

Improving the operation of Pay As You Earn (PAYE): Collecting Real Time Information

Consultation document

Publication date: 3 December 2010
Closing date for comments: 28 February 2011

Subject of this consultation:	The business processes behind PAYE have remained largely unchanged since its introduction. This document sets out how these will be changed to reduce administration costs and improve the accuracy of PAYE.
Scope of this consultation:	<p>The document sets out plans to require employers to submit PAYE information as part of the employee payment process. While the decision to introduce this change has been taken, there is an opportunity to influence:</p> <ul style="list-style-type: none"> - the data items to be submitted with the payment - the process of transition to the new system - the identity management process - whether or not there is a need to relax the requirement in the case of certain small employers, and - who these employers might be.
Impact Assessment:	The consultation stage impact assessment is published alongside this document.
Who should read this:	Those running PAYE schemes, providers of payroll software, providers of payroll services, employers and pension schemes.
Duration:	3 December 2010 to 28 February 2011
Enquiries and How to respond:	<p>HM Revenue and Customs, PAYE Consultation, Room 1/40, 100 Parliament Street, London, SW1A 2BQ</p> <p>Telephone: 020 7147 0842 (from a Text Phone prefix this number with 18001)</p> <p>e-mail: paye.consultation@hmrc.gsi.gov.uk</p>
Additional ways to become involved:	HMRC will be running a series of seminars for employers and software providers. If you would like to attend one of these or to host one please phone 01274 539666 if you are a software developer or 0845 6032691 if you are an employer.
After the consultation:	Final requirements around data and channels will be published for software developers by the end of March 2011.
Getting to this stage:	A discussion process was run over the summer looking at proposals for improving PAYE. The responses gathered in that process are reflected in this document.

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On request, this document can be produced in alternative languages and formats including large print, audio formats and Braille

1. Executive Summary

Improving the operation of Pay As You Earn (PAYE)

- 1.1** This consultation document introduces the second stage of consultation on a proposal set out in HM Revenue & Customs' (HMRC) discussion paper 'Improving the operation of Pay As You Earn (PAYE)' published on 23 July 2010.
- 1.2** That paper outlined a concept to reduce costs for employers¹ and for HMRC and to improve customer service for individual customers by improving the timeliness of information transmitted to HMRC.
- 1.3** The concept is called 'Real Time Information' (RTI). RTI will collect information about tax and other deductions automatically each time employers run their payroll. This information will be submitted automatically to HMRC at the same time the employees are paid. Where employers pay their employees via Bacs², the RTI data will form part of the Bacs submission.
- 1.4** The paper also outlined an idea for a potential further longer-term change to PAYE: 'Centralised Deductions' (CD). In theory, CD could build on RTI by moving the responsibility for calculating and deducting tax, National Insurance contributions (NIC) and Student Loan repayments³ away from employers to the electronic payment system.
- 1.5** Responses to the discussion paper were supportive of the RTI concept. Ministers have therefore decided to proceed with a phased introduction of RTI beginning in 2012. Consideration will only be given to further developments of PAYE once RTI has bedded in and been evaluated. This is unlikely to be before 2015. Full consultation with all interested parties would be undertaken at that stage should any further changes be proposed.

¹ 'Employer' includes pension providers and DWP throughout the document unless a specific reference is made to the contrary.

² Bacs – the system that makes direct credit and debit payments –the vast majority of salaries, wages and pensions are paid this way.

³ All loans advanced since August 1998 are income-contingent Student Loans (referred to as Student Loans in this document)

- 1.6** This document explains how RTI will work and sets out the timeline for its introduction. HMRC is keen to hear from interested parties about these proposals. In particular, we are keen to receive views on the information items that we propose employers would be required to send to HMRC and the channel(s) to be used to send this information to HMRC. HMRC's intention is that RTI should involve only data already collected and recorded by employers for the purposes of PAYE or to satisfy other existing legislative requirements.

Next Steps

- 1.7** This consultation runs until 28 February 2011. HMRC will hold a series of seminars and workshops with representatives of the main stakeholder groups (employers, payroll bureaux and payroll software developers) during this period.
- 1.8** Following analysis of the responses to this document, a final specification for payroll software developers will be published by the end of March 2011. The Government will publish its formal response to the consultation, including full details of how RTI will be implemented, in Spring 2011.
- 1.9** Further consultation will accompany the publication of draft amendments to the PAYE Regulations which should follow in Autumn 2011.
- 1.10** RTI is a key component in the Department of Work and Pensions' (DWP) plans for the introduction of Universal Credits from 2013. DWP will use RTI to award and adjust Universal Credit to take account of employment and pension income. To support DWP's plans, RTI will be introduced from Spring 2012. Employers will be moved on to RTI on a scheme-by-scheme basis over the following 18 months, starting with a small group of volunteer employers to test the new system. The migration will be carefully managed, starting with large employers in 2012/13, followed by smaller ones in 2013/14 with Ex-Pat schemes and the smallest employers being the last to be brought into RTI. All employers are expected to be part of the new system by October 2013.

2. The Consultation Process

2.1 This consultation process follows the principles outlined in the document "[Tax policy making - a new approach](#)" published at Budget June 2010. This sets out three stages for policy development:

Stage 1 - set out objectives and identify options

Stage 2 - determine the best option and develop a framework for implementation, including detailed policy design

Stage 3 - draft legislation to effect the proposed change.

This stage 2 consultation seeks views on the detailed design of RTI and the framework for its implementation.

How to respond

2.2 A summary of the views sought in this document is included at Chapter 9.

2.3 Responses should be sent by 28 February 2011,

e-mail: paye.consultation@hmrc.gsi.gov.uk

post : HM Revenue and Customs,
Room 1/40,
100 Parliament Street,
London, SW1A 2BQ

Fax: 020 7147 2531

Telephone : 020 7147 0842 (from a Text Phone prefix this number with 18001)

2.4 Paper copies of this document, or copies in alternative languages and formats, may be obtained free of charge from the above address. This document can also be accessed from the HMRC Internet site at <http://www.hmrc.gov.uk/consultations>. All responses will be acknowledged, but it will not be possible to give substantive replies to individual representations.

