



IMPROVING THE DATA HMRC COLLECTS FROM ITS CUSTOMERS

Issued 12 October 2022

ICAEW welcomes the opportunity to comment on the Improving the data HMRC collects from its customers consultation published by HMRC on 20 July 2022, a copy of which is available from this [link](#).

For questions on this response, please contact the ICAEW Tax Faculty at taxfac@icaew.com quoting ICAEW REP 85/22.

HMRC needs to be clear as to whether making taxpayers ascertain and report additional non-tax data will help achieve the new government's agenda of growth and deregulation.

We question whether the data received under most of the categories will be as accurate and as useful to the government as it perceives.

PAYE RTI is not the appropriate means to report the additional employee data.

The self-employment and dividends data would be best collected via the SA tax return.

Tax returns should not be used to collect additional data unless the law is changed to allow it.

Data protection requirements must be met.

The additional compliance burdens on and consequent costs to taxpayers need to be ascertained.

We are also concerned that taxpayers will be subject to new penalties for inaccurate or late submission of data that has no tax impact.

HMRC's main priority should be its to improve its core activity customer service so that the tax system operates efficiently.

This response of 12 October 2022 has been prepared by the ICAEW Tax Faculty. Internationally recognised as a source of expertise, the ICAEW Tax Faculty is a leading authority on taxation and is the voice of tax for ICAEW. It is responsible for making all submissions to the tax authorities on behalf of ICAEW, drawing upon the knowledge and experience of ICAEW's membership. The Tax Faculty's work is directly supported by over 130 active members, many of them well-known names in the tax world, who work across the complete spectrum of tax, both in practice and in business. ICAEW Tax Faculty's Ten Tenets for a Better Tax System, by which we benchmark the tax system and changes to it, are summarised in Appendix 1.

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KEY POINT SUMMARY

1. In the light of the new government's agenda, HMRC needs to be clear as to whether making taxpayers ascertain and report additional non-tax data will help businesses to grow and help with simplification.
2. The consultation appears to make a fundamental but incorrect assumption that the data that employers would be asked to provide is already readily available to them. This is not the case: obtaining the data will be expensive.
3. The consultation proposals envisage taxpayers being asked to undertake a lot of work to provide data which HMRC will be unable to do much with as the data is unlikely to be sufficiently accurate or granular to enable accurate analysis.
4. Data protection requirements must be considered before any proposals are taken forward.
5. We are also concerned that taxpayers will be subject to new penalties for inaccurate or late submission of data that has no tax impact.
6. We agree that the proposed self-employment and dividends data would be best collected via the income tax self assessment (SA) return.
7. PAYE RTI returns are not the appropriate means to report the additional employee data proposed in the consultation.
8. The additional costs to taxpayers of setting up new procedures for ascertaining and reporting the required data need to be ascertained before the consultation proposals are taken forward.
9. If tax returns are to be used to collect data that is not needed to assess a tax liability, the law needs changing to provide legal vires.
10. HMRC will need to:
 - update returns and online products, processes and guidance to enable taxpayers and agents accurately and easily to provide data to HMRC, and distinguish between what is compulsory and what is voluntary, and
 - improve its accuracy of processing data provided by taxpayers, agents, other government departments, etc., and payments received from and refundable to taxpayers.
11. We acknowledge that government needs accurate data. However, we recommend that HMRC should concentrate on its core function rather than dissipating scarce resources to collect data that is not required for the assessment of tax. HMRC's overriding priority should be to improve its customer service so that the tax system works efficiently.
12. This consultation is taking place at stage 2 of the *Tax Consultation Framework*. It would have been more appropriate for HMRC to have first carried out a stage 1 exercise to consult on what additional information it should collect and the reasons for doing so. Please refer to our *Ten Tenets for a Better Tax System* which we use to benchmark the tax system and changes to it (summarized in Appendix 1), Tenet 7: *Subject to proper consultation*.

GENERAL COMMENTS

Context

13. Collecting any additional data unconnected with assessing and collecting tax will impose a considerable and unnecessary burden on business, contrary to the growth agenda of the Government.
14. In the light of the government's growth and deregulatory agenda HMRC needs to be clear as to:
 - why it needs the data;
 - and
 - what it will do with the data.

15. The consultation proposals will potentially require businesses to undertake a lot of work to produce and report data which will either never be looked at or potentially generate a lot of additional unnecessary interventions by HMRC.
16. We also question whether government will be able to do anything with the additional data for quite a long time as there will be too much data. In addition, much of the data is likely to be inaccurate or insufficiently granular to enable accurate analysis.
17. Providing this data is unlikely to help tax simplification.
18. HMRC should check internally and across other government departments to ascertain what data is already held.
19. HMRC should look at data collection mechanisms currently in place and think about how they need to be changed and integrated as more digital services are developed.
20. Businesses already submit data to BEIS and ONS, for example employers via the **Business Register and Employment Survey** and for the self-employed via a quarterly ONS survey which is anonymised but at the same time quite granular.
21. It would be helpful for government to set out principles on the sort of data that HMRC will collect and in what circumstances. For example, a new piece of data should only be regularly collected where there is an immediate need for it to make services work effectively, or some data can be periodically collected to support wider business understanding etc. This would provide a benchmark against which to assess the need for data collection and changes to data collection requirements.
22. If government provided these explanations, we would be happy to engage to help create a solution that works.

