

GOVERNMENT SERVICES

Administrative Burdens – HMRC Measurement Project

Annex D

Demarcation of
Regulation

20 March 2006

Restricted – Commercial



HMRC

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Demarcation of Regulation**

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1 **Overview**

The purpose of this project is to measure the administrative burden on business in complying with UK tax regulation.

A clear demarcation is required to ensure the burden is allocated correctly between HMRC and other government departments; and that only tax legislation related to business is measured.

2 Demarcation between HMRC and other government departments

2.1 Overview

It is essential that regulation which HMRC is responsible for should be included in the tax model and that regulation that other government departments are responsible for should be included in the Cabinet Office model. This is essential to ensure:

- there is no double counting of administrative burden
- the administrative burden is allocated to the department responsible for it and thus capable of influencing it; and
- that only costs arising as a result of tax regulation are included in the tax model

2.2 Practical application

The general principle adopted in determining the demarcation of regulation was that regulation 'belonged' to the department responsible for it.

In most cases the policy and administration of that policy 'belonged' to one department. However in some cases policy 'belongs' to other government departments but certain aspects of administration 'belong' to HMRC. Where HMRC has issued specific regulation for the purpose of collection or control, that HMRC regulation has been included within the scope of the Project and the IOs arising from that regulation have been analysed and included in the tax baseline.

The strict approach to demarcation means that only administrative activities and other costs related to tax DRs were covered at interviews and the standardisation of interview data. The whole drive within the model is to cover the burden created by tax regulation only.

2.3 Examples of demarcation in practice

Area of taxation/ business	Description of demarcation issue	Outcome
Employer Taxes	The obligation to provide a payslip to an employee detailing tax deductions does not derive from tax legislation, but rather the Employment Rights Act 1996 which is the responsibility of DWP.	The payslip is outside scope but the P60 annual summary of payments to an employee derives from tax legislation and is in scope.
Employer Taxes	HMRC administers various obligations on employers: statutory payments (statutory maternity pay, statutory adoption pay, statutory paternity pay, statutory sick pay) and other obligations (national minimum wage and student loan repayments) DWP, DTI and DfES are the responsible departments for policy in these areas (DWP for statutory sick pay and statutory maternity pay, DTI for statutory adoption pay, statutory paternity pay and national minimum wage and DfES for student loans). HMRC is responsible for some of the regulations relating to the administration of these obligations on employers.	Whilst IOs relating to the administration of these obligations on employers are included within scope, other IOs for these areas are not included.
Tonnage Tax	The tonnage tax régime is a particular system of corporation taxation for ship owners. In order to qualify for this treatment there are certain training obligations which the owners have to undertake for their staff. The training regulations are owned by DTI.	The main elements of the tonnage tax régime are within scope, but the training regulations are outside the scope of this project.
Gambling Taxes	Certain IOs, such as the obligation to give a copy of the betting licence to HMRC, are detailed within the main Gambling Acts which are owned by DCMS.	Whilst the rest of the Gambling Acts are outside scope, the particular IOs relating to the provision of information to HMRC have been included.
Customs	The Customs declaration is used by a number of different government departments, such as DTI for dangerous or illicit goods, DEFRA for foodstuffs for the Common Agricultural Policy, etc.	The Customs declaration is included within scope. However the use of the declaration by other departments has not been taken into account in this project.
Pensions	The Pensions Acts are the responsibility of DWP. However, there are a number of regulations that relate to HMRC, for example the provision of information relating to contracted out schemes.	The regulation of pensions is outside the scope, however HMRC responsibilities for pension schemes are within scope.

3 Demarcation between business and non-business regulation

3.1 Demarcation of business and government

This considered the difference between business and government, as certain elements of the UK tax legislation are applicable to government.

Only costs of businesses are included, not costs of government. Tax on governmental activity is an internal cost transfer between different parts of government. The agreed definition of business is that it constitutes every sector of the economy, with the exception of the public sections of public administration and public services as defined by the Office for National Statistics for National Accounts purposes.

As part of the interview process, it was ensured that only relevant businesses were included and not government.

3.2 Demarcation of business and private activity

This considered the difference between business and private activity as the UK tax system applies for both. The scope of the project does not include any obligations arising to organisations or individuals in their private capacity.

3.3 Examples of business and private demarcation

Area of taxation/ business	Description of demarcation issue	Outcome
Private/ Business	Individuals with business income have to complete an Income Tax return on all their personal income as well as the supplementary pages relevant to their business income – their Self Employed and/or Land and Property Supplementary pages. The requirement to complete the supplementary pages may drive the requirement to complete an Income Tax return.	Only the burden of completing the supplementary pages relevant to the business income is included.
Private/ Business	Charities do not generally carry out business activity. As such charitable activities were agreed with HMRC to constitute private activities and therefore outside scope.	Charities are outside scope, except to the extent that they carry out business activities. As such they are then included within the population numbers for businesses. No charitable specific IOs included.
Private/ Business	Investments by private individuals are not within scope of this project. However, partnerships, by definition, are carrying on a business with a view to a profit. This includes trading partnerships, and also investment partnerships such as used in private equity.	All activities which are carried on as businesses are within scope, regardless of the tax analysis of the type of income received. The population numbers for investment activity only relate to businesses carrying out investments and not private individuals.
Private/ Business	The shareholding of companies by private individuals are not within scope of this project as this is a private investment activity. This applies even when the individuals in question are owner managers of the company in question.	A distinction is made between business activity and private shareholding activity. This does not necessary coincide with how owner managers of companies might view their business arrangements in practice.

