

**Question 1: Are these principles appropriate for bulk and specialist information powers? What other principles might be appropriate?**

Yes. We are particularly interested in the principle that HMRC's powers and statutory obligations must be consistently applied. In the lettings arena this requires consistency between:

- information sought from lettings agents about their landlord /clients' tax position, and
- Information sought from landlords direct about their tax position if they have not instructed a lettings agent.

HMRC could use property portals and other forms of advertising to identify landlords who are renting their properties themselves.

Lettings agents play an important role in protecting tenants' rights, and it would be unfortunate if HMRC's powers discourage landlords from using their services.

**Question 2: Should the law be changed so that the address to which bulk information must be sent may be any specified address, rather than that of an officer?**

We are keen that the information which our members are legally obliged to provide is used as effectively as possible. If HMRC feels that this change will lead to greater efficiencies and will not pose security risks then we have no objection in principle, provided our members know:

- where to send the information
- that they receive acknowledgement of receipt, and
- that they have a specialist point of contact within HMRC if they have any questions in relation to any type of return, i.e. in relation to returns for both non UK resident and UK resident landlords.

We believe it would be favourable for our members, and for HMRC, if the required information could be sent to HMRC in number of ways, including physically collected by HMRC if this is the most convenient method for both parties, and if appropriate the pick-up can be discrete.

**Question 3: HMRC welcomes views as to whether advance notice of bulk information requests would be helpful. How long a period before the start of the period in question would be appropriate?**

Advance notice is essential as changes to software may be required, which may impose a significant cost burden. We suggest our members are given a minimum of 3 years notice.

**Question 4: HMRC welcomes views on how it should specify the format in which bulk information should be provided. What could HMRC do to reduce the administration burden of providing information in a required format?**

The format should be developed in consultation with the private sector and a key consideration must be that the format is compatible with commonly used software. Once the format is finalised it must not be altered without good reason, and again not before full consultation has taken place with the private sector.

**Question 5: HMRC welcomes views as to whether bulk information powers should apply across [all] taxes.**

Bulk information powers should be unnecessary for Capital Gains Tax on property sales because the relevant information is available from the Land Registry.

**Question 6: Should HMRC require providers of bulk information to obtain and verify people's identities, or should HMRC rely on other ways of matching data with individuals.**

ARLA recommends that lettings agents check their clients' ( usually landlords) identity to help prevent breaches of the Proceeds of Crime Act (2002), even though checking identity is not a legal requirement for lettings agents because they aren't within the scope of the Money Laundering Regulations (2007). Checking identity can also help lettings agents ensure that landlords have the necessary authority to let the property, e.g. they are the property owner or have the necessary authority from the property owner.

Lettings agents also routinely check tenants' identities so that they can be credit checked, albeit identity checks on tenants may be at a lower level than identity checks on landlords.

**Question 7: Would there be benefits to information providers in gathering identification numbers such as national insurance or VAT numbers where relevant?**

The advantages of lettings agents checking national insurance numbers are this may help prevent:

- landlords evading tax by using substitutes
- tenants sub-letting without permission, and
- wrongful lettings of property, e.g. of social housing to ineligible tenants.

On the other hand it is rarely necessary or advisable for landlords in the private rented sector to register for VAT. For this reason requiring lettings agents to check whether landlords have a VAT number is likely to be a disproportionate requirement.

**Question 8: HMRC welcomes views on including a declaration that a return is complete with bulk information returns.**

We appreciate that HMRC would benefit from clarity on whether information provided is complete or partial, however we would prefer that declarations, and sanctions for false declarations, were avoided and alternative more proportionate solutions found for this less significant issue.

**Question 9: What would be the impact on data providers of any reduction in the amount of time allowed from the end of the tax year to provide data?**

The timescales are already tight and should not be shortened even further. The burden upon lettings agents is already significant and we are concerned about the proposal for pre-population of returns if it would involve agents shouldering an even greater administrative burden.

**Question 10: To what extent could this be mitigated? For example, would impacts be reduced if HMRC specified what information it will ask for in advance, by saying before the start of the period or tax year in question what information it will require and in what format?**

Regardless of the timescales HMRC must specify the information it requires in advance.

**Question 11: HMRC welcomes views as to whether penalties should be applied by HMRC rather than the tribunal, retaining the right of appeal to the tribunal. Should penalty levels be fixed, or based on another factor such as the number of entries on a return? Should there also be a penalty at a level set by the tribunal for those who continue to fail to provide information?**

It makes sense for the same procedure to apply to incorrect returns and failure to deliver a return, albeit the seriousness of these breaches may differ. However, we do have concerns about the appeals procedure as we agree that appealing to the same body which has applied a penalty can be unsatisfactory. On this basis we suggest consideration is given to transferring this function to the Unified Tribunals Service.

The penalties must be proportionate to the tax liability so that encourage the submission of returns, even though if breaches are detected both the penalty plus the tax liability is payable. If such proportionality requires a change from fixed penalties to penalties which are based on another factor, we have no objection in principle. However, our key concern is that the likelihood of receiving a penalty is consistent across the lettings sector, see Q1.

**Question 12: HMRC welcomes views on these proposals for new bulk information powers.**

The same rules should apply to information held by lettings agents in relation to managed lets (where the agent collects rents from tenants on behalf of landlords), and in relation to information held by lettings agents about introductions of tenants to landlords. The current inconsistency may discourage landlords from instructing lettings agents to manage lets, and this is not in our members' interests or in tenants' interests.

**Question 13: HMRC welcomes view on the level of safeguards attached to paragraph 5 of Schedule 36 to [the] Finance Act 2008.**

No reply.

**Question 14: HMRC welcomes views on whether a new appeal right for bulk information would be useful.**

We believe all HMRC's requirements should be clear in advance as this would avoid the need for a new appeal process. HMRC should also raise awareness of its requirements generally amongst data providers and taxpayers.

**Question 15: Should bulk information require the approval of an authorised officer?**

If authorised officers are used they should be trained to an appropriate level,

**Question 16: Should these specialist powers be left as they are in legislation, or brought alongside other information powers at Schedule 36 to the Finance Act 2008?**

No reply.

**Question 17: Is the limited scope of specialist information powers safeguard enough, or should there also be a requirement for pre-authorisation by the tribunal or a right of appeal for the third party?**

No reply.

**Question 18**

No reply.