Priority for HMRC

23. We acknowledge that government needs accurate data. However, we recommend that HMRC should concentrate on its core function, which in this context is to ensure that taxpayers and agents can accurately and easily fulfil their legal obligations to report tax-related data and that HMRC accurately processes data and cash received correctly to assess tax due and payable/repayable, rather than dissipate HMRC's scarce resources to collect data that is not required for the assessment of tax.
24. In short, HMRC's overriding priority should be to improve its customer service so that the tax system works efficiently.

Prerequisites

25. If returns are going to be amended to collect more non-tax related data, the opportunity should be taken to update tax returns and HMRC's associated processes and guidance to enable taxpayers and agents accurately and easily to provide the data to HMRC, and HMRC accurately to process data for the purposes of determining tax liabilities provided by taxpayers and agents, other government departments, etc.
26. To ensure that taxpayers believe that there is a benefit in providing more data, HMRC need to update tax returns and processes to fix known issues. For example, in the context of PAYE real time information (RTI) and employer-provided benefits-in-kind (BiK), please refer to our submission **ICAEW REP 35/22** to the Office of Tax Simplification (OTS) in response to its evaluation of improvements to the operation of the PAYE system.
27. HMRC's online products enable taxpayers to submit personal and corporate self-assessment returns. If employers are going to be obliged to report additional data via PAYE RTI, HMRC's **Basic PAYE Tools** will need to be updated to enable taxpayers to work out and report the additional data proposed in the consultation document.

Burdens

28. Businesses would need to set up new procedures for ascertaining the required data and transferring it to those people and systems responsible for submitting returns.

29. Given the additional burden that will be imposed on businesses, especially employers, in providing the data that the consultation document is proposing they should report, we trust that HMRC will be able to process and pass on the data so it can be used by government.
30. HMRC's current data issues, including those which its disputed charges team have to resolve, will need fixing to enable the data to be used efficiently and accurately.
31. In larger businesses, those who are responsible for submitting tax returns are unlikely to be closely connected to those in the business who would have the data that the consultation document proposes should be reported. For example, in many businesses the payroll department is separate from the human resources department and may even be outsourced to a third-party payroll agent. This currently can cause delay in payroll getting necessary information, which will be exacerbated by the need to provide the newly required data on occupations, locations and hours worked envisaged by the consultation document.

PAYE RTI

32. The consultation document proposes that employers will report the additional data, namely employees' occupations, locations and hours of work, via payroll returns, i.e., PAYE RTI.
33. We believe that PAYE RTI is not the appropriate means to report the data that the consultation document proposes that employers will be obliged to report.
34. This is because payroll is provided with information by other parts of the business, and the only information that payroll needs is that which enables it to undertake its primary function of paying employees and accounting to HMRC for tax and NIC including Class 1A NIC, statutory payments, student loan repayments, apprenticeship levy, court and maintenance orders, etc., based on the remuneration of employees.
35. The additional data that the consultation document proposes that employers will need to report is not provided to payroll presently because it is not needed to calculate pay. It also may not actually be held by the employer, either at all or in the detail proposed by HMRC.
36. In addition, despite the recommendations of the [PAYE RTI Post Implementation Review](#) published in December 2017, employers continue to encounter difficulties with reconciling their records to those of HMRC. This makes us concerned as to whether the additional data that employers would be obliged to report via PAYE RTI will be accurately processed once submitted to HMRC.
37. Businesses will expect HMRC to correct the known faults with RTI before expanding reporting requirements. RTI still does not meet the objectives underpinning its introduction, for example, the number of end-of-year reconciliations (forms P800) being issued has not reduced and coding notices are not being issued in the six-week timeframe discussed during consultations.
38. We therefore consider that RTI should not be the means of reporting employee occupation, location and hours of work.
39. If proceeded with, the information should instead be included in other reports to government to ensure that payroll can continue to operate efficiently.

Free text -v- SIC & SOC codes

40. Many in business, in particular those operating payrolls, have not heard of the standard industrial classification (SIC) or the standard occupational classification (SOC).
41. Allowing businesses to enter free text sector and occupational data with HMRC then performing an automated mapping to SIC and SOC codes would allow flexibility of input for many businesses, is likely to lead to more accurate reporting and could also provide greater detail.
42. However, depending on the quality of unstructured data entered, and the accuracy of mapping tools, the mapping may not always be accurate. If a mapping approach is used, it is important that HMRC performs some sort of validation over the mapping exercise.

