



GOVERNMENT SERVICES

Administrative Burdens – HMRC Measurement Project

Report by Tax Area

Part 9: Double Tax Treaties

20 March 2006
Restricted – Commercial

TAX



HMRC

**Administrative Burdens -
HMRC Measurement Project
Report by Tax Area
Part 9: Double Tax Treaties**

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Contents

1	How to use this report	2
1.1	Volume 1	2
1.2	Volume 2	2
1.3	Table conventions	3
2	Executive summary	3
3	Introduction	5
3.1	Background	5
3.2	Overview of regulation affecting the private sector	5
3.3	Approach and methodology	6
4	Administrative burden on business	7
4.1	Overview	7
4.2	Administrative burden by type of Information Obligation	7
4.3	Administrative burden by origin of Information Obligation	8
4.4	Administrative burden by business size	9
4.5	Administrative burden by most burdensome Information Obligations	10
4.6	Administrative burden by administrative activity and forms	10
4.7	Administrative burden by Information Obligations to third parties	12
5	Other findings	13



Tables

Table 1: Number of Regulations, HMRC Forms, Information Obligations and Data Requirements by Tax Area	6
Table 2: Administrative burden – overview	7
Table 3: Burden by Information Obligation type.....	8
Table 4: Burden by business size.....	9
Table 5: Top 6 obligations by total administrative burden	10
Table 6: Summary of burden by standard activity type	11

1 **How to use this report**

This report should be read in conjunction with the main report on the Administrative Burdens - HMRC Measurement project. Both reports seek to give an overview of the model that has been built to measure the tax administrative burden for UK business. The reports give examples of some early analysis of areas of high burden, outline how the model was built and the size and format of the resulting data framework.

Like the UK tax system the model is large and complex. Thus the reports can only give a flavour of the model's full potential. The detailed analysis looking at specific pieces of tax regulation, the setting of the baseline and targets, how to link the administrative burden to the full range of impact assessments and wider policy initiatives will be done by HMRC as it takes the model forward, using the data framework.

For ease of reference, the main report is hereafter referred to as Volume 1 and this report, by tax area, is hereafter referred to as Volume 2.

1.1 **Volume 1**

Volume 1 is a good starting point for an overview of the model and the dynamics of the tax administration burden for UK business. The main body of Volume 1 provides a brief description of the background to the model, how the model was built, some examples of early analysis at a total level and a summary of the overall themes arising from business interviews. This report uses, from time to time, technical terms set out in the Standard Cost Model. The Glossary to Volume 1 seeks to give a practical explanation of each term.

There are a series of Annexes to Volume 1:

- **Annex A** is a detailed description of the methodology and how the model was applied in practice
- **Annex B** provides an example of the guide used to interview businesses
- **Annex C** provides a summary of the overall themes arising from interviews with businesses. The focus is on issues that do not relate to one specific tax but were raised in the context of interviews on many different subjects
- **Annex D** addresses demarcation issues: what regulation is included in the model and what is not

1.2 **Volume 2**

Volume 2 should be read in conjunction with Volume 1 for details of key terms used in the model and early analysis.

Volume 2 is in 28 Parts, one for each of the tax areas, described in further detail below. It gives an overview of the administrative burden, early analysis and business feedback for

each tax area. Volume 2 can only give a flavour of the model's potential. It is already clear that the early analysis may prompt further questions. The further detailed analysis looking at specific pieces of tax regulation will be done by HMRC as it takes the model forward, using the data framework.

