



Making Tax Digital
December 2018
Bar Council Briefing Note 1: The New Requirements

1. This briefing note has been prepared by members of both the Bar Council's Taxation Panel and the IT Panel. It sets out outline guidance on the implications for barristers of HMRC's Making Tax Digital (MTD) changes. **All barristers who are VAT registered are affected and will have to change the way they make their VAT returns from next year.**
2. MTD is part of HMRC's aim of reducing tax leakage caused by errors and omissions. At its core is the requirement for businesses to maintain and store their records digitally and to send information to HMRC using MTD compliant software.
3. MTD is being introduced in two distinct phases.
4. The first is MTD for VAT (MTDfV), bringing in mandatory new requirements from April 2019 and in this guidance note, we will outline what this entails.
5. The second is MTD for direct taxation (income tax and corporation tax), which forms the centrepiece of MTD but which has been put on hold until April 2020 at the very earliest. A guidance note on this will follow in due course, when the actual commencement date is announced by HMRC.

Fundamental changes

6. Under MTDfV it will be necessary for VAT registered barristers to keep most of their financial records digitally. It thus goes beyond current record keeping rules in VAT Notice 700/21. Coupled with this, VAT returns in future must be calculated and submitted to HMRC electronically using MTDfV compatible software via what is known as an Application Programming Interface (API).
7. The VAT return can be submitted from accounting software, bridging software or API-enabled spreadsheets. Importantly, it will no longer be possible for many barristers to log in and type in their VAT return figures using the HMRC

website. Instead, the transfer of data to HMRC, from the mandatory digital records to the filing of the return, must be entirely digital.

8. HMRC has published VAT Notice 700/22: Making Tax Digital for VAT¹, which outlines the requirements in more detail.

Who is affected?

9. MTDfV will apply to any barrister who has VATable turnover above the registration threshold of £85,000 (i.e.: is required to be registered for VAT) from 1 April 2019, regardless of legal structure – e.g. sole trader or company. Any barrister whose turnover subsequently falls below the threshold must stay in MTDfV, unless they deregister from VAT.

10. Where a barrister exceeds the VAT registration threshold after 1 April 2019, they are given only 30 days to get digital in compliance with MTDfV.

11. Barristers who have voluntarily registered for VAT and are below the registration threshold do not need to follow the MTDfV requirements and can continue to file their VAT returns via the HMRC website.

Who is exempt?

12. Exemptions are broadly limited to those satisfying HMRC that, for reasons of age, disability, remoteness of location or for any other reason, it is not reasonably practicable for them to use digital tools to keep business records or submit returns.

13. HMRC may offer ‘digital assistance’ where it doesn’t consider exemption appropriate. If satisfied that keeping and retaining the specified information for each transaction is ‘likely to be impossible, impractical or unduly onerous,’ HMRC may vary the detail to be kept electronically.

14. It is likely that the exemption will apply in only the most limited of circumstances.

Mandatory use of software

15. Under MTD, manual VAT record keeping will not be acceptable. Specified records will have to be kept digitally, using ‘functional compatible software’. This means a ‘software program or set of compatible software programs which can connect to HMRC systems via an API’, which must be capable of:

¹ <https://www.gov.uk/government/publications/vat-notice-70022-making-tax-digital-for-vat/vat-notice-70022-making-tax-digital-for-vat>

- keeping records in digital form as specified by the new rules;
- preserving digital records in digital form for up to six years;
- creating a VAT return from the digital records held in compatible software and submitting this data to HMRC digitally;
- providing HMRC with VAT data on a voluntary basis;
- receiving information from HMRC via the API platform.

16. Records to be kept digitally are specified in VAT Notice 700/22 at paragraph 3.3.

17. The record-keeping requirements are more extensive than at present, for example in relation to supplies made. For these, the software must record the different rates of VAT applicable to each supply (where more than one rate applies on an invoice). For supplies received, the amount of input tax claimed on each invoice will be need to be shown.

18. MTD is not completely paper-free, and it does not mean businesses are required to provide digital invoices, or to only accept digital receipts. Some records may still be kept in hard copy if the barrister chooses to do so, e.g. purchase receipts, although these can also be scanned and kept electronically. It is the actual recording of supplies made and received that must be digital. Where invoices and receipts are not kept electronically, they must be kept in hard copy as usual for VAT purposes.