43. To avoid businesses having to provide the same information more than once, if a mandatory SIC field is introduced it could be automatically updated in VAT returns with the common link being the name/trading name of the individual.

Vires

44. The consultation document in several places says that completion of certain boxes on tax returns is voluntary. We assume that they are voluntary because the information to be inserted into these boxes is not needed to enable the assessment of tax. If this is the reason, then we question the validity of collecting the data in this way without a law change.
45. The consultation proposes that changes will be made to tax returns, including PAYE real time information (RTI) returns, income tax self assessment returns and corporation tax returns, to collect more data, namely business sector, occupations, locations, hours worked, dividends payable to company owner managers, that is not needed to enable the assessment of tax.
46. HMRC does not have the authority to collect this additional information at present. The law would need to be updated to give vires to collecting the additional information that would be requested.

Chapter 3: Obligations, safeguards and legislative framework

Data protection

47. Data protection legal requirements, for both those providing data and HMRC, need to be covered off at an early stage of developing any proposals.
48. The rules governing data collection provide inter alia that consent is needed to collect personal data.
49. Much of the data that the consultation document proposes that employers would be providing is personal data. The consultation proposals therefore will impose obligations on employers of not only having to collect and report additional data but also obtain consent from their employees. Data could be provided on an anonymised basis, but if what is required is too granular and enables individuals to be identified, it may comprise personal data.
50. HMRC needs to be very clear as to why it is collecting and processing the data, especially if processing includes passing it on to third parties, even if this includes other government departments.
51. In the consultation HMRC has given information at a high level on why it wants the additional data and how it intends to use it, which is helpful.
52. However, there is not as much transparency on how the data will be shared and used across government. The consultation includes sections on “Cross-government data sharing” and “International data sharing” that refer to existing uses. There needs to be transparency on any additional sharing and uses of the requested data including the purpose of sharing.

Compliance

53. As the data that the consultation document proposes will be collected in tax returns is not needed to enable any tax liability to be determined, and the proposal increases the number of voluntary tax return boxes, it should be made clear which boxes are voluntary and which are mandatory. Alternatively, is the law to be changed to make completion of these boxes mandatory when not required for the calculation of the tax liability?
54. Taxpayers and agents who are not currently complying either fully or in part with tax return obligations are unlikely to comply with any additional regulations. This will mean that any burden arising from the proposed additional reporting requirements fall hardest on compliant rather than non-compliant taxpayers.
55. Given the possibility that penalties could be levied for inaccurate or late data that does not have a tax impact, we would welcome clarification of what penalty regime, if any, will apply to those who fail to comply with any new requirements to report the additional non-tax related data.

DETAILED COMMENTS AND REPLIES TO CONSULTATION QUESTIONS

Chapter 2: Data improvement options

SECTORAL DATA

Overarching question: Across all of the options, we would like to understand which would be the most useful and would offer the most benefit for businesses and taxpayers. Do you think the options for collecting additional data we have prioritised here are the right ones, and are there any other areas where collecting more, better or different data would support tax administration and/or broader public service delivery?

56. We are unable to discern any direct benefit to the businesses or taxpayers who would be expected to provide the information.
57. Businesses would need to set up new procedures for transferring the required data to the department responsible for completing tax returns from where it is held currently in the businesses. If they are expected to provide this by citing a SIC code, then, unless the SIC code is to be a Companies House (CH) condensed code and the taxpayer is a company that has already provided such a code to CH, the business will need to design and set up a new procedure for determining it.
58. The costs to businesses of ascertaining and providing the additional data needs to be ascertained before the proposals are taken further.

Question 1: Within this option, should HMRC prioritise improving self-employed data as set above, or another customer segment (e.g. employers, companies, partnerships, businesses registered for VAT)?

59. We suggest that HMRC prioritises improving the collection of self-employed sector data as set out in the consultation document, over other customer segments. This is because the nature of the business data is already asked for in the SA tax return, albeit completion is technically voluntary, and making provision of such data compulsory, and, ultimately, providing a SIC code, would be natural extensions. Similarly, data should be collected when registering a new business or for VAT.
60. Given that companies already provide sectorial data to Companies House, we see no reason for HMRC to collect the same data again from companies.
61. Although the nature of the business will be known to the taxpayer, or, where the return is completed by an agent, can be ascertained relatively easily by the agent asking the taxpayer, it might be safest in terms of accuracy for HMRC to continue to allow free text descriptions with HMRC allocating the SIC code using algorithms. We suggest that HMRC provides a readback of the SIC code that it determines is appropriate so the taxpayer can use it in future years.
62. If changes are made that oblige taxpayers to return a SIC code, HMRC will need to provide clear guidance alongside the tax return to explain that the return must include a SIC code and how to ascertain it.
63. We believe that a wholesale review would be needed of SIC codes to make them fit for the modern age. We note that this is currently going on at an international level and we recommend that the government inputs into this process and reflects its output in the codes used in the UK.
64. As an example, which code would a YouTube star use? Clearly, “social media celebrity” was not even anticipated when the codes were first devised.
65. We are concerned that, as the codes do not sufficiently reflect the breath and nature of businesses carried on in the modern age, the use that the government will be able to take from this limited. This is true of most of the other categories of information. Our concerns relating to each item are set out in our answer to the question concerned.

