to buy online either through Easyfundraising³ or AmazonSmile⁴, they will tell you regularly how much your purchases have contributed to the charity of your choice. So, in some form at least, the technology is already there.
- 4.12.6 Yet problems could be caused by the agreement of 'voluntary' processes with platforms, that although aim to improve the taxpayer experience, are not underpinned by anything formal (for example supported by legislation). If a particular platform simply does not wish to produce statements more often or the quarterly or monthly reporting system fails for whatever other reason, taxpayers will have no avenue for redress because there is no underlying legal requirement on the platforms.
- 4.12.7 It is also not clear how the 31 January date or the question of voluntary monthly or quarterly statements being provided by platforms, fits with the introduction of another major change to the tax system – the introduction of Making Tax Digital for Income Tax Self Assessment (MTD for ITSA)⁵. From April 2024 all taxpayers within MTD for ITSA will have to submit quarterly updates to HMRC for the same standard quarters to 5 July, 5 October, 5 January, and 5 April (or 30 June, 30 September, 31 December and 31 March) with the reporting deadline exactly one month later.

4.13 Question 12

How can HMRC and platform operators work together to provide appropriate information to sellers to help them understand and comply with their tax obligations? What guidance would sellers find useful?

- 4.13.1 We suggest that it is not currently clear or easy for a platforms users, including gig economy workers, to find out about and understand their responsibilities which, as alluded to in Section 3, has worrying consequences for the individual concerned (and the Exchequer).

¹ <https://help.uber.com/business/article/downloading-monthly-account-statements?nodeId=2472db37-d8b9-4df7-b404-2b591b0c5106>

² <https://help.etsy.com/hc/en-gb/articles/115015747228-How-to-Manage-Your-Payment-Account?segment=selling>

³ <https://www.easyfundraising.org.uk/panel/>

⁴ <https://smile.amazon.com/gp/chpf/homepage?orig=%2F>

⁵ <https://www.gov.uk/government/publications/extension-of-making-tax-digital-for-income-tax-self-assessment-to-businesses-and-landlords/extension-of-making-tax-digital-for-income-tax-self-assessment-to-businesses-and-landlords>

- 4.13.2 In order that the new rules work as intended, that is, to better equip people for navigating the opportunities and pitfalls of the gig economy, workers need to understand the significance of, and do something with, the information that is given to them by the platform.
- 4.13.3 For example, crucially, HMRC will need to help taxpayers understand that they still have a responsibility to check for income not captured on any statement they receive (and also expenses, as per our comments previously). HMRC will also need to help people understand that even if the statement they are provided with does not indicate that they have triggered a tax obligation, people need to take into consideration taxable income from other sources.
- 4.13.4 The most obvious place for these key messages to go is on the statements themselves (along with other important information such as the self-employment registration deadline and links to GOV.UK).
- 4.13.5 To complement and supplement this initiative, we think HMRC have a clear responsibility to reach out to gig workers and advise and educate them on the new rules and what they mean for their tax position¹.
- 4.13.6 To start with, HMRC need to develop better, tailored guidance for the gig economy² – current guidance is aimed at traditional self-employment, and many gig workers might struggle to understand and apply this to their situation. HMRC also need to publicise, promote, and proliferate it, considering the demographics of this group.
- 4.13.7 Additionally, and more generally, HMRC need to expand their presence within the gig economy to encourage and enable tax compliance. Here are just a few of the steps that the authorities could be taking to do this:
- HMRC could set up a gig helpline and web chat, staffed by people well-versed in matters surrounding the gig economies so that taxpayers who attempt to reach HMRC with questions can have a productive conversation with someone about their tax issue.
 - HMRC could try and be more creative e.g., by making some webinars or YouTube videos that online platforms could link to, that help people engage with their taxes.
 - HMRC could develop a checklist of issues that first-time workers in gig economy work should be aware of, containing links and cross references to more detailed material on GOV.UK and that the online platforms could distribute when workers first sign up. (The platforms could even be asked to collect confirmation from the worker that they are aware of the contents.)

¹ Indeed, this point has arisen (albeit not in the specific context of platform workers) in the tax conditionality initiative – licensing authorities in the taxi, private hire vehicle and scrap metal sectors would be required to give guidance to first-time licence applicants about their tax obligations. HMRC should ensure that relevant teams are joined up in order that this could be explored further.

² The material on our own website for gig workers fulfils much of this brief:
<https://www.litrg.org.uk/resources/guides-and-factsheets/tax-if-you-work-gig-economy>

- HMRC could convey messages through the online forums to point users to appropriate HMRC publications or other sources of help (particularly with regards to allowable expenses, which we know can cause worry and difficulty).
- HMRC could try and learn from the online forums about specific challenges and issues for those in the gig economy, and tailor their guidance for both taxpayers and HMRC staff accordingly.
- The search facility on GOV.UK could be configured to recognise the names of some of the more common platforms e.g., eBay, Uber, Airbnb, directing an individual using those terms in a search to an appropriate tax guidance page.

4.13.8 Ultimately, because we think the new rules will probably only offer a partial solution to the problems identified, we would urge the UK authorities to keep working in this space, including by continuing to consider other options, like withholding (as per our comments in section 3).

4.14 *Question 13*

Do you have any comments on the practical application of the rules relating to the reporting requirements?

