

COMPLIANCE COST REVIEW

MODERNISING STAMP DUTY

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. Where a consultation document is published during the analysis period, it is accompanied by a partial RIA.

This document summarises the outcome of a post-implementation review of the final RIA that was published in March 2004 for the above-mentioned measure by the Inland Revenue. An earlier version was published in April 2003. The measure was implemented with effect from December 2003. 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 legislation introduced:

- A completely new tax regime limited in scope to the acquisition of UK real estate;
- A self-assessment transaction tax with a standard notification and payment system;
- A revised charging structure for new leases being granted; and
- A requirement to pay tax in order to register title; collection of which would be enforceable by HMRC.

In effect this amounted to replacing a regime which involved practitioners (especially legal professionals) liaising closely with local Inland Revenue offices, which provided much hands-on assistance with the calculation of tax liabilities and the checking of documents, with an arms-length regime. The new regime is characterised by self-assessment by practitioners of tax liabilities, more self-checking of documentation by practitioners, and more provision of assistance via helpline services. This regime change introduced a significant change in culture and in the relationships held between practitioners and HMRC.

2.2 Anticipated compliance costs or savings

According to the RIA, this reform was intended to impact customers who purchase residential and commercial properties, solicitors, charities and businesses which acquire properties. Reforms were expected to impact directly most heavily on practitioners of law, not in their own right but as reimbursed agents acting for clients in property transactions. The RIA considered that any increase in their costs would not be passed on to their customers, largely because any increase in costs was estimated to be small. The changes being made were anticipated not to affect small businesses disproportionately.

One-off costs

The RIA considered that there would be some one-off administrative costs associated with adjusting to the changes. In particular some customers would need to familiarise themselves with the details of the new system and, at the margins, some customers would need to engage additional professional advice.

The RIA considered that solicitors using case management systems would need to update their systems to reflect the format of the new notification form. These

might be both off-the-shelf systems or individually developed systems. Solicitors would also incur some costs associated with training.

Ongoing costs

For residential transactions, the RIA considered that compliance costs would not be significantly increased for the average residential purchase, and that only a very small proportion of total legal fees would relate to the completion of forms. For commercial property, the RIA believed that this proportion was likely to be even smaller.

The RIA noted that the new SDLT1 Land Transaction Return form contained 70 questions in place of an earlier form with 18 questions, but information would only be requested for those questions relevant to the transaction. For the majority of simple transactions, the RIA considered that the new form would be quicker to complete. The RIA anticipated that the new information requested in the new SDLT1 form would not cause a significant additional burden on solicitors and taxpayers, as the information would, in most cases, be readily available.

The RIA considered that the electronic scanning and capture of information would ensure the best service to customers, before e-business solutions are available. HMRC developed a CD-Rom containing an on-screen version of the Land Transaction Return which the RIA suggested would assist solicitors and conveyancers without specialist case management software.

The RIA explained that if an enquiry was opened, there would not be any significant cost to customers initially as only the documentation that had been submitted previously would be required. All that the customer would have to do was to ensure they (or their solicitor) kept adequate records.

The RIA anticipated a number of savings for customers. Removing the need to submit original documents would reduce administrative time and cost. The fixed duty of £5 on certain documents not involving a sale would be removed under the new regime. The introduction of the threshold of £150,000 in respect of commercial leases would remove around 60% of commercial leases from the lease duty charge.

The RIA considered that the inclusion of the required details in the new form would avoid the need for many businesses to complete additional lengthy Valuation Office Agency (VOA) forms and hence reduce administrative costs. Also, the introduction of the new form might maximise automatic processing of information, ensuring certificates are issued to customers more quickly.

The RIA noted that comprehensive guidance, online help and enquiry line advice would together minimise the impact of the changes on practitioners and purchasers.

The RIA considered that any increase in software costs would be negligible, as software providers would incorporate the changes introduced by the legislation into their usual electronic updates.

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 - are 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. Evidence relating to the accuracy of the compliance analysis in the RIA, to its appropriateness and reasonableness in the circumstances, and to how improvements might be made in the future, was obtained from a small group of interviewees, selected to ensure a diverse and representative range of opinion amongst those affected by the measure in question.