Question 2: Are there any areas of the tax system where HMRC’s collection of sectoral data could be streamlined or where we could collect this information in a different way? In particular, does your business provide sectoral data to HMRC (or other parts of government) in more than one place (for example, to HMRC through both VAT and Self Assessment; or to HMRC and to Companies House)?

66. The self-employment pages of the self assessment tax return and VAT registration application forms request nature of business details in free text. HMRC could use an algorithm to convert this data into a SIC code.
67. Companies providing nature of business details to CH must select a SIC code from the list of SIC codes published by CH in its **condensed list**, which is a simplified version of the full **Office for National Statistics (ONS) SIC code list**. Rather than companies having to duplicate effort by providing this data to HMRC, HMRC could obtain it from CH.

Question 3 – for taxpayers and their agents: How easy or difficult are SIC codes to use for your business? What would make it easier for your business to find and input your SIC code(s)? What level of SIC would be most appropriate (i.e. three or four digits)? Do you prefer using the full version from the Office for National Statistics, or the condensed version used by Companies House?

68. It is much easier to use the list of SIC codes published by CH in its **condensed list** than the **Office for National Statistics (ONS) SIC code list**.
69. If the proposal to oblige businesses to provide SIC codes is adopted, we recommend that, to help ensure that the data submitted by businesses to government is consistent with that already provided by companies to CH and, because the CH list is condensed and relatively accessible, less prone to error, the SIC codes that businesses will be obliged to provide should be limited to those in the CH condensed list.
70. We note that the United Nations (UN) currently has SIC codes under review. We therefore recommend that sufficient time is allowed to enable any new international list of SIC codes, and revised ONS SIC codes and CH condensed codes, to bed in before any new obligations to provide SIC codes are imposed on businesses.

Question 4 – for software providers: How easy or difficult would it be for you to incorporate SIC codes into your software, in a way that is easy for your customers to use?

71. Incorporating SIC codes would not be difficult provided HMRC provides, well in advance of implementation date, detailed software specifications, including on how proprietary software should link to HMRC’s software.
72. However, too frequently an HMRC IT “specification” merely describes the character requirements of the data entered and not precisely how and when it should be used. Consequently, different interpretations are possible by different developers and therefore HMRC does not receive consistent data. To overcome this, HMRC needs to improve the standard of its IT specifications.
73. Payroll providers have the same problem as in-house payroll departments in that the information needs to be collated and provided by others.
74. We recommend at least an eighteen-month lead time from when legislation is enacted to give software houses time to design, build, install and test the software and train customers.
75. If proprietary software will be expected to contain algorithms to determine SIC codes on the basis of free text entries, government will need to enable software to access ONS tools.
76. If businesses will be expected to input SIC codes directly, HMRC will need to provide clear and detailed guidance to users to help them to determine the appropriate SIC code.

OCCUPATION DATA

Overarching question: Across all of the options, we would like to understand which would be the most useful and would offer the most benefit for businesses and taxpayers. Do you think the options for collecting additional data we have prioritised here are the right ones, and are there any other areas where collecting more, better or different data would support tax administration and/or broader public service delivery?

77. We are unable to discern any direct benefit to the businesses or taxpayers who would be expected to provide the information. Whilst we appreciate the need for the government to understand where there are skills or resource gaps, these should already be apparent from job vacancy listings. In addition, a financial controller in a small business would need very different skills to a financial controller in a FTSE100 organisation, and, therefore, the occupation information would be of little use without context.
78. Businesses would need to set up new procedures for transferring the required data to payroll from where it is held currently in the businesses, if held at all, in the detail proposed by HMRC. For those with sophisticated electronic HR systems, job titles for example, may be held within the system, but these would need to be linked to the occupation codes/ groupings that HMRC would like to see, which could be a very onerous exercise for large employers. Many employers have grade titles across the business that do not reflect the different occupations. In many, if not in most cases, the occupation data will not be stored as such. Many individuals with similar titles in the same department may have widely different skills and occupations.
79. The consultation appears to assume that businesses will have up to date information readily available. We do not believe this is the case and obtaining the details will place a burden on businesses.
80. As explained in our General Comments above under *PAYE RTI*, because the data that the consultation document proposes will be reported is not required to calculate a tax liability and is more likely to be held in human resources departments, we believe that *PAYE RTI* is not the appropriate reporting route. We therefore consider that government should obtain the required occupation data by asking employers' human resources departments direct, rather than making employers build a new process to transfer the data to payroll so it can be reported, which may cause delays in reporting core payroll data to HMRC.
81. If HMRC proceeds with requiring the data to be submitted via *PAYE RTI*, it will need to update its *PAYE Basic Tools* to enable the reporting of occupations and work out SOC codes.
82. *RTI* was supposed to reduce burdens by reducing the number of end-of-year reconciliations (forms P800) required. It has not achieved this, but more burdens were placed on business. Business will ask "Why weren't this and other known issues with *RTI* fixed before more fields were added to the reporting requirements and more burdens placed on businesses?". The costs to businesses of ascertaining and providing the additional data therefore need to be quantified before the proposals are taken further.