2.5 When responding please say if you are a business, individual or representative body. If you are an employer, pension or payroll provider please say how many PAYE schemes you have and the number of employees paid. In the case of representative bodies please provide information on the number and nature of people you represent.

Confidentiality

- 2.6** Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes. These are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004.
- 2.7** If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals with, amongst other things, obligations of confidence. In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on HM Revenue and Customs (HMRC).
- 2.8** HMRC will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

The Consultation Code of Practice

- 2.9** This consultation is being conducted in accordance with the Code of Practice on Consultation. A copy of the Code of Practice criteria and a contact for any comments on the consultation process can be found in Annex A.

3. PAYE Today and RTI in Outline

- 3.1** PAYE has successfully collected tax since 1944. In 2008-09 £225bn in tax, National Insurance Contributions (NIC) and Student Loan repayments was collected by PAYE. This cost almost £2bn to collect (£1.2bn for HMRC and £0.7bn⁴ for businesses).
- 3.2** PAYE has stood the test of time. For most people it is a straightforward process. Employers apply the tax code and other rules for each employee⁵ as notified by HMRC. These enable the employer to calculate the tax, NIC and Student Loan repayments due on each wage, salary or pension payment.
- 3.3** Employers calculate and make the deductions each pay day. In the following month employers pay these deductions over to HMRC. At the end of the year the employers make a return to HMRC providing details about the deductions they have made and HMRC reconcile this to the payments already received. Employers also inform HMRC about employment changes as these occur.
- 3.4** PAYE means that eight out of every nine employees do not have to complete a self assessment tax return. It also means that for most people who are taxed under PAYE, no further intervention to adjust their tax position is required.
- 3.5** HMRC has recently invested in the National Insurance and PAYE System (NPS) which replaced the previous system COP (Computerisation of PAYE). COP held tax records in 12 unlinked databases by reference to employers rather than taxpayers. A separate system – NIRS (National Insurance Recording System) - kept track of NIC. NPS brings together all the tax and National Insurance records for an individual providing HMRC staff with a complete view of that individual's PAYE and National Insurance history. This has streamlined the handling of PAYE work, making it easier at the end of year to ensure the right amount of tax has been paid.

How RTI would work

- 3.6** RTI will involve employers changing their current payroll processes.
- 3.7** Instead of sending information at year-end, employers would be required, by a change to the PAYE regulations, to provide information when they do their regular pay run for their employees, whether that is weekly, fortnightly, monthly, etc. Employers would also provide details about employer-level payments (i.e. Secondary NIC) at the time they pay over to HMRC the tax, NIC and Student Loan repayments deducted. We envisage that the due date for payments to HMRC (19th or 22nd of the following month) would remain unchanged.

⁴ Administrative Burdens – HMRC Measurement Project KPMG 20 March 2006 Chapter 11

⁵ 'Employees' includes employees, pensioners or recipients of state pension, contributions based job seekers allowance or contributions based employment support allowance.

3.8 Currently, employers can choose from a range of payment methods for paying HMRC, including cheque payment for small and medium sized employers. However, the Payments Council is planning to phase out payment by cheque by 2018⁶. Electronic payments are more secure and efficient than cheque payments and businesses are already required to pay Corporation Tax and VAT electronically. As part of this consultation HMRC are seeking views on whether employers should be required to pay HMRC electronically.

3.9 Once the RTI system has bedded in, and employers have successfully switched to the new system, we envisage that they will no longer have to submit P14/P35 end of year returns to HMRC. The procedures when employees join or leave will also be simplified.

3.10 We envisage that the RTI system will be structured as follows:

- most employers would be required by regulation to use the Bacs system to transmit RTI information with payment instructions;
- a common standard will be used for the transmission of RTI data at all stages of the payments infrastructure from payroll software, through banking interfaces and Bacs submission software to the Bacs system itself;
- smaller employers (fewer than 50 employees) who do not pay their employees via Bacs will initially be able to submit RTI from their software, or via an agent, using an internet channel through the Government Gateway.

HMRC will bear the costs of extracting the RTI information from Bacs.

3.11 Benefits in kind are not included in the proposals. This means that employers will still be required to submit forms P9D, P11D and P11D(b) at the end of the year.

3.12 In responses to the discussion paper strong representations were made for retention of an Electronic Data Interchange channel (EDI) under RTI. However, EDI does not link the payment instructions and information about deductions which is fundamental to the RTI concept. Running multiple channels would also increase the cost to HMRC. The new Bacs channel will provide comparable capacity, resilience and responsiveness to EDI while adding the benefit of PKI-level security. Having carefully considered the representations, we have concluded that we should maximise the use of the Bacs channel and discontinue use of EDI for PAYE. We recognise this will be a disappointment to some, but the design of the RTI system has to take full advantage of the long-term benefits from the outset.

⁶ http://www.paymentscouncil.org.uk/media_centre/press_releases_new/-/page/855/

How RTI could improve PAYE

Better Information

3.13 Under RTI, information on individuals' income and deductions will be provided to HMRC each time an employee is paid. RTI will, therefore, help to get more people's tax right in-year as it will enable HMRC to adjust tax codes using up to date income information. This will mean that the correct tax is paid in-year in more cases. Currently checks can only be undertaken after the year end once all employers have submitted their end of year returns.

Reduced contact

3.14 HMRC takes approximately 8.6 million telephone calls a year relating to PAYE. Most of these are from customers seeking help in completing forms, ascertaining whether tax codes are correct or asking about a repayment of tax. Many of these calls relate to sporadic or multiple employments or come from pensioners, who can find it difficult to understand the tax on their pensions.

3.15 HMRC believes that RTI will help to reduce circumstances which cause this customer contact because more people will be taxed correctly in-year. It will also be easier to answer the questions that arise as HMRC staff will have access to in-year information about the individual's income and so will be able to provide a better and quicker service.

Improved Processes

3.16 When people move jobs, delays in sending information to HMRC can cause the wrong tax to be deducted. This can be compounded when the new job is a second job.

3.17 RTI will get information on those joining and leaving employment to HMRC more quickly. For example, RTI will enable the date of leaving to be submitted before the final earnings information.

