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STATUTORY INSTRUMENTS

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**2021 No. 1076**

**INCOME TAX**

**The Income Tax (Digital Requirements) Regulations 2021**

		<i>at 9.22 a.m. on 23rd</i>
<i>Made</i>	- - - -	<i>September 2021</i>
<i>Laid before the House of</i>		<i>at 1.30 p.m. on 23rd</i>
<i>Commons</i>	- - - -	<i>September 2021</i>
<i>Coming into force</i>	- -	<i>6th April 2024</i>

The Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of the powers conferred by paragraphs 2(4), 7 to 9, 11, 13 to 15 and 18 of Schedule A1 to the Taxes Management Act 1970<sup>(1)</sup>.

**PART 1**

**General**

**Citation and commencement**

1. These Regulations may be cited as the Income Tax (Digital Requirements) Regulations 2021 and come into force on 6th April 2024.

**Interpretation**

2. In these Regulations—

“TMA 1970” means the Taxes Management Act 1970;

“Commissioners” means the Commissioners for Her Majesty's Revenue and Customs;

“designatory information” means information which enables HMRC to identify a relevant person, the type of business carried on by a relevant person, the commencement and cessation dates of the business or the basis used for calculating taxable profits for the purposes of income tax;

“digital records” has the meaning given by regulation 6;

“the digital requirements” has the meaning given by regulation 3(1);

“digital start date” has the meaning given by regulation 4;

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(1) 1970 c. 9. Schedule A1 was inserted by section 60 of the Finance (No. 2) Act 2017 (c. 32).

“end of period information” means financial information<sup>(2)</sup> and other information in respect of the business of a relevant person for a relevant period<sup>(3)</sup>;

“end of period notice” has the meaning given by regulation 12;

“HMRC” means Her Majesty’s Revenue and Customs;

“property business” has the same meaning as it has in section 263(6) of ITTOIA 2005<sup>(4)</sup>;

“quarterly deadline” has the meaning given by regulation 7(5);

“quarterly period” has the meaning given by regulation 7;

“quarterly update” has the meaning given by regulation 7(2);

“relevant person” means a person to whom Schedule A1 applies by virtue of paragraph 1 or 2 of Schedule A1, other than a person to whom an exemption applies by virtue of Part 7 or 8 of these Regulations;

“retailer” has the same meaning as it does in Schedule 11 to the Value Added Tax Act 1994<sup>(5)</sup>;

“retail sales notice” has the meaning given by regulation 16(1);

“Schedule A1” means Schedule A1 of TMA 1970;

“update information” means financial information and other information in respect of the business of a relevant person for a quarterly period;

“update notice” has the meaning given by regulation 8(1).

### Use of functional compatible software

**3.—**(1) A relevant person must use functional compatible software to comply with the following requirements (“the digital requirements”)—

- (a) to record digital records under Part 2;
- (b) to preserve those digital records until the end of the relevant day as required by section 12B(1A)(b) of TMA 1970<sup>(6)</sup>;
- (c) to provide quarterly updates under Part 3; and
- (d) to provide an end of period statement<sup>(7)</sup> under Part 4.

(2) Where a relevant person has received notice to file for a year of assessment under section 8 of TMA 1970 and is required to file an end of period statement for that tax year<sup>(8)</sup>, that person may use functional compatible software to comply with the duty to file the things mentioned in subsection (1A)(a) for that year<sup>(9)</sup>.

(3) “Functional compatible software” means a software program or set of compatible software programs which comply with conditions set out in a software notice, where such notice has been made, and the functions of which include—

- (a) recording and preserving digital records in a digital form;

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(2) For the meaning of “financial information” see paragraph 7(2) of Schedule A1.

(3) “Relevant period” is defined in paragraph 8(2) of Schedule A1.

(4) “ITTOIA 2005” is defined in section 118 of TMA 1970. That definition was inserted by paragraphs 357 and 380 of Schedule 1 to the Income Tax (Trading and Other Income) Act 2005 (c. 5).

(5) 1994 c. 23.

(6) Section 12B was inserted by paragraph 3 of Schedule 19 to the Finance Act 1994 (c. 9). Section 12B(1A) was inserted by paragraphs 1 and 14 of Schedule 14 to the Finance (No. 2) Act 2017.

(7) For the meaning of “end of period statement”, see paragraph 8 of Schedule A1.

(8) Paragraph 8(6)(b) of Schedule A1 gives the meaning of an end of period statement ‘for’ a tax year.

(9) Section 8 was substituted by section 90(1) and (5) of Finance Act 1990 (c. 29). Section 8(1A)(b) was inserted by paragraphs 1 and 3 of Schedule 14 to the Finance (No. 2) Act 2017. See also section 8(1A)(b)(ii) of TMA 1970 and paragraph 9 of Schedule A1.

- (b) providing to HMRC quarterly updates and end of period statements and by using the API platform; and
- (c) receiving information from HMRC using the API platform in relation to a relevant person's compliance with obligations under these Regulations.

(4) "Software notice" means a general direction given by the Commissioners which is stated to be given further to this regulation and specifies conditions with which functional compatible software must comply.

(5) A software notice may specify different conditions for different cases or purposes.