Question 5: Would you find this information useful, if published in an anonymised form by the government (potentially linked with other datasets, such as salary, qualification or location information)?

83. Companies will often do their own benchmarking exercises to ascertain location and skill specific remuneration, so it is unclear how this data set published by the government would be useful.
84. In addition, the SOC data proposed does not collect sufficient data to allow for nuances in location, experience, sector, etc.

Question 6 – for employers/payroll providers: How easy or difficult would you find it to categorise each of your employees by occupation? If you have used SOC codes previously, how easy or difficult to use, and what, if any, challenges do you find with them? Do you

have any suggestions as to how we could modify or design this option in a way that minimises costs?

85. Ascertaining and reporting a SOC code for every employee would impose a formidable compliance burden on employers. It might be practical where an employer has a handful of employees but for more than that number of employees it will be an onerous burden.
86. Many payroll personnel have not even heard of a SOC.
87. Ascertaining the appropriate SOC for even apparently straightforward occupations can be difficult, so even where a SOC is determined using an algorithm the employer would need manually to check each entry.
88. For example, searching under the job title of the author of this response “Technical Manager” on the Office for National Statistics [occupation coding tool](#) reveals 20 sub-categories. The sub-category “Manager, Technical” covers “Production managers and directors in manufacturing” which is not even remotely similar to a professional body’s technical manager responsible for making representations and providing guidance to members. The other 19 sub-categories are even less relevant.
89. If an individual were completing this information for themselves, they could flex their job title so that it better fits the SOC codes, recognising that the range of occupations it includes is limited. However, a person responsible for doing so for hundreds of employees would not have access to this information for every employee and would need to rely on job titles as an indication of their occupation.
90. The list will need updating to include, for example, Social Media Influencer and other occupations that did not exist when the list was last revised.
91. The [Skilled Workers Visa: Eligible occupations and codes list](#) is not even in alphabetical order.
92. Clarification will be needed as to at what point in time should updates be reported, eg, when the employee is hired, or when a job title or specification changes, or each time a return is submitted. We note that, under phase 2, updating would be required every time an individual changes occupation, but does this mean every time a person’s job title changes, when they get promoted or when there is a fundamental change to the nature of the duties they perform?
93. The best way to minimise costs for businesses would be to retain the status quo.
94. Given that the data that government proposes that employers should submit will be of no use to the employer it is incumbent on government to minimise any compliance burden on businesses.
95. The consultation document notes that the census uses three free text questions to derive a SOC code. We presume that this is because government believes that this process for ascertaining a SOC code is statistically sound. We therefore suggest that, if the proposal for employers to submit occupational data for employees is implemented, rather than burden businesses with the cost of ascertaining a SOC code for each of its employees, the same procedure is adopted as for the census, i.e., three free text questions with the authorities using an automatic matching tool to derive SOC codes.
96. We would mention that even answering three free text questions, which will involve manual input, would create a large compliance burden and HMRC needs to consider the effort and therefore the costs involved, and how it verifies accuracy of mapping to SOC codes.

Question 7 – for the self-employed/their agents: How well do SOC codes describe your [/your clients’] occupation?

97. We question how useful it would be for sole traders to provide both a SIC code and a SOC code. Presumably these are going to give the same information in the vast majority of cases. For example, a self-employed IT consultant would state ‘IT’ as their business and ‘IT manager’ as their occupation. We suggest that if the SIC and SOC codes essentially provide the same information, such an individual should only need to provide one of these.

Question 8: How easy would it be to extract job titles from existing payroll systems into RTI?

98. Following the introduction of RTI virtually all payroll systems are computerised. Employees are allocated a number and most payrolls systems no longer include job titles.
99. Perhaps the question should have asked how easy it would be to extract job titles from human resources systems.
100. The answer to the question posed in the consultation document is that in many businesses the payroll department is separate from the human resources department and may even be outsourced to a payroll agent. This can currently cause delay in information reaching payroll, which would be exacerbated by the need to provide the additional data envisaged by the consultation document. Businesses would need to set up new procedures for transferring the required data to payroll from where it is held currently in the businesses. This could involve significant updates required to both the HR system and any electronic interfaces with payroll.
101. Many businesses will not hold occupations but may hold job titles with one job title covering a number of occupations.

LOCATION DATA

Overarching question: Across all of the options, we would like to understand which would be the most useful and would offer the most benefit for businesses and taxpayers. Do you think the options for collecting additional data we have prioritised here are the right ones, and are there any other areas where collecting more, better or different data would support tax administration and/or broader public service delivery?