Reduced Administration

3.18 Under PAYE today employers have to:

- issue a P45 to all employees who leave employment;
- notify HMRC of those employees who join and determine a tax code by requiring the employee to complete a P46;
- make end of year returns to HMRC.

3.19 These processes will be discontinued or simplified once the introduction of RTI had been successfully completed. This has the potential to reduce the administrative burden placed on employers significantly. The impact assessment (published alongside this document) has full details.

Better Debt Management and Banking

3.20 Real time information will mean that HMRC can check that an employer is paying the correct amount at the time of payment rather than having to wait until after the end of the year as now. This will enable HMRC to take prompt debt collection action and provide more accurate and timely information to the National Insurance and Consolidated Funds.

4. Responses to the discussion paper

The Discussion Process

- 4.1 HMRC's discussion paper, 'Improving the Operation of PAYE' was published on 27 July and the consultation period ended on 23 September. This was a shorter than usual period of consultation (9 weeks instead of 12) to allow the results of the discussion to inform the Spending Review process.
- 4.2 The discussion paper did not go into detail about how the proposals might work because it was intended to start a dialogue with employers, payroll software developers and the payroll industry about the potential benefits a change to PAYE might bring and to provoke thought about how new processes could work.
- 4.3 During the discussion period HMRC ran a series of seminars at which the proposals were discussed with several hundred employers, payroll representatives and software developers.

Results of discussion

- 4.4 HMRC received over 400 responses, the great majority of which were thoughtful and informed contributions to the debate on the future of PAYE. Almost a quarter of respondents did not express a view or make a comment about the proposals, but instead listed issues or questions about the feasibility of each option.
- 4.5 The overwhelming majority of the responses - nearly three-quarters of those expressing a view - were in favour of a move to RTI.
- 4.6 Around a fifth of those who expressed a view could see the benefits of CD. The Federation of Small Businesses, large pension providers, groups representing individual tax payers, such as Low Incomes Tax Reform Group (LITRG) and the Chartered Institute of Taxation (CIOT), and some individual taxpayers and employers felt that CD could, if implemented smoothly, offer significant advantages, especially to small employers. However, the majority of respondents expressed significant concerns regarding CD.
- 4.7 There were a number of recurring themes in the responses. These included:
 - concerns about the timescale for RTI – 2012 was seen as too soon for full live running for all employers. Both employers and software developers insisted the timescales for any implementation must be carefully considered and achievable and that proper, exhaustive testing of all systems before 'go live' would be vital for success;

- concern that HMRC will overestimate the benefits that RTI could deliver, both in terms of efficiencies for employers (e.g. by replacing a single end of year process with one at each payment period) and solving the inaccuracy issues caused by the P45/P46 process;
- suggestions that HMRC should reconsider the payrolling of benefits in kind as part of RTI as many of the coding issues and workload for employers arise from a lack of clarity and consistency in this area;
- concerns that smaller employers may not necessarily see the same benefits from RTI as larger ones due to economies of scale in the operation of payroll;
- questions about whether collecting information more frequently than now, but still in arrears, might be better than collecting information at the point of each payment;
- alternatives to the use of the Bacs channel for those who do not file electronically or prefer the current Government Gateway/EDI channels;
- views that the need for a solution such as CD might be obviated by the introduction of RTI coupled with changes to employers processes;
- concerns around the nature of CD and the handling of payments data by HMRC; and
- an overwhelming view that more detail would be needed before respondents could offer informed comments on the proposals.

4.8 The Government has taken account of these views in developing the proposal outlined in this consultation paper. Some of the reasoning behind the original proposals is set out below for the purposes of clarification and to give context to the further proposals in this document.

Real time information rather than monthly filing

4.9 RTI would collect information from employers about the deductions they make under PAYE at the time they pay their employees. It is not 'Monthly Filing', which would require information to be submitted separately monthly in arrears with the payment of tax, NIC and Student Loan deductions to HMRC.

4.10 Some people who responded to the discussion paper thought that submitting information in arrears, but more frequently than under the current system, would be preferable to submitting information at the point of payment to employees. However, HMRC believes that the major benefits of RTI flow from linking payment of earnings and reporting of PAYE information. Any separation of the two processes would significantly reduce these benefits.

Centralised Deductions

- 4.11** The potential longer-term proposal for PAYE described in the discussion paper was 'Centralised Deductions' (CD). This suggested using RTI to go one step further to enable deductions to be calculated during the payment cycle in the Direct Credit system.
- 4.12** The CD proposal did not envisage HMRC taking direct control of employees' pay, taking over all payroll functions from employers or that employers' funds would be transferred to HMRC for onward payment to their employees.
- 4.13** Under CD, HMRC would set the deduction rules as they do now, but instead of each employer applying these, they would be applied automatically as part of the payment process system. The information about the employee's gross pay would be sent by the employer to the electronic payments system. The money would, at all times, stay within the electronic banking system and would not be transferred to HMRC. However, the information attached to the payment instruction would be used to apply the appropriate personal allowances, tax, NIC and Student Loan rules to calculate the deductions needed. On the date of settlement the net payment would move from the employer's account to the employees' accounts and on the due date the deductions made would go to HMRC.
- 4.14** The overall responsibilities would be much the same as they are now. The employer would identify payments as being taxable or not and would make the payments. HMRC would provide the rules for calculating tax and other deductions. The difference would be that a third-party, the administrators of the Bacs system, would use these rules to make the deductions.
- 4.15** One concern raised by employers was that such a proposal would remove the significant cash-flow advantage they enjoy from PAYE. Currently, employers retain the deductions from employees' wages or salaries from the point of calculation until the due date, the 19th or the 22nd day of the next month. CD makes no presumption about bringing forward the date deductions will have to be paid over to HMRC. If it were decided at a future point to move forward on CD the cash flow effect on employers would be a key part of the consultation.
- 4.16** As explained earlier, taking into account the views from the consultation, Ministers have decided to proceed with a phased introduction of RTI from 2012. Further development of PAYE will not be considered until RTI has bedded in and been evaluated. Further consultation with all interested parties would be undertaken at that stage.

