

**2019 No. 360**

**TAXES**

**The Delivery of Tax Information through Software (Ancillary Metadata) Regulations 2019**

*Made* - - - - - *25th February 2019*  
*Laid before the House of Commons* *26th February 2019*  
*Coming into force* - - - *19th March 2019*

The Commissioners for Her Majesty's Revenue and Customs, in exercise of the powers conferred by section 135(1), (2)(a), (d), (e) and (g), (4)(a), (c) and (d), (7) and (10) of the Finance Act 2002(a), make the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Delivery of Tax Information through Software (Ancillary Metadata) Regulations 2019 and come into force on 19th March 2019.

(2) In these Regulations—

“program” means a software program or a set of compatible software programs;

“relevant ancillary metadata” means the set of metadata defined by the Commissioners under regulation 2(2);

“relevant software” means a program the functions of which include—

(a) providing information to the Commissioners in electronic form, including returns in an electronic form, information from electronic records or other information relevant to a person's tax liability, and

(b) receiving information from the Commissioners, in electronic form, in relation to these matters;

“software supplier” means a person who—

(a) develops (or procures the development of), and

(b) supplies,

a program designed to be used as relevant software, whether or not it is also designed to be used for any other purpose, and “software supplier's program” is to be construed accordingly;

“tax information” means information required or authorised to be delivered to the Commissioners by or under legislation relating to a taxation matter.

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(a) 2002 c. 23; section 135 was amended by paragraph 95 of Schedule 4 to the Commissioners for Revenue and Customs Act 2005 (c. 11) and by section 93(2) and (3) of the Finance Act 2007 (c. 11). Subsection (10) is cited in particular for the meaning of “specified”.

## **Obligation on software suppliers: relevant ancillary metadata**

2.—(1) In this regulation, “metadata” means data relating to the use and characteristics of—

- (a) software, and
- (b) devices used to run software,

including software and devices which are used to deliver tax information.

(2) The Commissioners may by specific or general direction define the set of metadata receipt of which they consider necessary for the purpose of ensuring the authenticity and security of a delivery to them through relevant software of tax information.

3.—(1) The obligation in paragraph (2) applies to a software supplier each time a person uses the software supplier’s program (whether on its own or in conjunction with another program) to deliver tax information to the Commissioners.

(2) The software supplier must ensure that the program operates so that it—

- (a) collects, and
- (b) delivers to the Commissioners,

the relevant ancillary metadata.

(3) The software supplier’s obligation under paragraph (2) is subject to paragraph (4).

(4) The program is not required to collect or deliver relevant ancillary metadata to the extent that the person using it to deliver tax information to the Commissioners has blocked the collection of, or manipulated, such metadata.

(5) The delivery of relevant ancillary metadata mentioned in paragraph (2)(b) must be made at the same time as the delivery of the tax information.

(6) The Commissioners may by specific or general direction make further provision as to—

- (a) the manner of the collection of relevant ancillary metadata mentioned in paragraph (2)(a), including the required standard of accuracy, and
- (b) the electronic form to be taken by the delivery of relevant ancillary metadata mentioned in paragraph (2)(b).

## **Penalty for non-compliance with relevant ancillary metadata obligation**

4.—(1) Subject to paragraph (2), a software supplier who fails to comply with regulation 3(2) is liable to a penalty of £3,000.

(2) A software supplier shall not be liable to more than one penalty under paragraph (1) in relation to each of the software supplier’s programs in any period of 12 months.

(3) Subject to paragraphs (4) to (6), paragraphs 45 to 49 of Schedule 36 to the Finance Act 2008<sup>(a)</sup> (procedure etc for penalties) apply to a penalty under paragraph (1) as they apply to a penalty under paragraph 39(1)(a) of that Schedule for failure to comply with an information notice.

(4) Paragraph 46 of that Schedule applies as if—

- (a) the words “subject to sub-paragraph (3)” in sub-paragraph (2), and
- (b) sub-paragraph (3),

were omitted.

(5) Paragraph 47 of that Schedule applies as if—

- (a) the word “or” at the end of sub-paragraph (a), and
- (b) sub-paragraph (b),

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(a) 2008 c. 9; paragraphs 45 to 49 were amended by paragraphs 17 to 20 of Schedule 47 to the Finance Act 2009 (c. 10) and by paragraph 471 of Schedule 1 to S.I. 2009/56.

were omitted.

(6) Paragraph 48 of that Schedule applies as if sub-paragraph (4) were omitted.

*Melissa Tatton*

*Justin Holliday*

25th February 2019

Two of the Commissioners for Her Majesty's Revenue and Customs

### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations make provision as to conditions that must be complied with in connection with the use of software to deliver information to the Commissioners for Her Majesty's Revenue and Customs ("the Commissioners").

The Regulations apply to deliveries to the Commissioners of "tax information" through "relevant software" (both terms defined in regulation 1). They impose conditions on suppliers of relevant software. Their effect is that relevant software will have to operate so that such deliveries are accompanied by the delivery of metadata specified by the Commissioners.

Regulation 2 allows the Commissioners to define the set of metadata ("relevant ancillary metadata") which they consider necessary to receive in order to ensure the authenticity and security of deliveries of tax information through software. The Commissioners may provide the definition by specific or general direction. When a direction is made, it will be available on the gov.uk website with a hard copy available on request from Her Majesty's Revenue and Customs, 100 Parliament Street, London SW1A 2BQ.

Regulation 3 requires suppliers of relevant software to ensure that, when their programs are used to deliver tax information to the Commissioners, the programs will collect the relevant ancillary metadata and deliver it to the Commissioners. The obligation applies each time the program is used by a person to deliver tax information to the Commissioners.

Regulation 4 makes provision for the imposition of a penalty on suppliers who do not comply with regulation 3. There is a fixed penalty of £3,000, with a maximum of one penalty in relation to any program in any 12-month period. The procedural provisions of Schedule 36 to the Finance Act 2008 (c. 9), concerning penalties for failure to comply with an information notice, will apply with necessary modifications to this penalty.

A Tax Information and Impact Note has not been produced for this instrument as it contains no substantive changes to tax policy.

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