This evidence was complemented by an independent internal examination and review of HMRC's paperwork and electronic files, and a detailed interview of those responsible for this policy area and for producing the original RIA. This considered, amongst other issues, HMRC's decision-making processes and analysis of compliance costs.

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).

Question	Comments
<p>Were the specific types of cost and benefit identified in the RIA actually incurred? (e.g. reading legislation, filling in forms, updating IT systems, saving time etc.)</p>	<p><i>The RIA largely identified the main types of cost and benefit, although;</i></p> <ul style="list-style-type: none"> • <i>many one-off costs turned out to be ongoing costs e.g. training, software upgrades;</i> • <i>some anticipated cost reductions have turned into increased costs,</i>

	<p><i>e.g. form-filling taking more time than before, not less time;</i></p> <ul style="list-style-type: none"> • <i>some benefits did not materialise entirely e.g. quicker production of certificates as a result of electronic processing, helpline services and the CD Rom operating smoothly.</i> • <i>some existing ongoing costs have risen by more than was anticipated by the RIA, e.g. practitioners have engaged additional professional advice more so than at the margin, and have incurred increased record-keeping costs.</i> <p><i>Perhaps the biggest problem relates to the scale of anticipated costs and benefits. The RIA gave the impression that compliance burdens were unlikely to change much, there might be some minor one-off costs, and there might be some ongoing benefits. In reality business appears to have experienced a significant increase in ongoing compliance burdens.</i></p>
<p>Were costs/savings incurred at the expected time?</p>	<p><i>No. Many of the anticipated one-off costs, especially training requirements, have turned into ongoing costs.</i></p>
<p>Were costs/savings incurred by the expected people?</p>	<p><i>Partly. The main burden fell on legal professionals as anticipated. Whilst the RIA considered that any cost increases would not be passed from lawyers to their customers, in reality the opposite has occurred.</i></p>
<p>Were any other costs/savings, not identified in the RIA, incurred ?</p>	<p><i>As explained above, anticipated benefits do not appear to have materialised, some have turned into costs, and the scale of costs seem to be much higher than estimated in the RIA. In addition the RIA did not consider the psychological costs associated with the change of regime, and with the change of relationship between lawyers and HMRC brought</i></p>

	<i>about by the reforms.</i>
If the type of costs/savings varied from the original estimates, why was that?	<i>The main types of costs and savings were identified, but variance related to their order of magnitude and their direction. The RIA also did not differentiate much between different types of transaction and different types of practitioner.</i>
Could such variances have been foreseen at the time?	<i>A more effective consultation process and a more robust method of assessing administrative burdens would probably have led to a more accurate RIA.</i>
What is the assessment now of the total value of costs and savings?	<p><i>Consultants have suggested that IT costs range from £10,000 to £25,000 per practitioner, and that training costs range from £6,000 to £150,000 per practitioner, depending upon the complexity of business undertaken and the size of the legal practice. For residential conveyancing, consultants consider that the overall estimated practitioner cost increase per transaction is £50 to £75, and that this is £100 to £250,000 per commercial transaction, again depending upon the complexity of the transaction.</i></p> <p><i>The RIA did not provide any estimated figures, nor did it suggest that costs might be subject to high degrees of variability.</i></p>
If different from the original RIA, what has caused the discrepancies?	<i>The ultimate cause of discrepancies appears to be primarily the nature of the consultation process. In addition the methodology used at the time to assess administrative burdens has now been supplemented by a more detailed approach which should reduce the scope for discrepancies.</i>
With hindsight, were the compliance cost estimates accurate?	<i>The compliance cost estimates were not accurate enough with hindsight.</i>

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.