Benefits in Kind and Expenses Payments

- 4.17** The discussion paper assumed that the existing benefits in kind reporting process would remain under RTI. However, some respondents to the discussion paper asked how benefits and expenses would be treated under RTI. Respondents suggested payrolling, with some preferring compulsory payrolling while others wanted a more flexible approach.
- 4.18** HMRC will continue its work with interested parties to develop an acceptable model for taxing benefits through the payroll. The P11D process will remain for the time being. However, HMRC would still welcome any comments from respondents around how benefit and expense reporting should operate alongside RTI.
- 4.19** Where an employer already has an agreement with their tax office around payrolling benefits RTI will enable details of the amounts payrolled to be returned as part of the RTI submission.

5. Real Time Information: detail

How it would work

- 5.1** RTI will collect information from employers about the deductions from payments to their employees at the time they make those net payments.
- 5.2** RTI will require the employer making a payment to the employee to send data about the calculation of that payment to HMRC at the time the payment is made. We envisage that information regarding Employers' National Insurance and other employer-level adjustments, such as Statutory Sick Pay, will accompany the employer's payment to HMRC.

The new RTI process

- 5.3** The core process envisaged is:
 - each payday the employer would submit the details of each net payment to each employee and the calculation behind it to HMRC. Ideally, this submission will be part of the payment process, ensuring that the information and payment reconcile, avoiding the need for later reconciliation;
 - monthly, the employer would pay the tax, etc. owed to HMRC and provide the relevant information regarding:
 - ◆ corrected errors not already notified;
 - ◆ alterations for NI recovered in respect of Statutory Sick Pay and Statutory Maternity Pay;
 - ◆ alterations for NI compensation on Statutory Maternity Pay recoveries;
 - ◆ any adjustment for payments of Construction Industry Scheme (CIS) amounts remitted.
- 5.4** As a result of this process, HMRC will have accurate, real-time information about employees' pay and tax and will be able to reflect this more accurately in the tax codes sent to employers.
- 5.5** HMRC also believes that the submission of this information through a secure and validated channel linked to the payment being made to the employee would allow much of the existing employer reporting burden to be removed progressively.

Questions

- Could this new process allow the phasing out of the need for an end of year reporting process?
- Is monthly submission of information about employer-level adjustments (as suggested above) the best approach for employers?
- Alternatively, would it be possible to send details of these adjustments at the same time as the real time information about employee deductions?

Data required

5.6 Defining the data items that will be required under RTI will be crucial. Employers or their agents will be required to make a submission of all applicable data items each time they make a payment to the employee. The proposed data items are contained in Annex B. This confirms our intention that all the information required for RTI be material that is already collected and recorded by employers for the purposes of PAYE or to satisfy other legislative requirements.

Questions

- Is the data contained in Annex B already held in payroll systems?
- If certain items are not currently held, would they be easily obtainable?
- Do you envisage any difficulty in incorporating new data into your payroll system?
- Do you have any other comments on the data items specified in Annex B?

The Payroll Process

5.7 Much of the employer's payroll process would remain unchanged. The payer would remain responsible for:

- identifying the amounts being paid that were subject to tax and NIC;
- calculating the deductions for tax, NIC and student loans;
- determining any other deductions to be made;
- paying the net amount to the payee;
- issuing payslips to employees, and
- issuing P60s to employees.

What would change is that before, or as part of, the payment process RTI data will need to be sent to HMRC.

Payment to HMRC (monthly/quarterly/annual payments)

- 5.8** Following the payroll run, as now, in the run up to the payment of tax, etc. to HMRC, the employer would make adjustments for statutory payments and CIS payments due to calculate the overall payment to HMRC. HMRC would acknowledge receipt and make the necessary transfers to the Consolidated Fund and National Insurance Fund.
- 5.9** There are several ways that the deductions owed to HMRC could be collected:
- **Integrated payment instigated by employer** – the employer would gather all the information needed to make the payment and pay HMRC the overall amount owed by the due date. HMRC would check this amount against the RTI and other information provided and, if the amounts match, note the period closed. If the employer had either paid too much or too little, HMRC would take action accordingly shortly after the due date.
 - **Separate payments in respect of employee deductions and amounts due from the employer.** HMRC could use direct debit to collect the payments due for the deductions made by the employer based on the RTI submitted. The employer would make a separate payment for Employers' NIC with appropriate adjustments for statutory payments and CIS deductions.
 - **Integrated payment instigated by HMRC:** every month on the due date HMRC could collect the amount due by direct debit based on the amounts calculated from RTI submissions which could include information about CIS deductions and statutory payment adjustments as and when these occurred.
- 5.10** Currently employers have a choice of payment methods including (for small and medium sized employers) cheque payment. Businesses are already required to pay their Corporation Tax and VAT liabilities electronically and the Payments Council is planning to phase out cheques by 2018. HMRC would welcome views on whether a requirement to pay PAYE electronically should be introduced at the same time as RTI.

Questions

- Which of the three methods for collecting the payments would you prefer?
- Is there a better way of collecting these payments and should the current choice of cheque or electronic payment be retained?
- Should HMRC continue to allow payments to HMRC on a quarterly or annual basis?

Joiners and Leavers (P45/P46)

- 5.11** When an employee leaves the employer will notify HMRC of the leaving date in an RTI submission.
- 5.12** When an employee joins an employer the employer will still need to ask P46 type questions in order to determine the tax code to be operated. The employer will still be required to:
- issue payslips to their employees, and
 - issue P60s to their employees at the end of the tax year.
- 5.13** Employers will also be required to issue a 'final' tax/pay statement showing:
- tax paid to date, and
 - taxable pay to date

to a leaving employee. If employers' payslips show this information this would suffice. At the end of the year the employer would issue a P9D or P11D at the end of the year to their ex-employee and HMRC.

- 5.14** This has the potential to reduce significantly the current administrative burden on employers which involves:
- issue of P45/1s and P45/2s to HMRC when employees leave;
 - issue of P45/3 to HMRC when employees join;
 - issue of P46 to HMRC when employees join.

Instead, they will include details of starters and leavers as part of their regular RTI submission.

