

## ***COMPLIANCE COST REVIEW***

Tax Effects of the Civil Partnership Act

### **1. Introduction**

#### **1.1 Background**

In line with Government commitments to reduce the compliance burdens that are placed on businesses, HM Revenue & Customs (HMRC) assesses the likely change in compliance costs whenever a policy is introduced or changed. The results of that analysis are published in a final Regulatory Impact Assessment (RIA) when the associated legislation is laid before Parliament.

This document summarises the outcome of a post-implementation review of the final RIA that was published on the October 2005 for the above-mentioned measure by Inland Revenue. The measure was implemented with effect from 5<sup>th</sup> December 2005. A copy of the published final RIA is attached.

This review re-assesses the compliance cost analysis published in the original RIA and addresses two main questions:

- whether the estimates of compliance costs used in the RIA were correct, with hindsight; and
- whether the processes used to estimate compliance costs were appropriate and reasonable, given the circumstances at the time.

HMRC intend to use this review to improve the RIA process, and also to assist in future policy development and evaluation work in general. As such, the emphasis is on identifying learning points for future assessment of compliance costs. The review does not revisit the original policy decision.

### **2. The published RIA**

#### **2.1 Description of the policy change**

The regulations gave tax parity between civil partners as defined in the Civil Partnership Act 2004 (CPA) and married couples. To ensure fairness, the government made the commitment that legislation would be introduced to ensure that civil partners would be treated the same as married couples for tax purposes. There are, in addition, limited circumstances in which unmarried couples are treated as if they were married. The changes proposed in this RIA

will also recognise this and treat as civil partners some same-sex couples living together.

## **2.2 Anticipated compliance costs or savings**

The costs and benefits highlighted in the RIA generally focused on the tax impacts of the various changes.

On the compliance cost to businesses side, the predicted impacts were as follows:

- Inheritance Tax and Settlements legislation – costs were regarded as falling on individuals rather than business.
- Capital Gains Tax - Changes are perceived to have negligible business impact, as there were no discernible additional costs. Professional advisors will need to be aware of and take on board the changes in much the same way as they do with annual Finance Acts and advising married couples.
- Small self-administered pension schemes - tax rules were likely to change because of the need to give the same tax treatment to civil partners and surviving civil partners as is currently given to spouses and surviving spouses. The RIA suggested that other minor amendments might also be required, but these would depend on the terms under which pension benefits are ordinarily paid to surviving spouses. These changes were expected to have minimal costs.

## **3. Conduct of the review**

Each compliance cost review is conducted individually, and the review process is adapted to suit the particular circumstances applying in each case. The emphasis is on making sure that the review itself - and any burden of consultation - is sufficient to meet the objectives of the review, but proportionate to the likely benefits.

In this case, the review was led by an HMRC project team supported by consultants. The staff in the review team were completely independent of those involved with the original policy change.

An essential element of the review was consultation with those actually affected, and consultants were commissioned to carry out a small number of targeted in-depth interviews with some of those affected and their trade bodies. The research was not intended to deliver any degree of statistical robustness (to do so would have been costly and impractical) but instead to provide indicative findings. Reflecting the limited impact of the measure, a small number of businesses and trade bodies were interviewed. Coupled with the consultants'

own knowledge and expertise, this has allowed the research to identify the major issues and any associated learning points.

The external research was complemented by an internal review of HMRC paperwork and electronic files.

#### 4. Were the original estimates of compliance costs accurate?

This section addresses two main aspects – the nature of the change in compliance costs (i.e. what did people have to do differently) and the monetary impact of that change (what did it cost or save them).

| <b>Question</b>   | <b>Comments</b>   |
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| <p><i>Were the specific types of cost and benefit identified in the RIA (e.g. reading legislation, filling in forms, updating IT systems, saving time etc.) incurred?</i></p> | <p>The RIA identified that any costs will be borne by individuals and where there was an impact on business the impact would be negligible. The RIA did not however identify what the costs would be.</p> <p>One respondent did incur transitional costs as a result of the changes, but stated that the amount was not considered to be significant, and that the tax savings outweighed the cost of the advice.</p> <p>Another respondent incurred a time cost in familiarising themselves with the changes and updating pension providers with details of legal dependants etc but again the time involved in doing so was not significant.</p> <p>No compliance savings were predicted, or experienced.</p> |
| <p><i>Were costs/savings incurred at the expected time?</i></p>   | <p>The costs to individuals of obtaining professional advice were incurred at the expected time i.e. before respondents entered into a civil partnership.</p>   |
| <p><i>Were costs/savings incurred by the expected people?</i></p>   | <p>To the extent there were costs they were experienced by the expected people, i.e. those entering into a civil partnership.</p>   |
| <p><i>Were any other costs/savings, not identified in the RIA, incurred?</i></p>  | <p>To the extent that costs and savings were identified, they did not vary from original estimates.</p>   |

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| <i>If the type of costs/savings varied from the original estimates, why was that?</i> | Not applicable   |
| <i>Could such variances have been foreseen at the time?</i>                           | Not applicable   |
| <i>What is the assessment now of the total value of costs and savings?</i>            | Respondents believed that the total compliance costs were not significant. No savings were identified.   |
| <i>If different from the original RIA, what has caused the discrepancies?</i>         | There were no material discrepancies.  |
| <i>With hindsight, were the compliance cost estimates accurate?</i>                   | The RIA did not identify the specific types of cost likely to be experienced by those affected by the changes. However the general tone of the RIA was that costs were not likely to be significant and this appears to have been correct. |