The tax areas are:

Part 1	Aggregates Levy	Part 15	Inheritance Tax
Part 2	Air Passenger Duty	Part 16	Insurance Premium Tax
Part 3	Capital Allowances	Part 17	Intrastat
Part 4	Capital Gains Tax	Part 18	Landfill Tax
Part 5	Climate Change Levy	Part 19	Pensions
Part 6	Construction Industry Scheme	Part 20	Petroleum Revenue Tax
Part 7	Corporation Tax	Part 21	Stamp Duty
Part 8	Customs	Part 22	Stamp Duty Land Tax
Part 9	Double Tax Treaties	Part 23	Stamp Duty Reserve Tax
Part 10	EC Sales List	Part 24	Tax Credits
Part 11	Employer Taxes	Part 25	Tax Management Provisions
Part 12	Excise Duties	Part 26	Tonnage Tax
Part 13	Gaming Duties	Part 27	Value Added Tax
Part 14	Income Tax for Businesses	Part 28	Withholding Tax

1.3 **Table conventions**

The early analysis in the reports is based on tables of monetary amounts and percentages derived from the data framework. These tables look at the administrative burden in a number of ways, at different levels of detail and for different areas of tax (some large, some small), to give examples of how the model can be used. This means that different measurement units are used for the monetary amounts and percentages, depending on which aspect of the model is being looked at. For example, some tables show monetary amounts to the nearest £ million and percentages in whole numbers. Other tables use different conventions. The overarching aim is that a monetary amount or percentage is shown and that the tables are as helpful as possible.

The underlying data held in the data framework is extremely detailed and has been rounded up to prepare the tables. Due to complex roundings not all the tables, as presented, will add up to the total shown on the table.

A dash '-' in the tables indicates a genuine zero value. By contrast, the figure '0' indicates a negligible number in the context of that table.

2 **Executive summary**

The administrative burden of Double Tax Treaties is £1m, 0.03% of the total burden placed on business.

The burden is made up as follows:

	£000	%
Internal costs	200	14.74%
Acquisition costs	3	0.23%
External costs	1,153	85.03%
Total burden	1,356	100.00%

All of the obligations relating to Double Tax Treaties will often be outsourced because the claims can be technically complex, are only infrequently encountered and are not part of a routine business process. The corresponding fees involved are reflected by the relatively high proportion of external cost.

Double Tax Treaties are treaties entered into by the United Kingdom Government with governments of other countries to agree the tax position where under UK law and the laws of that country, the same income may be taxed more than once. There are currently over 100 treaties in force. Most treaties are based closely on a model double taxation agreement produced by the Organisation for Economic Co-operation and Development ('OECD').

Rather than measure the burden of complying with the obligations for each individual treaty, the IOs analysed are based on the OECD model as a standard for all the treaties other than the UK-US Treaty, which is unique and has been measured separately.

The Double Tax Treaties tax area covers obligations for businesses making claims under Double Tax Treaties either to make payments without deduction of tax, or to treat certain gains as non-taxable.

This area is potentially of relevance to any business with international income/payments. The number of treaty claims made each year is relatively small and no particularly significant burdens were identified.

No particular irritations or simplification suggestions were identified.

3 Introduction

3.1 Background

See Volume 1 Section 3.1.

3.2 Overview of regulation affecting the private sector

3.2.1 Description of the scope and objectives of tax area

UK legislation contains provisions enabling treaties to be concluded with the government of any territory outside the UK with a view to affording relief from double taxation (this is distinct from ‘unilateral relief’ under the UK’s domestic legislation).

These treaties set out the rules to be applied where the same income is potentially chargeable to tax in both the UK and another territory. Most treaties are based on a model developed by the Organisation for Economic Co-operation and Development (‘OECD’), other than the UK-US treaty, which is unique.

The treaties deal with a range of situations where potential double taxation could occur. For example, a company could be ‘tax resident’ in more than one territory if it is incorporated in one and managed and controlled in another. Or, an individual could be ‘tax resident’ in more than one territory if he has homes in each territory and spends part of the year in each home.

The treaties therefore specify which territory has the right to tax income potentially taxable by both.

Treaties also contain provisions relating to a ‘mutual agreement procedure’ which is used to cover any difficulties on the interpretation of the agreement. If the two parties fail to agree via the mutual agreement procedure, there is no further procedure to resolve the dispute between them.