- 5.15** Additionally, at present employers are required to:
- issue a P14 to HMRC for all employees they have employed in a year;
 - issue a P35 to HMRC;
 - issue a P38A to HMRC.
 -

- 5.16** We envisage that under RTI, submission of these returns will no longer be required. The information currently collected through these forms will have been submitted throughout the year and HMRC will summarise it to produce equivalent end of year information to update its systems.

- 5.17** To facilitate an improved joining process it is hoped to offer employers a National Insurance Number (NINO) verification service to enable them to check whether the details given by a new employee match HMRC's records. This would help to address data quality issues and should save employers work to update their records later.

Questions

- Is changing the movements process in this way preferable to retaining the current process?
- Is there a better way to structure the movements process?
- Do you have views on the appropriate tax code to operate in the case where an individual's identity details failed a verification test?

6. Channel choice

- 6.1** Currently, most employers use one of the following electronic channels to file their returns and forms:
- internet channel through the Government Gateway using commercial software;
 - internet channel using HMRC's CD-ROM (soon to be replaced by a web-based "Basic PAYE Tools") or HMRC's online forms and returns service;
 - EDI channel using commercial software.
- 6.2** HMRC informs employers of tax codes to operate through EDI, the Government Gateway and, for some, through the post.
- 6.3** Analysis of Bacs traffic shows that over 90% of employees are paid through this channel. However, HMRC is aware that there are a significant number of employers who do not use electronic payment systems to pay their employees. We would be interested in hearing from those who do not use Bacs and why.
- 6.4** We intend to provide one alternative electronic channel for those employers who do not currently use Bacs. HMRC envisages that such employers would use an internet channel to send information to HMRC. However, as with the Bacs channel, this exchange would need to be on a payment by payment basis. It would also need to be transmitted on or before the actual payment to the individual. For the smallest of employers HMRC's "Basic Payroll Tools" would provide this functionality.
- 6.5** There are advantages for HMRC and employers in re-using the Bacs channel for PAYE purposes. First, the information about a payment is corroborated by the amount of the payment to which it is attached. The Bacs 'signing' PKI infrastructure would cover not just the payment but also the linked RTI data. This would allow HMRC to rely on that information without asking the employer to make a separate return and declaration to that effect. Integrating information collection with an existing reliable process brings economies of scale which would allow HMRC, rather than the employers, to meet the cost of the information collection. Employers will still pay the charges for Bacs payment, but HMRC will pay the cost of extracting the RTI data from the Bacs process. Use of Bacs will also allow employers to use a single channel for payment instructions and PAYE information rather than two channels as now.

- 6.6** Some small employers have separate calculation and payment processes. Their agent (or software) will do the calculation and prepare separate instructions for the employer to pay. We think it might be appropriate to let such arrangements continue until such time as the software industry or agency can make the necessary changes to allow integration of the payment instruction and RTI. We propose this relaxation should be available to employers with fewer than 50 employees until 2018 where the following conditions currently apply:
- the employer is not a direct submitter to Bacs;
 - the employer makes the payments to his employees but uses an agent to return information to HMRC;
 - the payment instruction is not made electronically at some point in the process – i.e. the software or agent passes information back to the employer who then phones, faxes, sends the payment instructions on paper or re-keys the data into internet banking software.

As with the Bacs channel the employer (or their agent) would be required to submit the real time information at, or before, the time of payment to their employees. This will ensure that the necessary information can be used by the DWP to determine Universal Credit payments at the appropriate time.

- 6.7** HMRC and its IT partners will work with the banking industry, those providing Bacs submission software and the Bacs scheme to develop a common standard for transmission of the payment and RTI data at all stages of the process between payroll software and the electronic banking channel.
- 6.8** We believe that re-using the Bacs channel and its associated processes is the most effective method for collection of RTI, and offers the best value for money, because it :
- is robust, resilient and responsive;
 - should not involve extra channel costs for employers who already use Bacs to pay their employees;
 - is capable of being implemented by Spring 2012;
 - will minimise HMRC's channel provision costs;
 - will authenticate information as being correct to a standard that would withstand legal challenge using PKI or similar solutions;
 - is already used to pay the vast majority of payments to which PAYE has been applied.

- 6.9** There are currently a small number of specific groups of employers who are exempt from online filing and send paper returns. Excluding those employers from the RTI system could disadvantage their employees (because on their PAYE deductions may be less accurate and they could encounter difficulties when making a Universal Credit claim). We would welcome views on how best to deal with these employers, and their employees, under RTI. In particular, we would like to explore whether these employers would be willing to send paper submissions on a more regular basis.
- 6.10** As RTI is a reform to the PAYE system it is not envisaged that it would cover the self employed.

Questions

- Are there any specific reasons or barriers why you do not use Bacs to pay your employees and could you detail these?
- It would also be helpful if you would provide volumes (e.g. number of employees and frequency of payment) around the circumstances outlined above.
- Do you envisage any difficulties with providing information on a payment by payment basis through the proposed internet channel?
- Do you envisage any difficulties meeting the requirement to provide information on, or before, payment is made to the employee?
- Do you agree with the relaxation provision set out in paragraph 6.6 above?
- If you do not agree with the relaxation set out in paragraph 6.6, please specify your reasons and provide some alternative ideas.
- Do you think the current exemptions from online filing would still be needed under an RTI system?
- Would employers that are currently exempt from online filing be prepared to send paper returns on a payment by payment basis?

7. Scenarios – what will happen in practice

P35/P14 End of year process

- 7.1** We envisage that the RTI feed and monthly employer payment and information will replace the annual P35 process. As each submission of information is attached to a money transfer HMRC can be assured that the employee level information reconciles to the payments made to the individual. We also envisage that there will be no end of year return for each individual employee (P14). The employer will remain responsible for preparing and providing P60 information to employees following the end of the tax year. Benefits in kind (P9D, P11D and P11D(b)) will also still need to be reported.
- 7.2** If an employer needs to correct an underpayment from a previous year, he can do so, by identifying that this payment was proper to the previous tax year and HMRC systems will reflect this accordingly.

What happens when someone leaves?