#### **5. Was the process used to estimate compliance costs reasonable?**

Irrespective of whether the analysis turned out to be correct, the review has considered whether the original analysis was completed in a reasonable way.

| <b>Question</b>   | <b>Comments</b>  |
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| <i>Who worked on the original RIA?</i>  | Members of the Policy Team, the Better Regulation Unit and the department's analysts worked on the RIA.  |
| <i>Was an adequate audit trail maintained?</i>  | An adequate audit trail was maintained.  |
| <i>Was Cabinet Office and/or internal HMRC guidance on RIAs followed correctly?</i>   | Yes – no problems have been identified.  |
| <i>How much effort was devoted to compliance cost estimation, and was that effort proportionate in the context of the policy measure?</i> | Given the minimal impact of the change, the time spent considering the likely compliance costs appears to have been proportionate.   |
| <i>Were the right people (both internal and external) consulted, and were their views reflected appropriately?</i>                        | Consultation on the Government's proposals for a civil partnership scheme for same-sex couples in England and Wales was launched in June 2003. The Inland Revenue's commitment on tax equality was announced in March 2004. There is no evidence to suggest a problem with the |

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|  | consultation process.  |
| <i>Did those who were consulted when the RIA was written express views on the reasonableness of the process?</i>                           | There is no evidence to suggest a problem with the consultation process.   |
| <i>Have those who have been consulted now as part of this compliance cost review expressed views on the reasonableness of the process?</i> | The respondents generally agreed that the RIA process was reasonable in this instance.   |
| <i>Were compliance costs estimated for all options mentioned in the RIA?</i>   | No. Compliance costs were only discussed for the lead option.  |
| <i>Were compliance costs estimated separately for key groups (such as small businesses, large businesses, self-employed)?</i>              | As the changes only impacted one group, those entering into a civil partnership, it was unnecessary to consider different groups separately.   |
| <i>Was an appropriate analytical approach used, with economists or other analysts consulted appropriately?</i>                             | Given the minimal impact an appropriate approach appears to have been used.  |
| <i>Was there sufficient time to produce a robust assessment of compliance costs?</i>   | No problems due to timing have been identified.  |
| <i>Were any assumptions reasonable, given the circumstances at the time?</i>   | The RIA made assumptions regarding the likely take up of civil partnerships and estimated that by the end of the first year there would be one to two thousand civil partnerships in the UK. The respondents however believed that the RIA significantly underestimated the take up of civil partnerships in the UK. Provisional statistics released by the Office for National Statistics confirm the respondents' views. |
| <i>Were any estimates of compliance costs caveated appropriately?</i>  | The RIA used caveats such as "we cannot see that" and "changes are perceived to have". The respondents generally agreed that these caveats were reasonable in the circumstances.   |
| <i>Were any risks correctly identified,</i>  | No risks were identified in the RIA, which was a   |

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| <i>addressed and explained?</i>   | reasonable assessment of the impact of the changes.  |
| <i>Were any disagreements identified and reflected appropriately (e.g. if the figures were disputed by businesses, or if more than one set of figures was available)?</i> | Not applicable.  |
| <i>Would HMRC do anything differently if the exercise was repeated, and hence could the RIA process have been improved?</i>   | No evidence was identified to suggest that a change in the process was required in this case. Respondents commented that as a result of comprehensive consultation prior to the introduction of the act most individuals likely to be affected were aware of the potential costs and benefits and consultation was therefore viewed as an important part of the process. |

## **6. Learning points for the RIA and compliance cost process in general**

- Extensive consultation has the potential to raise awareness and take-up of proposals, as well as to inform the policy process.
- Where measures have minimal exchequer impact and minimal compliance costs, the question of whether an RIA is required or not should be asked. In this case, extensive wider consultation had already ensured a high level of awareness of the scheme.

## **7. The way forward**

Comments are invited on any aspect of this report or the wider compliance cost review programme.

The learning points are being fed into the policy development process directly if particular to one RIA or policy area. More generic recommendations are being collated across the review programme overall, and will be used to create an action plan for HMRC to take forward to improve the RIA process and development.

## **8. Contact points for further information**

For issues relating to the taxation of civil partnerships specifically:  
Carolyn Hubbard  
100 Parliament Street  
LONDON  
SW1A 2BQ

Telephone: 020 7147 2456

Email: [Carolyn.Hubbard@hmrc.gsi.gov.uk](mailto:Carolyn.Hubbard@hmrc.gsi.gov.uk)

For issues relating to the compliance cost review programme generally:

Richard Bowyer

3E/14, 100 Parliament Street

LONDON

SW1A 2BQ

Telephone: 020 7147 0062

E-mail: [richard.bowyer@hmrc.gsi.gov.uk](mailto:richard.bowyer@hmrc.gsi.gov.uk)

If you have a query about your own affairs in this tax area, please contact the HMRC helpline number on 08457 143 143.

**ANNEX : THE PUBLISHED REGULATORY IMPACT ASSESSMENT**

[http://www.hmrc.gov.uk/ria/full\\_civil-partnership.pdf](http://www.hmrc.gov.uk/ria/full_civil-partnership.pdf)