Many of the treaty provisions simply operate to determine where the taxing right lies, and do not give rise to any IOs. However, it is possible for businesses to make claims under these treaties, either to make payments without deduction of tax, or to treat certain gains as non-taxable.

Only these business obligations are measured in this tax area.

3.2.2 Summary statistics relating to the regulations included within the scope of the measurement exercise

Table 1: Number of Regulations, HMRC Forms, Information Obligations and Data Requirements by Tax Area

Tax Area	Number of sources of regulations	Number of forms	Number of Information Obligations	Number of Data Requirements
Double Tax Treaties	2	-	6	22
HMRC Total		279	2,692	6,614

3.3 Approach and methodology

3.3.1 Overall methodology

See Volume 1 Section 3.2 and Annex A.

3.3.2 Major methodological issues specific to tax area

There are over 100 Double Tax Treaties. Other than the UK-US Treaty, the treaties are based on the OECD model treaty. Rather than measure the burden for each of the treaties individually, it was agreed with HMRC that only the UK-US treaty and the OECD model would be measured.

4 Administrative burden on business

4.1 Overview

4.1.1 Summary of the administrative burden results

Table 2: Administrative burden – overview

Tax Area	Total administrative burden	
	£m	Share of HMRC total
Double Tax Treaties	1	0%
HMRC Total	5,100	100%

The IOs in respect of Double Tax Treaties are not particularly burdensome as the numbers of businesses involved are relatively small and the IOs are not particularly onerous.

4.2 Administrative burden by type of Information Obligation

Table 3 shows the number of IOs analysed by type of IO and the administrative burden for each type of IO. As set out in Volume 1 Section 3.2.2, the model uses 13 IO types, each of which represent a particular process. They are thus very helpful in seeing the overall dynamics in the tax system.

Table 3 uses the terminology in the SCM; please refer to Volume 1 – Glossary for a practical explanation of each term.

Table 3: Burden by Information Obligation type

Information Obligation type	Admin burden £000	Share of total admin burden for tax area	Number of IOs	Share of total IOs for tax area
Applications for subsidies, grants, allowances or credits for ...	1,167	86.06%	4	66.67%
Framing complaints and appeals	189	13.94%	2	33.33%
Providing statutory information for third parties	-	-	-	-
Statutory labelling for third parties	-	-	-	-
Cooperating with audits/inspections of ...	-	-	-	-
Keeping commercial emergency plans and programmes updated, etc ...	-	-	-	-
Carrying out inspections of ...	-	-	-	-
Entry in a register	-	-	-	-
Returns and reports	-	-	-	-
Notification of activities/registration	-	-	-	-
Applications for authorisation	-	-	-	-
Applications for permission for or exemption from	-	-	-	-
Application for Guidance	-	-	-	-
Total	1,356	100.00%	6	100.00%

HMRC total	5,100,094		2,692	
Share of HMRC total	0.03%		0.22%	

Almost all IOs within this tax area, being claims for relief from UK tax, are classified as applications for subsidies, grants, allowances or credits. These represent 86% of the total burden and 67% of the total number of IOs. Claims to make payments without deduction of tax only need to be made once for each arrangement (loan or royalty agreement).

The only other type of IO included in this tax area is framing complaints and appeals, which covers the 'mutual agreement' procedures, that is the procedures that apply where there is a difficulty in interpreting the treaty, detailed in the UK-UK treaty and the OECD model.

4.3 Administrative burden by origin of Information Obligation

All of the regulation dealt with under this tax area originates from the UK-US double tax and the OECD model.

As the UK government negotiates each treaty individually, albeit based on the OECD model, there is a level of domestic discretion in negotiating the precise terms.

None of the legislation has an EU influence and it has therefore been classified as ‘other international’.

4.4 Administrative burden by business size

Table 4: Burden by business size

Table 4 is designed to show the administrative burden broken down by business size. It has been omitted here because it is not helpful bearing in mind the size of the burden in this tax area.

However, we have established that, as this area is much more of an issue for larger businesses with complex international operations, the burden increases with size of business.