Timetable and submission process

19. The first MTD VAT submission depends on the quarterly return date.

Quarterly filing dates	Start of first return period subject to MTD	First quarter end within MTDfV	First MTD VAT return deadline (month plus 7 days)
March/June/Sept/Dec	1 April 2019	30 June 2019	7 August 2019
Jan/April/July/Oct	1 May 2019	31 July 2019	7 September 2019
Feb/May/Aug/Nov	1 June 2019	31 August 2019	7 October 2019

20. The VAT return is still a nine-box return. But under MTD, it is completed by your software pulling in data from the digital records. Returns are not completed by

keying VAT return figures into the HMRC portal. The new VAT Notice explains that:

“If your digital records are up to date, software will be able to collate and prepare your return for you. It will then show the return to you and ask you to declare that it is correct and confirm that you want to submit it to HMRC. Once you have submitted the return you will then receive confirmation through your software that it has been received.”

Software considerations

21. The digital records required for MTD do not have to be held in one place or one program.

22. Thus, a barrister like any business may keep digital records in a range of different compatible digital formats, just so long as the format chosen is MTDfV compliant.

23. For example, a barrister may choose to maintain their records using accredited commercial accounting software; whereas, another barrister may prefer to use spreadsheets in combination with add-on MTD software.

24. Regardless of the digital form the records may take, it is a mandatory requirement that the information forming part of what HMRC calls the ‘digital journey’ – the mandatory submission process – is transferred via ‘digital links’.

Digital links

25. A digital link is a transfer or exchange of digital data between software programs, products or applications. Where a set of software products is used, there must be digital links between them, and once data is entered into software, any further transfer or modification must be via a digital link. As such, copying by hand or manual transposition of data between two or more pieces of software is not permitted, and crucially, ‘cut and paste’ is not acceptable in the long term. There are, however, transitional arrangements: see later. Section seven of the VAT Notice outlines acceptable digital links, including:

- linked cells in spreadsheets;
- emailing a spreadsheet with digital records to an agent for the agent to import data into software to make a calculation, such as a partial exemption calculation;
- transferring digital records onto portable devices and giving these to an agent;

- XML, CSV import and export, download and upload of files;
- automated data transfer;
- API transfer.

26. For barrister's fees, it is recommended that barristers liaise with the Chambers administrator in ascertaining how their fees information will be provided to them (e.g. as a CSV file or spreadsheet), since the desire here will be for it to be provided in a digital format capable of being read by the barrister's own accounting records thus complying with the digital links requirements. Chambers administrators should consider contacting their diary system provider in considering this further.

Transition: the soft landing penalty period

27. For VAT return periods beginning between 1 April 2019 and 31 March 2020, penalties will not be charged if there are no digital links between the software programs. This means 'cut and paste' is briefly acceptable while transitioning to the new requirements. However, from 2020, HMRC will penalise non-compliance.

28. The transfer of VAT return data to bridging software to make submissions to HMRC must always be digital and is excluded from the soft landing provisions.

Adjustments and special cases

29. At present, adjustments are often needed before VAT returns are submitted, such as capital fuel scale charge and partial exemption calculations. Under MTD, these can be calculated outside the digital records and the total then recorded digitally. In addition, if the software chosen does not record reverse charge transactions, adjustments will need to be made to ensure that these are correctly recorded.

Software providers

30. HMRC is not providing software. It is currently working with software providers to get products on the market by the MTD start date and will list recognised products on the [gov.uk](https://www.gov.uk) site as they become ready. An initial list is already available on that website.² If you already use accounting software and your supplier is not on this list, ask if and when they will upgrade products to be MTD compatible.

Recommended action

² <https://www.gov.uk/guidance/software-for-sending-income-tax-updates>

31. Barristers who presently do not use approved software should start making plans to digitalise their accounting records in anticipation of the MTDfV commencement date of 1 April 2019. The choice is either a MTDfV spreadsheet based solution or an accounting program.

32. Barristers who use software already should make enquiries of their software provider to ensure it is or will be MTDfV compliant by 1 April 2019.

33. Barristers should liaise with their Chambers administrator to ascertain how their fee receipts information will be provided to them. The suggestion is that it should be in a digital format capable of being read by the barrister's own accounting records to avoid duplication of effort. Chambers administrators should consider contacting their diary system provider in considering this further.

34. Finally, barristers should also be aware that a number of the software packages listed on HMRC's website for MTD store data in the "cloud": if VAT data is stored on servers outside the UK, that will result in a transfer of data outside the UK. The data that is required to be kept in the compatible software does not have to have any client personal data included, because fee notes / invoices can be cross referenced to the actual document stored on the Chambers fee system. If however, the data transferred onto the compatible software includes invoices addressed to an individual client including details of the work undertaken for them, such personal data cannot be transferred outside the EEA unless certain conditions have been met. In such circumstances, barristers should establish where any proposed software provider stores data in order to ensure that the relevant data protection rules are not breached. The Bar Council IT Panel's guide to Cloud Computing is available on the Bar Council's Ethics and Practice Hub.³

The Bar Council intends to issue further briefing notes on Making Tax Digital when more details are settled.

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³ <https://www.barcouncilethics.co.uk/documents/cloud-computing/>