4.14.1 The new rules represent a real opportunity to simplify things for taxpayers and enable easier and better tax compliance, however HMRC should be aware that the receipt of platform data like this is likely to have a behavioural impact on the taxpayer which needs to be understood.

4.14.2 For example, it runs the risk of undermining the principle that the onus is on the individual to notify HMRC of income sources and to ensure that their tax is correct¹. It sends mixed messages to taxpayers about their responsibilities versus HMRC responsibilities. We think it is conceivable that taxpayers will reach the (wrong) conclusion that they do not need to declare the information about their platform earnings to HMRC themselves. All of these things will require clarification by HMRC in order for the new rules to work successfully, but a key part of meeting the policy objectives is to ensure the timely use of information obtained from the platforms.

4.15 *Question 14*

Does the proposed penalty approach meet the government's objectives of being reasonable, proportionate, and effective in ensuring compliance with the model rules?

4.15.1 As we understand it, these are penalties aimed at the platforms, so from the taxpayer perspective we would be most directly concerned with their effectiveness rather than the other two objectives.

¹ As we set out in our response to the OTS on the use of third party data (<https://www.litrg.org.uk/sites/default/files/files/210330-LITRG-response-OTS-Third-Party-Data-Reporting-Review.pdf>), we actually question whether the balance of responsibility which comes from the existing statutory framework continues to be appropriate.

As such and in brief – the penalty needs to be a sufficient incentive for the platform not to get the data reporting wrong, otherwise the taxpayer could suffer (as alluded to throughout this response). As well as acting as encouragement to report at the correct time, it must also help ensure reports are as accurate as possible¹.

4.16 Question 15

What additional one-off or regular costs do you expect to incur to comply with the requirements of the model rules? Please provide any information, such as costs, staff time or number of sellers/platforms affected which would help HMRC to quantify the impacts of this measure more precisely.

- 4.16.1 The measure will not just affect platforms, cost wise, but may affect people who provide their services via the platforms, in terms of their response to new rules and the enhanced scrutiny of their tax affairs.
- 4.16.2 Many will want to check their tax position, to make sure they are doing everything correctly and (that they continue to do things correctly) and in reality, particularly where there is an international angle that could or has come to light, the only way they will be able to do this is by engaging the professional services of an accountant or tax adviser.
- 4.16.3 In many ways, there can be no escaping such costs, however in our view, in an unregulated market, HMRC then have an obligation to help ensure that people can find appropriate services and not get caught out by unscrupulous agents.² For those that simply cannot find the money to pay for such help, there are inherent risks. Therefore, HMRC should do their utmost to ensure that workers are aware that TaxAid³ may be able to assist them with basic tax compliance help and to regularise any historic problems (although an ‘amnesty’ approach such as we have mentioned previously in the response could also help here).
- 4.16.4 To limit *unnecessary* costs accruing for taxpayers, HMRC need to *intelligently* use the data they have in terms of forming a view as to whether individuals have been paying the correct amount of tax, before issuing nudge letters or enquiries. It is also crucial that such data is used in a timely manner. Enquiries in particular can be complex and costly for taxpayers to handle. It is therefore imperative that HMRC do not expose people unnecessarily to an enquiry. Even if taxpayers can usually handle

¹ We assume that UK platforms will fall under the jurisdiction of the Information Commissioner’s Office in terms of data protection and fines for infringing data protection law: <https://ico.org.uk/for-organisations/>

² We make some general points about what steps HMRC can do to support unrepresented taxpayers find good quality tax advice and other steps HMRC can take to raise standards in the tax advice market in our consultation response: <https://www.litrg.org.uk/latest-news/submissions/210618-raising-standards-tax-advice-market>

³ <https://taxaid.org.uk/>

their own tax affairs, they may need to engage the professional services of an accountant or tax adviser to help them deal with an enquiry which may not be affordable for them.

- 4.16.5 We would have thought there was significant scope for the data to throw up 'false positives' due to the fact that reliefs and allowances may be available and that the source data may not be easily reconciled to aggregate figures reported on a tax return.
- 4.16.6 Clearly, HMRC would not have the information or the resource to determine whether there is in fact a problem in every case, however the likelihood of a taxpayer being 'flagged' unnecessarily should be minimised as far as practicable.
- 4.16.7 For the avoidance of doubt, we do not think that HMRC should routinely use platform data to make assessments, because the complexities involved make it impossible for them to accurately calculate the tax.
- 4.16.8 We are also concerned about the potential for this data to be used for other purposes. For example, the real time information system was introduced to allow employers to report pay data to HMRC and HMRC to use that data for tax purposes. However, that data is now used for tax credits and universal credit (UC) which creates problems because the definition of income for tax credits and UC does not align exactly with the data collected. Although not specifically mentioned in the consultation document, it is an important point and we would caution against using this data automatically for other purposes, such as UC because it does not provide a full picture of income as defined under the UC regulations.
- 4.16.9 In addition, there is a wider question about the accuracy of the platform data itself. If HMRC use inaccurate data to make assertions about the taxpayer's liability, then the taxpayer needs mechanism to challenge that without simply being told to contact the platform. If it is necessary to obtain clarification on the platform data, we think that HMRC should handle that rather than the taxpayer to reduce costs, stress and so that any queries can be resolved without delay.

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