4.5 Administrative burden by most burdensome Information Obligations

Table 5: Top 6 obligations by total administrative burden

Information Obligation	Total administrative burden	Internal cost	External cost	Acquisition cost
	£000	£000	£000	£000
Treaty relief application for cross border royalty payments to be made gross of UK income tax (UK-US Treaty)	339	50	289	1
Claim that capital gain not taxable in the UK where treaty provides that gain taxable in non-resident country	290	35	254	1
Claim that capital gain not taxable in the UK where treaty provides that gain taxable in non-resident country	290	35	254	1
Treaty relief application for cross border interest payments to be made gross of UK income tax (UK-US Treaty)	248	55	193	1
Mutual agreement procedure (OECD model)	95	13	82	0
Mutual agreement procedure (UK-US Treaty)	95	13	82	0
Total	1,356	200	1,153	3
Share of total for tax area	100.00%	100.00%	100.00%	100.00%

Total for tax area	1,356	200	1,153	3
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The highest IOs are the various claims for relief under the treaties. Because the numbers of treaty claims are small (the model uses 2,350 claims), the overall burden is relatively small. All of the IOs will often be outsourced because the claims can be technically complex and are only infrequently encountered, and the corresponding fees involved are reflected by the external cost.

Although the mutual agreement procedures are complex, they are used very infrequently, and so feature lower in the list.

4.6 Administrative burden by administrative activity and forms

Table 6 analyses the administrative burden into the three component price parts (internal costs, external costs and acquisition costs). It also analyses internal costs across the 16 administrative activities set out in the SCM. Table 6 uses the description of

administrative activities in the SCM. A practical interpretation of those activities is given in Volume 1 – Glossary.

The first part of the table analyses internal costs. The second part of the table analyses the total burden into the three component parts of price.

Table 6: Summary of burden by standard activity type

Activity	Form-filling related		Non form-filling related		Total	
	£	%	£	%	£	%
Familiarisation with the Information Obligation	-	-	27,817	13.92%	27,817	13.92%
Information retrieval	-	-	71,732	35.89%	71,732	35.89%
Assessment	-	-	6,299	3.15%	6,299	3.15%
Calculation	-	-	-	-	-	-
Presentation of figures	-	-	-	-	-	-
Checking	-	-	32,987	16.50%	32,987	16.50%
Correction	-	-	-	-	-	-
Description	-	-	47,045	23.54%	47,045	23.54%
Settlement/payment	-	-	-	-	-	-
Internal meetings	-	-	-	-	-	-
External meetings	-	-	-	-	-	-
Inspection by public authorities	-	-	-	-	-	-
Correction resulting from inspection by public authorities	-	-	-	-	-	-
Training	-	-	-	-	-	-
Copying, distribution, filing, etc.	-	-	10,162	5.08%	10,162	5.08%
Reporting/submitting information	-	-	3,836	1.92%	3,836	1.92%
Internal total	-	-	199,878	100.00%	199,878	100.00%

		Share of total burden %		Share of total burden %		Share of total burden %
Internal total	-	-	199,878	14.74%	199,878	14.74%
Acquisition costs	-	-	3,105	0.23%	3,105	0.23%
External costs	-	-	1,153,162	85.03%	1,153,162	85.03%
Total burden	-	-	1,356,145	100.00%	1,356,145	100.00%

Most of these IOs involve some level of information retrieval in order to provide the correct information required, hence this is 36% of the burden in this area. The claims are

usually made in the form of a letter, which is reflected by 24% of the burden being description.

The IOs are not completed on a regular basis for most businesses, therefore there is a reasonable amount of familiarisation time.

In addition, all of the IOs will often be outsourced because the claims can be technically complex and are only infrequently encountered, and the corresponding fees involved are reflected by the relatively high external cost.

4.7 Administrative burden by Information Obligations to third parties

There are no obligations to third parties in this tax area.



5 Other findings

The businesses interviewed made no specific comments on this tax area.