102. We are unable to discern any direct benefit to the businesses or taxpayers who would be expected to provide the information.
103. Businesses would need to set up new procedures for transferring the required data to payroll from where it is held currently in the businesses.
104. As explained in our General Comments above under *PAYE RTI*, because the data that the consultation document proposes will be reported is not required to calculate a tax liability and is more likely to be held in human resources departments, we believe that *PAYE RTI* is not the appropriate reporting route. We, therefore, consider that government should obtain the required data by asking employers' human resources departments direct, rather than making employers build a new process to transfer the data to payroll so it can be reported, which may cause delays in reporting core payroll data to HMRC.
105. Employee address details are reported by RTI but that data is not always used to update HMRC records because the reporting obligation is an employee obligation not an employer obligation. In any event for many employees home can be many miles away from the office location. Given that the Government already has the employee's home address it doesn't seem sensible to have to report it again.
106. If HMRC proceeds with requiring the data to be submitted via *PAYE RTI*, it will need to update its *PAYE Basic Tools* to enable the reporting of employee locations.
107. Expecting such data on a RTI submission would highlight that HMRC is not currently administering the *PAYE* system on a timely basis. It is not reasonable for expect employers to provide this data when HMRC does not appear to be able to issue section 690 determinations, NT codes, etc., within six months.
108. The costs to businesses of ascertaining and providing the additional data therefore need to be ascertained before the proposals are taken further.

Question 9: Within location data, is HMRC correct to prioritise improving data on businesses with multiple locations, and on the location of real economic activity?

109. HMRC should prioritise ensuring that the location data that it holds to enable it to assess and collect the right amount of tax is correct before collecting other location data.

110. We think a better explanation of which location needs to be reported is required. Owing to the pandemic many employees no longer work in one location. Their “home office” may be for administrative purposes only. They may work in different locations from day to day, for example, at home, at a holiday home, whilst travelling, in the office, which may be in a country (including a nation state of the UK) different from that of the business’s home office.
111. Such circumstances used to be the exception pre-Covid but are now very common. Which location should be reported and how frequently? This could be very burdensome and not fit with the monthly PAYE cycle. If to be reported monthly, is it the main location for that month or the office where the individual is nominally based? With remote working, the “home office” where the individual is based for administrative and team purposes may be at the far end of the country from the administrative base.

Question 10: Are there any areas of the tax system where HMRC’s collection of location data could be streamlined or where we could collect this information in a different way? In particular, does your business provide detailed location data (e.g. covering multiple branches of your business) to HMRC (or other parts of government) in more than one place? Which avenue do you find the least burdensome?

112. All businesses with real property will be subject to business rates (even if the amount payable has been reduced to £nil owing to being entitled to relief, for example on the basis of size). Perhaps the business rates system could be harnessed to harvest location data (as part of digitalisation of business rates, the consultation on which we responded to in [ICAEW REP 72/22](#)) rather than the tax system, albeit that this is unlikely to provide accurate data on economic activity.

Question 11: How easy or difficult would it be for your business [or, for agents, your customers] to provide work location information for each employee through RTI?

113. A major difficulty here for most employers will be that if the location data required is the location data for the pay period, the date by which payroll requires data to enable employees to be paid by their contractual payday will inevitably be before the end of the pay period.
114. Therefore, save for employees who or are paid in arrears (as happens for example in some factories, shops, the leisure industry) and/or always work from a single location, it will be impossible accurately to report location data for the pay period for which the employee is paid. So, for quite a large number of employees, the period for which location data can be reported will need to be a period prior to the pay period.
115. Added to this, with the growth of remote working via a laptop, some employers do not necessarily know where their employees are working from, for example, from home or a holiday home, or even whether inside or outside or in which nation state of the UK.
116. The consultation document states that “*Our preferred option is to ask employers, through RTI, to give HMRC the office location or normal work base of their employees. Employers are required to have this information to allow them to correctly operate Income Tax expenses rules*”. This is only if the employer is reimbursing expenses. Where the employee is taking advantage of remote working, many employers do not pay expenses for travel and consequently do not have the location records. The consultation document has again assumed the data is readily available when it is not necessarily so, and consequently is not appreciating the extra burden that will be required to implement and meet this requirement.
117. For example, an employee may nominally be based in an office but habitually travels the UK to work in other locations supporting colleagues or clients. More and more businesses are allowing employees to work from home and our example roving employee is likely also to work from home. Therefore, a base location reported would be meaningless to the government.
118. Currently, as noted in HMRC’s [Employer Bulletin \(August 2022\)](#), RTI requires employees’ home addresses to be submitted to HMRC for new starters, not a location of work address. The employee’s home address helps to identify the taxpayer and, following the devolution of

various aspects of the tax system, is needed by HMRC to determine in which nation state of the UK the taxpayer is resident for tax purposes. However, for ongoing employees, HMRC will accept change of address details only from the employee, and the average employee who is outside self assessment is unlikely to be aware of any need to tell HMRC if they change address.