- 7.3** When an employer knows that someone is due to leave, or has left, the departure date, whether actual or prospective, needs to be notified to HMRC. This could either be provided immediately through the appropriate channel (it will be possible to submit information without any associated payment through the Bacs channel) or when the next payroll run happens.
- 7.4** The current procedure for payments made after an employee's date of leaving is to apply tax code BR, or after 6 April 2011, code OT. This will not always collect the right tax but may limit the size of any underpayment. Some respondents suggested it might be possible to change the regulations so that, once the leaving date has been notified, payments made to an ex-employee after that date would be taxed in the same way as if the payment had been made in the pay period in which the leaving date fell. This could improve the accuracy of PAYE as consecutive jobs will no longer have an over-lapping pay period.
- 7.5** We would expect an employer to give a departing employee a statement showing the pay and tax paid in the employment. A payslip showing this would be sufficient. If this approach was adopted HMRC would envisage that under RTI employers would no longer be required to issue P45s to HMRC or to the employee.

Question

- Would the change outlined at 7.4 above solve the overlapping pay period problem?

What happens when someone joins?

7.6 The new employer will obtain the necessary identity data from the employee, ask them if it is their only job and whether they are repaying a student loan. This information will be submitted to HMRC who will, if necessary, issue an updated tax code to be operated along with pay and tax details for the year to-date and instructions on collection of student loan deductions.

7.7 HMRC think that this should mean employers would no longer need to send P46s separately to HMRC.

What happens if?

An employer pays an individual too little or too much

7.8 Where an employer realises that they haven't paid the employee enough, they would make the extra payment, calculate the deductions as normal and submit the information at an appropriate time.

Question

- Would employers be willing to submit RTI about one-off corrections to pay in between regular pay runs or would it be easier to process these at the next regular pay run for the individual?
- 7.9** Any recovery by an employer from an employee who has been paid too much would need to be passed to HMRC as soon as the overpayment was identified. If the overpaid employee has left, we would ask the employer to refrain from making any adjustment until such time as the overpaid amount has been collected. At that point the employer will make an adjustment and submit the correction to HMRC.

Rolls back the whole pay period and starts again having already submitted information

7.10 HMRC understands that on occasion payrolls may be reversed and resubmitted with monetary adjustments being made where necessary. If the whole payroll is resubmitted without reference to the previous submission this could adversely mis-state the tax position. Ideally, HMRC would like corrections reported as a change to what has already been submitted rather than overwriting a previous return. However, if it is common practice to re-run pay for specific periods HMRC would require the submission of information to identify this as a replacement of a previous submission and the submission(s) that are being replaced.

Statutory payments

7.11 Details of statutory payments will continue to be captured to ensure compliance and passed to the DWP and the Department for Business, Innovations and Skills, who are responsible for policy on statutory payments, to inform their policy making.

Works numbers and employments on NPS

7.12 RTI will capture works numbers. As part of the transition and data cleansing process these will be matched to employments on NPS. Under RTI employers would be expected to notify HMRC when works numbers change submitting both the old and the new number to ensure that the data submitted can be linked to the correct employment.

Question

- HMRC would be interested in hearing views on how changes of works numbers could best be notified under RTI (and how the reasons for change could be best captured).

Makes an error without over or underpaying

7.13 If an employer makes a payment in one earnings period and subsequently discovers it was proper to another, the employer will need to submit a correction moving the appropriate amount from one period to the other and adjusting if necessary the NI due to reflect the different treatment in the two periods.

Operates the wrong code

7.14 If the employer operates the wrong tax code the tax deducted will be wrong. RTI would give HMRC the opportunity to pick this up and issue a correcting code to the employer during the tax year which would allow a correcting payment to be made at the next pay date.

Conclusion

7.15 From the scenarios outlined above, it appears that RTI could provide significant benefits for employers, employees and HMRC. The collection of information in real time would enable the PAYE system to work far more efficiently, which in turn would help improve the accuracy of in-year taxation for employees – especially those with more volatile work patterns - and reduce the administrative burden for employers. There are issues still to be addressed, but HMRC believes that by working closely with employers, payroll software developers and payroll bureaux on the design of RTI successful implementation can be achieved.

Question

- Do you have any views on the impact assessment that was published alongside this document?

8. Timetable for implementation

- 8.1** The introduction of RTI will be aligned with DWP's plans for the introduction of the Universal Credit. RTI will support Universal Credit by allowing DWP to access up-to-date information about PAYE income via HMRC. DWP's timetable requires RTI to be working at October 2013 and available for Universal Credit testing before then.
- 8.2** At the same time, the first consultation has brought out the degree of change that employers feel they would face and the need for us to bring them onto RTI in carefully managed stages. A recurrent theme is that proper, exhaustive testing of all systems before "go live" is vital and the timescales for implementation must be carefully considered and achievable. We therefore plan to deliver the RTI infrastructure for Spring 2012 to allow a phased process of migrating employers, initially on a voluntary basis, to RTI.
- 8.3** The timetable for migration could be:

April 2012 to October 2012: Test system with a small number of volunteer PAYE schemes (large, medium and small employers).

October 2012 to January 2013: Adjust the system to reflect lessons from the testing to migrate a further group of volunteers

From January 2013: Mandate large employers to start using RTI

From April 2013: Mandate medium sized employers to start using RTI

From August 2013: Mandate small employers to start using RTI

October 2013: Migration complete.

Question

- HMRC would be interested in views about whether this timetable is achievable and the issues you might foresee in meeting it.