(6) "API platform" means the application programming interface that enables electronic communication with HMRC, as specified by notice made by the Commissioners.

### Digital start date

4.—(1) Where a relevant person is carrying on a business<sup>(10)</sup> immediately before 6th April 2023 the digital start date that applies to that business is 6th April 2024.

(2) Paragraphs (3) and (4) apply where a relevant person—

- (a) commences carrying on a business on or after 6th April 2023; and
- (b) is required to make or deliver a return under section 8 of TMA 1970 including information relating to that business.

(3) Where the exception in section 8(1G) of TMA 1970<sup>(11)</sup> applies to the return, the digital start date that applies to the business is 6th April in Year 4, where Year 1 is the year of assessment to which the return relates.

(4) In any other case, the digital start date that applies to the business is 6th April in Year 3, where Year 1 is the year of assessment to which the return relates.

## PART 2

### Digital records

#### Keeping and recording digital records

5.—(1) A relevant person must keep digital records for each business for the period beginning with the digital start date which applies to the business and ending with the date on which the business ceases.

(2) A relevant person must record a digital record by no later than—

- (a) the quarterly deadline for the quarterly period in which the digital record falls; or
- (b) immediately before the relevant person provides the quarterly update for the quarterly period in which the digital record falls,

whichever is the earlier.

#### Digital records

6.—(1) Subject to paragraph (3), "digital records" for a business means records of each of the transactions made in the course of the business, including—

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<sup>(10)</sup> "Business" is defined in paragraph 6 of Schedule A1.

<sup>(11)</sup> Section 8(1G) was inserted by section 88(4) of the Finance Act 2007 (c. 11) and amended by paragraph 3(10) of Schedule 14 to the Finance (No. 2) Act 2017.

- (a) the amounts of the transactions;
- (b) the dates of the transactions, according to the basis used by the relevant person for recording transactions for the purposes of income tax; and
- (c) the categories of transactions into which the transactions fall, to the extent those categories are specified.

(2) Except as provided by paragraph (3), a transaction falls within the category of transaction applicable to it which may be specified in an update notice which exists at the date of the transaction.

(3) In respect of the retail sales of the business of a retailer, if a relevant person so elects under regulation 15(2) in respect of a tax year, digital records are such records of a transaction as may be specified in a retail sales notice.

## PART 3

### Quarterly updates

#### Quarterly updates

7.—(1) A relevant person must provide to HMRC update information for a business, as specified in an update notice, in respect of each quarterly period for each tax year.

(2) “Quarterly update” means the provision of information required by paragraph (1).

(3) Subject to paragraphs (8), (9) and (10), the quarterly periods for a tax year are those specified in the following table.

	<i>Period</i>
Quarterly period 1	The period beginning with the first day of the tax year (6th April) and ending with the following 5th July
Quarterly period 2	The period beginning with the day immediately following the end of quarterly period 1 (6th July) and ending with the following 5th October
Quarterly period 3	The period beginning with the day immediately following the end of quarterly period 2 (6th October) and ending with the following 5th January
Quarterly period 4	The period beginning with the day immediately following the end of quarterly period 3 (6th January) and ending with the following 5th April

(4) Each quarterly update must be provided by no later than the quarterly deadline.

(5) The quarterly deadlines for each quarterly period are the dates specified in the following table.

	<i>Deadline</i>
Quarterly period 1	5th August following the end of quarterly period 1

	<i>Deadline</i>
Quarterly period 2	5th November following the end of quarterly period 2
Quarterly period 3	5th February following the end of quarterly period 3
Quarterly period 4	5th May following the end of quarterly period 4

(6) A relevant person may make an election under this paragraph for a business in respect of a tax year (“a calendar quarters election”).

(7) A calendar quarters election has effect for the tax year in respect of which it is made and for subsequent tax years until it is withdrawn.

(8) Subject to paragraph (9), where a calendar quarters election has effect for a tax year, the quarterly periods for that tax year are those specified in the following table.

	<i>Period</i>
Quarterly period 1	The period beginning with 1st April before the beginning of the tax year and ending with the following 30th June
Quarterly period 2	The period beginning with the day immediately following the end of quarterly period 1 (1st July) and ending with the following 30th September
Quarterly period 3	The period beginning with the day immediately following the end of quarterly period 2 (1st October) and ending with the following 31st December
Quarterly period 4	The period beginning with the day immediately following the end of quarterly period 3 (1st January) and ending with the following 31st March

(9) For the first tax year for which a calendar quarters election has effect, quarterly period 1 is the period beginning with the first day of the tax year (6th April) and ending with the following 30th June.

(10) For the tax year following the final tax year for which a calendar quarters election has effect, quarterly period 1 is the period beginning with 1st April before the beginning of the tax year and ending with the following 5th July.

(11) A calendar quarters election must be made by notice to HMRC by no later than—

- (a) the quarterly deadline for quarterly period 1 for the tax year in respect of which the election is made; or
- (b) the time at which the relevant person provides the quarterly update in respect of quarterly period 1 for the tax year in respect of which the election is made,

whichever is the earlier.

(12) A calendar quarters election may be withdrawn by notice to HMRC at any time.

(13) Where a calendar quarters election is withdrawn, it ceases to have effect—