119. Location of work addresses are recorded outside payroll, usually in the human resources department.
120. As noted above, in many larger businesses, payroll is separate from the human resources department and may even be outsourced to a third-party payroll agent. This can currently make it difficult for payroll to obtain the information.
121. Businesses would need to design and set up new procedures and systems to ascertain the location of work data and for transferring the required data to payroll from where it is held, if it is held currently in the businesses. If it is held, an historic record may not be retained where employees frequently change their working locations which may be necessitated by modern working practices. If it is not held, a new system of collecting and storing the location data will need to be implemented. As a consequence, imposing an obligation on payroll to ascertain and report location of work addresses as well as residential address will impose additional compliance burdens on businesses, as well as, in some cases, providing scope for confusion over which address is an employee's work location and which their residence.
122. As mentioned above, we therefore believe that PAYE RTI is not the appropriate reporting route for employee location data.
123. We note that the consultation document states that:
"Better location data would also help HMRC identify particular compliance risks, especially with multi-location businesses, for example those with offshore activities."
124. We do not agree with this statement. There are already offshore reporting requirements that should enable HMRC to access this risk. Businesses which are not complying with the current obligations are not likely to comply with any new regulations. It would merely result in an additional burden for compliant businesses.

Question 12 – for payroll providers: How easy or difficult would it be for you to modify your software/your service to allow for the provision of work location information for each employee?

125. Incorporating location of work addresses into payroll software (in addition to home addresses) would not be difficult provided HMRC provides, well in advance of implementation date, detailed software specifications including how the required location should be determined and when the data should be provided together with an explanation as to how proprietary software should link to HMRC's software.
126. However, too frequently an HMRC IT "specification" merely describes the character requirements of the data entered and not precisely how and when it should be used. Consequently, different interpretations are possible by different developers and therefore HMRC does not receive consistent data. To overcome this, HMRC needs to improve the standard of its IT specifications.
127. Payroll providers have the same problem as in-house payroll departments in that the information needs to be collated and provided by others.
128. We recommend at least an eighteen-month lead time from when legislation is enacted to give payroll providers time to design, build, install and test their software and train clients to provide the correct information on time.

EMPLOYEE HOURS WORKED

Overarching question: Across all of the options, we would like to understand which would be the most useful and would offer the most benefit for businesses and taxpayers. Do you think the options for collecting additional data we have prioritised here are the right ones,

and are there any other areas where collecting more, better or different data would support tax administration and/or broader public service delivery?

129. We are unable to discern any direct benefit to the businesses or taxpayers who would be expected to provide the information.
130. As explained in our General Comments above under *PAYE RTI*, because the data that the consultation document proposes will be reported is not required to calculate a tax liability and is more likely to be held in human resources departments, we believe that *PAYE RTI* is not the appropriate reporting route.
131. Again, the consultation document appears to suggest that the data required is readily available because the employer is required to report in bands but for many salaried employees the actual hours worked are not kept albeit the employer knows they are above 30. There will therefore be a considerable administrative burden in implementing and continuing to report the hours worked data.
132. For example, where employees are paid by the hour, the number of hours worked upon which pay is calculated is not necessarily the same as hours worked for national minimum wage purposes which the consultation document proposes will be reported. In addition, for those paid by the hour, this is already reported on payslips for the purposes of calculating their pay. For others who are paid on a salaried basis, the contractual hours requested to be reported under the proposals would again be meaningless, as paid/unpaid overtime may regularly be undertaken and therefore may not be a true reflection of working hours.
133. We therefore consider that HMRC should drop any working hours requirement.
134. If HMRC proceeds with requiring the data to be submitted via *PAYE RTI*, it will need to update its *PAYE Basic Tools* to calculate and report hours worked for national minimum wage purposes.

Question 13: How easy or difficult would it be to provide information on specific hours worked and/or actual hours worked?

135. The real question here is how hours worked will be defined.
136. Numbers of hours worked are needed by payroll only for specific employees, for example, for employees paid by the hour or on zero hours contracts, to calculate holiday pay, time off in lieu, etc.
137. Salaried employees are normally assumed to work a fixed number of hours per week and are paid by reference to the hours cited in their employment contracts (contractual hours), but in reality may work more or less.
138. Hours worked for national minimum wage (NMW) has its own definition. Ensuring compliance with NMW is normally carried out within human resources rather than payroll, so payroll is unlikely to have information on hours worked unless provided with this data to calculate pay for specific employees.
139. Businesses currently collect only the hours worked information that they need and, if payroll will have to report hours worked, they would need to set up new procedures to collect and transfer newly required data to payroll from where it is held currently in the businesses (if anywhere). This would be very onerous, especially for salaried paid workers who have not had to record working hours previously.

Question 14: How predictable are the hours of your employees? How often do you use category e) hours worked ('no regular pattern'), and what for? For example, pension payments or irregular working patterns (and if so what type of irregular pattern)?