9. Summary of Consultation Questions

Chapter 5

- Could this new process allow the phasing out of the need for an end of year reporting process? (5.5)
- Is monthly submission of information about employer-level adjustments (as suggested above) the most efficient approach for employers? (5.5)
- Alternatively, would it be possible to send details of these adjustments at the same time as the real time information about employee deductions? (5.5)
- Is the data contained in Annex B already held in payroll systems? (5.6)
- If certain items are not currently held, would they be easily obtainable? (5.6)
- Do you envisage any difficulty in incorporating new data into your payroll system? (5.6)
- Do you have any other comments on the data items specified in Annex B? (5.6)
- Which of the three methods for collecting the payments would you prefer? (5.10)
- Is there a better way of collecting these payments and should the current choice of cheque or electronic payment be retained? (5.10)
- Should HMRC continue to allow payments to HMRC on a quarterly or annual basis? (5.10)
- Is changing the movements process in this way preferable to retaining the current process? (5.17)
- Is there a better way to structure the movements process? (5.17)
- Do you have views on the appropriate tax code to operate in the case where an individual's identity details failed a verification test? (5.18)

Chapter 6

- Are there any specific reasons or barriers why you do not use Bacs to pay your employees and could you detail these? (6.9)
- It would also be helpful if you would provide volumes (e.g. number of employees and frequency of payment) around the circumstances outlined above. (6.9)
- Do you envisage any difficulties with providing information on a payment by payment basis through the proposed internet channel? (6.9)
- Do you envisage any difficulties meeting the requirement to provide information on, or before, payment is made to the employee? (6.9)
- Do you agree with the relaxation provision set out in paragraph 6.6? (6.9)
- If you do not agree with the relaxation set out in paragraph 6.6, please specify your reasons and provide some alternative ideas. (6.9)
- Do you think the current exemptions from online filing would still be needed under an RTI system? (6.9)
- Would employers that are currently exempt from online filing be prepared to send paper returns on a payment by payment basis? (6.9)

Chapter 7

- Would the change outlined at 7.4 above solve the overlapping pay period problem?(7.5)
- Would employers be content to submit RTI about one-off corrections to pay in between regular pay runs or would it be easier to process these at the next regular pay run for the individual? (7.8)
- HMRC would be interested in hearing views on how changes of works numbers could best be notified under RTI (and how the reasons for change could be best captured). (7.12)
- Do you have any views on the impact assessment that was published alongside this document. (7.15)

Chapter 8

- HMRC would be interested in views about whether this timetable is achievable and the issues you might foresee in meeting it. (8.3)

Annex A: The Code of Practice on Consultation

About the consultation process

This consultation is being conducted in accordance with the Code of Practice on Consultation.

The consultation criteria

1. When to consult - Formal consultation should take place at a stage when there is scope to influence the policy outcome.
2. Duration of consultation exercises - Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.
3. Clarity of scope and impact - Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.
4. Accessibility of consultation exercise - Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.
5. The burden of consultation - Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.
6. Responsiveness of consultation exercises - Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.
7. Capacity to consult - Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

If you feel that this consultation does not satisfy these criteria, or if you have any complaints or comments about the process, please contact:

Richard Bowyer, Consultation Coordinator, HMRC Better Regulation and Policy Team
020 7147 0062 or e-mail hmrc-consultation.co-ordinator@hmrc.gsi.gov.uk

Annex B: list of real time information items employers must send to HMRC.

1. This annex sets out the data items which HMRC envisages employers will be required to submit in relation to each payment to an individual.
2. **HMRC's intention is that RTI should involve only data already collected and recorded by employers for the purposes of PAYE or to satisfy other existing legislative requirements. We believe all these items meet these criteria.**
3. HMRC is interested in views on how easily the information could be extracted from employers' systems for the purposes of RTI.

Assumptions

- Payment information covers all employees – including students who may have a P38(S) in place and all employees paid below the Lower Earnings Limit (LEL).
- Where a field is not applicable (for example where the payer is a pension company rather than an employer) that field will not be required to be reported.
- This will mean that only actual amounts paid or used in calculation and changes to designatory data will need to be reported. It will not be necessary to send in a zero or blank value where the field is not applicable. For example, starter fields only need to be completed when an employee starts. Or pension providers will not have to provide data relating to NIC and only the DWP will have to provide items relating to DWP payments.
- Multiple PAYE schemes can be included in a single RTI submission.
- In the year that the employer migrates on to RTI, the first submission will include 'year to date' information in respect of all payment-related items.
- The list that follows is therefore a comprehensive list of all the items that could possibly be submitted by all types of submitter but does not represent all the data that each submitter will be required to send with each submission.
- Information currently submitted as payment data via Bacs will be additional to these items.

List of Items.

<u>Individuals</u>	<u>PAYE purpose</u>
1. Employer PAYE Reference	Employer identity validation
2. Employer's AO reference (BROCS)	Employer identity validation
3. DWP submitter reference (as DWP does not have an Emp Ref)	Employer identity validation
4. NINO (if held)	Identity validation
5. Surname or Family name	Identity validation
6. First or given name(s) or initials	Identity validation
7. Date of Birth	Identity validation
8. Gender	Identity validation
9. Passport Number for non-UK individuals	Eligibility to work validation
10. Address – only for new starters - First 2 lines are mandatory	Identity validation
11. Postcode – only for new starters	Identity validation
12. Starting indicator	Key information for taxation purposes
13. Indicator to denote payment relates to State Pension	Key information for taxation purposes
14. Indicator to denote payment relates to Employment and Support Allowance (ESA)	Key information for taxation purposes
15. Indicator to denote payment relates to Incapacity Benefit (IB)	Key information for taxation purposes
16. Indicator to denote payment relates to Job Seekers Allowance (JSA)	Key information for taxation purposes
17. Starting Date	Key information for taxation purposes
18. Indicator of tax code being operated on starting (first job since April, only job, additional job or no answer)	Key information for taxation purposes

19. Indicator of liability for Student Loan repayment

Student loan repayment reporting

Individual seconded to work in the UK

20. Indicator if employee's intention is to live in UK for more than 6 months (P46 Expat)

Key information for taxation purposes

21. Indicator if employee's intention is to live in UK for less than 6 months (P46 Expat)

Key information for taxation purposes

22. Indicator if individual will be working both in/out of UK but living abroad (P46 Expat)

Key information for taxation purposes

Individual starting an occupational pension

23. Indicator that pension is being paid

Key information for taxation purposes

24. Indicator that pension is being paid because they are a recently bereaved Spouse/civil partner

Key information for taxation purposes

25. Annual amount of pension

Key information for taxation purposes

Individual starting a State pension

26. Indicator that pension is being paid

Key information for taxation purposes

27. Indicator that pension is being paid because they are a recently bereaved Spouse/civil partner

Key information for taxation purposes

28. Annual amount of pension

Key information for taxation purposes

29. Exchange Identifier/Works Number (if used)

Employee identity validation

30. Indicator that Exchange Identifier/Works Number changed in that pay period	Employee identity validation
31. Old Exchange Identifier/Works Number	Employee identity validation
32. Date employment, pension or taxable benefit ended if ended this pay period regardless of whether a payment is being made	Key information for taxation purposes