Question	Comments
Who worked on the original RIA?	<i>Members of the policy team, HMRC Better Regulation Unit and HMRC analysis team.</i>
Was an adequate audit trail maintained?	Yes.
Was Cabinet Office and/or internal HMRC guidance on RIAs followed correctly?	<i>To a large extent, although the final RIA was published four months after the new regime came into effect. An earlier version of this RIA had been published eight months before the new regime came into effect.</i>
How much effort was devoted to compliance cost estimation, and was that effort proportionate in the context of the policy measure?	<i>With hindsight, it would appear that more effort should have been devoted to ensuring that the analysis of compliance costs was informed effectively by the views of those practitioners who might have had a good feel for how the reforms would operate on the ground.</i>
Were the right people (both internal and external) consulted, and were their views reflected appropriately?	<i>Although much consultation took place, including with representative bodies, it would appear that more consultation (perhaps face to face) with practitioners at ground level would have been desirable in order to obtain more accurate evidence about the likely administrative consequences of the new regime.</i>
Did those who were consulted when the RIA was written express views on the reasonableness of the process?	<i>Those consulted at the time the RIA was produced did not express clear discontentment with the reasonableness of the impact assessment process.</i>
Have those who have been consulted now as part of this compliance cost review expressed views on the reasonableness of the	<i>Those consulted as part of this exercise believed that the consultation process with business should have focused much more on practitioners at ground level, and</i>

process?	<i>that the consultation period should have been longer.</i>
Were compliance costs estimated for all options mentioned in the RIA?	<i>No, only for the lead package of reforms which emerged from the consultation process.</i>
Were compliance costs estimated separately for key groups (such as small businesses, large businesses, self-employed)?	<i>No breakdown was provided amongst different sizes or types of business, and different types of transaction. No per business costs were published.</i>
Was an appropriate analytical approach used, with economists or other analysts consulted appropriately?	<i>Yes, analysts and economists were involved.</i>
Was there sufficient time to produce a robust assessment of compliance costs?	<i>Although sufficient time appears to have been made available for the analysis, the timing of the final RIA was not ideal, being published four months after the new regime came into effect.</i>
Were any assumptions reasonable, given the circumstances at the time?	<i>Assumptions adopted by the RIA do not appear to have been unreasonable, given the information and feedback obtained via the consultation process. With hindsight, many key assumptions were wrong.</i>
Were any estimates of compliance costs caveated appropriately?	<i>The RIA provided few caveats in relation to anticipated costs and savings.</i>
Were any risks correctly identified, addressed and explained?	<i>The RIA did not explore possible risks in great detail. Some high-level risks were identified.</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>No disagreements were identified in relation to the compliance cost analysis.</i>
Would HMRC do anything differently if the exercise were repeated, and hence could the RIA process have been improved?	<i>In future HMRC would endeavour to consult more effectively, in terms of obtaining views from people who might understand the practical consequences of the reforms in question, and in terms of</i>

	<i>allocating sufficient time to the consultation procedure. HMRC would also apply the latest methodology for assessing administrative burdens.</i>
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6. Learning points arising from the review

6.1 Learning points for future work in this policy area

- More effort should be made to identify which stakeholders should be consulted, and to ensure that their considered views are obtained. This might involve devoting more resource to consultation exercises, and proactively developing relations with the right bodies and persons.
- Sufficient time should be allocated to consultation procedures, especially where it is more difficult to identify key stakeholders and to engage with them.
- The risks attaching to key drivers behind costs and benefits should be identified explicitly, and an analysis of their impact should be undertaken. This is particularly pertinent where a large number of factors are in play, and when a new regime is being introduced.
- The psychological aspects of cultural change, regime change, and change in relationship with HMRC should be considered explicitly and acknowledged.
- The possibility of one-off costs turning into ongoing costs should be considered carefully, and vice versa.

6.2 Learning points for the RIA and compliance cost process in general

- A detailed breakdown of compliance burdens should be set out, including for different types of transaction and different types of business. This should extend to providing costings on a per business basis for a range of business types.
- Where significant regime change is involved, assessments should be treated with a degree of uncertainty until the new regime has bedded down. More effort should also be devoted to identifying risks and the consequences for them materialising.
- Interdependencies between different types of cost and benefit should be identified.

- Appropriate caveats should be adopted where costs and benefits are subject to higher degrees of uncertainty, and especially where possible benefits might turn into possible costs.
- The likelihood of agents' costs and agents' fees changing should be set out and justified.
- RIAs should be easy to read. They should be in simple language and clearly laid out.

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 modernising stamp duty specifically:

Crispin Taylor HMRC 100 Parliament Street London SW1A 2BQ
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For issues relating to the compliance cost review programme generally:

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

THE PUBLISHED REGULATORY IMPACT ASSESSMENT

[Modernising Stamp Duty \(PDF 137K\)](#)