140. Some employers average out the hours worked by employees who work irregular hours so their pay does not fluctuate.

DIVIDENDS PAID TO SHAREHOLDERS IN OWNER-MANAGED BUSINESSES

Overarching question: Across all of the options, we would like to understand which would be the most useful and would offer the most benefit for businesses and taxpayers. Do you think the options for collecting additional data we have prioritised here are the right ones, and are there any other areas where collecting more, better or different data would support tax administration and/or broader public service delivery?

141. We do not perceive that different options have been provided.

Question 15: Do you agree that building on the pre-existing definition of a close company is the best approach? Are there any other approaches you would prefer?

142. The definition of a close company has historically been difficult to understand, leading to errors in tax computations and omissions of tax liabilities arising in respect of loans from such companies.

143. The difficulty arises through the different ways in which individuals and entities can be taken, under existing legislation, to “control” a company. This definition has been made more complicated over time as a result of tax avoidance behaviour that the government has sought to address. In straightforward owner-managed companies, the position is clear, but in others, such as where banks and other funders have taken stake in the business, it is more difficult to determine whether a company is close.

144. If HMRC wishes to rely on the definition of a close company, we recommend that consideration is given to a simplifying the definition so that for any particular circumstance it is easier to determine whether it is met. Alternatively, a requirement could be introduced to ask the taxpayer to itemise dividends received from any companies in which they own more than a certain percentage of the share capital.

Question 16: How great would the administrative burden be for you or your customers in splitting out dividend income from controlled companies and/or determining the percentage of shareholding in that company?

145. Given the current requirement (albeit voluntary) in the SA102 SA return employment page to state whether earnings arise from a close company, we anticipate that, in the vast majority of cases, splitting out dividend income should not cause any material administrative burden.

146. Taxpayers whose close company shareholdings are complicated are likely to have advisers who can work out the percentage shareholdings, etc.

147. That said, we think HMRC should already be able to use its Connect IT system to marry up companies with their owners and then verify the amount of dividends paid to those owners as disclosed in the accounts.

SELF EMPLOYED START AND END DATES

Overarching question: Across all of the options, we would like to understand which would be the most useful and would offer the most benefit for businesses and taxpayers. Do you think the options for collecting additional data we have prioritised here are the right ones, and are there any other areas where collecting more, better or different data would support tax administration and/or broader public service delivery?

148. We do not perceive that different options have been provided.

Question 17: How easy or difficult would it be for you/your clients to identify the dates that your business/your client's business started and ended trading within a tax year?

149. Given that there are already boxes on SA returns asking for starting and cessation dates, albeit completion is voluntary, and it is necessary to tell HMRC about a new self-employed source for income tax and NIC purposes by registering outside the SA return, and it is advisable to notify HMRC when a business ceases, we see no reason not to make the

completion of start and end date boxes on SA returns compulsory as proposed in the consultation document.

150. Start, and sometimes end, dates can be difficult to determine (for example, when does a hobby become a business?) but they are required currently for calculating the tax liability.
151. How difficult any new reporting will be will depend on by when the dates have to be reported. Currently taxpayers starting an unincorporated business have until 5 October after the end of the tax year to work out the date.

APPENDIX 1

ICAEW TAX FACULTY'S TEN TENETS FOR A BETTER TAX SYSTEM

The tax system should be:

- 1 Statutory: tax legislation should be enacted by statute and subject to proper democratic scrutiny by Parliament.
- 2 Certain: in virtually all circumstances the application of the tax rules should be certain. It should not normally be necessary for anyone to resort to the courts in order to resolve how the rules operate in relation to his or her tax affairs.
- 3 Simple: the tax rules should aim to be simple, understandable and clear in their objectives.
- 4 Easy to collect and to calculate: a person's tax liability should be easy to calculate and straightforward and cheap to collect.
- 5 Properly targeted: when anti-avoidance legislation is passed, due regard should be had to maintaining the simplicity and certainty of the tax system by targeting it to close specific loopholes.
- 6 Constant: Changes to the underlying rules should be kept to a minimum. There should be a justifiable economic and/or social basis for any change to the tax rules and this justification should be made public and the underlying policy made clear.
- 7 Subject to proper consultation: other than in exceptional circumstances, the Government should allow adequate time for both the drafting of tax legislation and full consultation on it.
- 8 Regularly reviewed: the tax rules should be subject to a regular public review to determine their continuing relevance and whether their original justification has been realised. If a tax rule is no longer relevant, then it should be repealed.
- 9 Fair and reasonable: the revenue authorities have a duty to exercise their powers reasonably. There should be a right of appeal to an independent tribunal against all their decisions.
- 10 Competitive: tax rules and rates should be framed so as to encourage investment, capital and trade in and with the UK.

These are explained in more detail in our discussion document published in October 1999 as TAXGUIDE 4/99 (see <https://goo.gl/x6UjJ5>).