Payment details

33. Pay frequency (weekly, fortnightly, lunar monthly, calendar monthly, quarterly, bi-annually, annually, one-off, irregular. – as defined in E13/CWG2)	National Insurance purposes
34. Payment Date	National Insurance purposes
35. Tax Week/Month Number applied to this payment	Key information for taxation purposes
36. Date(s) payment relates to	National Insurance purposes
37. Earnings period dates	National Insurance purposes
38. Number of earnings period(s) covered by payment	National Insurance purposes
39. Aggregated earnings	National Insurance purposes
40. Last payment indicator	Key information for taxation purposes
41. Indicator that the payment is a payment after date of leaving (i.e. after submission that included the date employment ended)	Key information for taxation purposes
42. Indicator that the payment covers multiple employments at the same Employment Reference	Key information for taxation purposes
43. Works numbers relating to the employments	Key information for taxation purposes
44. Number of paid hours worked in pay period	NMW

45. Tax code operated	Key information for taxation purposes
46. Basis of operation (i.e. if Week1/Month 1)	Key information for taxation purposes
47. Value of gross pay for tax purposes in pay period	Key information for taxation purposes
48. Value of taxable pay in pay period	Key information for taxation purposes
49. Value of net pay	Key information for taxation purposes
50. Value of benefits taxed via the payroll	Key information for taxation purposes
51. Value of employee pension contributions paid under “net pay arrangements⁷” in pay period	Key information for taxation purposes
52. Value of payment under the net pay arrangements to charity/under share incentive plan	Key information for taxation purposes
53. Value of strike pay in pay period	Key information for taxation purposes
54. Value of holiday pay in pay period	Key information for taxation purposes
55. Value of employee payments to the National Employment Savings Trust in the pay period	Key information for taxation purposes
56. Value of other third party payments in the pay period	Key information for taxation purposes
57. Value of student loan repayment recovered in this period.	Student loan repayment reporting
58. Value of tax deducted or refunded from this payment	Key information for taxation purposes

⁷ Net pay arrangements – work out NI on gross pay, deduct amount subject to net pay arrangements and calculate tax on this new net amount. Gives tax relief at the payee’s marginal rate

59. Value of Statutory Sick Pay (SSP) in pay period	Key information for taxation purposes
60. Value of Statutory Maternity Pay (SMP) in pay period	Key information for taxation purposes
61. Value of Ordinary Statutory Paternity Pay (OSPP) in pay period	Key information for taxation purposes
62. Value of Statutory Adoption Pay (SAP) in pay period	Key information for taxation purposes
63. Value of Additional Statutory Paternity Pay (ASPP) in pay period	Key information for taxation purposes
64. Partner's name entered on the ASPP claim form	ASPP compliance
65. Partner's NINO entered on the ASPP claim form	ASPP compliance
66. National Insurance (NI) Category letter(s) applied (up to 4 letters)	National Insurance purposes.
67. NI gross value applied to each letter	National Insurance purposes
68. Total Value of Primary class 1 National Insurance Contributions (NIC) collected in this period	National Insurance purposes
69. Value of earnings at the Lower Earnings Limit (LEL)	National Insurance purposes
70. Value of earnings at the Upper Accrual Point (UAP)	National Insurance purposes
71. Value of earnings at the Upper Earnings Limit (UEL)	National Insurance purposes
72. Total Value of Secondary Class 1 NIC collected in this period	National Insurance purposes.
73. Indicator where no payment made but the individual is still a live employee	Employment history.

Employer specific information to be sent when payment of deductions is made to HMRC (19th/22nd of the month),

This will be a separate employer-level submission.

74. Frequency of payment to HMRC (Monthly, Quarterly, Annually)	Banking & Debt Management process
75. Value of advance received from HMRC this period	PAYE Compliance
76. Value of SSP recovered	PAYE Compliance
77. Value of SMP recovered	PAYE Compliance
78. Value of OSPP recovered	PAYE Compliance
79. Value of SAP recovered	PAYE Compliance
80. Value of ASPP recovered	PAYE Compliance
81. Value of NIC compensation on SSP	PAYE Compliance
82. Value of NIC compensation on SMP	PAYE Compliance
83. Value of NIC compensation on OSSP	PAYE Compliance
84. Value of NIC compensation on SAP	PAYE Compliance
85. Value of NIC compensation on ASPP	PAYE Compliance
86. Value of deductions made from subcontractors	PAYE Compliance
87. Value of Construction Industry Scheme (CIS) deductions suffered (Limited Companies only)	PAYE Compliance
88. Value of NIC Holiday	National Insurance purposes
89. Value of total tax deducted this pay period	Banking & Debt Management process
90. Value of total NIC deducted this pay period	Banking & Debt Management process

91. Value of total Student Loan recovered this pay period	Banking & Debt Management process
92. Value of Employer's NIC due this pay period	Banking & Debt Management process
93. Indicator that this is the final submission for this pay period	Banking & Debt Management process
94. Date you ceased as an employer	PAYE Compliance
95. Indicator that this is the final payment	Banking & Debt Management process
96. Pension Scheme Contracted Out Number (ECON)	PAYE Compliance
97. Did you make any free of tax payments to an employee?	PAYE Compliance
98. Did anyone else pay expenses or in any way provide vouchers or benefits to any of your employees while they were employed by you during the year?	Benefits-in-kind compliance
99. Did anyone employed by a person or company outside the UK work for you in the UK for 30 days or more in a row?	PAYE Compliance
100. Have you paid any of an employee's pay to someone other than the employee, for example to a school?	Benefits-in-kind compliance
101. Completed forms P11D and P11D(b) are / are not due	Benefits-in-kind compliance
102. Service Company indicator	PAYE compliance