

Summary: Intervention & Options

Department /Agency:
HM Revenue and Customs

Title:
Impact Assessment of changes to the tax rules on the deduction of income tax at source

Stage: Consultation

Version: 1

Date: 18 February 2010

Related Publications: HM Revenue and Customs Consultation Document 'Changes to the tax rules on the deduction of income tax at source'

Available to view or download at:

<http://www.hmrc.gov.uk/better-regulation/ia.htm>

Contact for enquiries: Nicola Rass

Telephone: 020 7147 2802

What is the problem under consideration? Why is government intervention necessary?

Changes to the collection procedures on deduction of income tax at source from interest, annual payments and similar amounts are under consideration, to modernise existing procedures and address anomalies in the current rules.

This document covers tax rules relating to company, non-corporate and individual payers of interest, annual payments and similar amounts and this impact assessment discusses the issues separately.

What are the policy objectives and the intended effects?

HMRC are seeking views from persons using the current deduction of income tax procedures for example the CT61 and any other interested parties to improve customer experience in complying with these tax rules.

What policy options have been considered? Please justify any preferred option.

The purpose of this consultation is to invite views on possible changes that will inform future legislation on deduction of income tax at source. No specific options are presented at this stage.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? Proposals for review will be presented when the policy is finalised.

Ministerial Sign-off For consultation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:



Date: 24 February 2010

Summary: Analysis & Evidence

Policy Option:	Description:
-----------------------	---------------------

COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' Changes to the rules on deduction of income tax will not have a significant impact on administrative costs for companies.
	One-off (Transition)	Yrs	
	£ likely to be neg		
	Average Annual Cost (excluding one-off)		
	£ likely to be neg		
Total Cost (PV)			£ Neg
Other key non-monetised costs by 'main affected groups' At the suggested annual only limit the admin impact is very unlikely to lead to substantive decreases in admin costs			

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups' Changes to the rules on deduction of income tax will not have a significant impact on administrative costs for companies.
	One-off	Yrs	
	£ likely to be neg		
	Average Annual Benefit (excluding one-off)		
	£ likely to be neg		
Total Benefit (PV)			£ likely to be neg
Other key non-monetised benefits by 'main affected groups' Changes to the rules on deduction of income tax will not provide other non-monetised benefits.			

Key Assumptions/Sensitivities/Risks That the compliance cost of any new rules on deduction of income tax will be very similar to that of the current rule.

Price Base Year 2010	Time Period Years	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate) £ likely to be neg
-------------------------	----------------------	-------------------------------------	--

What is the geographic coverage of the policy/option?			UK wide		
On what date will the policy be implemented?			To be decided		
Which organisation(s) will enforce the policy?			HMRC		
What is the total annual cost of enforcement for these organisations?			£ nil		
Does enforcement comply with Hampton principles?			Yes		
Will implementation go beyond minimum EU requirements?			No		
What is the value of the proposed offsetting measure per year?			£ n/a		
What is the value of changes in greenhouse gas emissions?			£ n/a		
Will the proposal have a significant impact on competition?			No		
Annual cost (£-£) per organisation (excluding one-off)		Micro	Small	Medium	Large
Are any of these organisations exempt?		No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)				(Increase - Decrease)
Increase of	£ nil	Decrease of	£ nil	Net Impact £ nil

Key: Annual costs and benefits: Constant Prices (Net) Present Value

Evidence Base (for summary sheets)

Introduction

1. Deduction of income tax at source is a long standing feature of the tax system and is based upon the principle that income is taxed at its first source. It provides a collection mechanism for tax due from several types of income. The basic rate tax liability of the recipient is satisfied by the sum withheld from the income.
2. Comments are invited on possible changes to the tax rules on the deduction of income tax at source from interest, annual payments and similar payments, as they currently apply to deposit takers (commonly banks and insurance companies), building societies, companies, individuals and other non-corporate persons.
3. Companies, certain financial institutions, individuals and other non-corporate persons (such as trustees) are required to deduct basic rate income tax from interest paid, 'annual payments' and certain other payments such as patent and other royalties, and pay the tax deducted over to HMRC. This duty is set out in Part 15 of the Income Tax Act 2007 ('ITA'). Chapters 15 to 17 of Part 15 ITA set out the rules under which the tax deducted is to be collected. Chapter 15 applies to deposit takers, building societies, and companies, and chapters 16 and 17 apply to other persons (mainly individuals and trustees).
4. In some circumstances, such payments may be made without deduction of income tax. For example, payments between UK resident companies, and payments to banks and building societies, are paid gross. In practice, deduction of tax at source applies primarily to:
 - interest paid by deposit takers (broadly, banks) and building societies on investments and deposits made by individuals and some partnerships and trustees;
 - yearly interest paid by companies, local authorities, partnerships, and by any person to another person who is not resident in the UK;
 - certain 'annual payments' and patent and other royalties paid by any person.

Banks, building societies and companies

5. Where a deposit-taker, building society or UK resident company makes a payment of interest etc. in a 'return period' (a period ending on a quarter date within an accounting period), it must deliver a return to HMRC of the payments made and the income tax deducted from them within 14 days of the end of the return period. The tax is payable to HMRC with the return, without the need for assessment. If a return is not made or if tax not paid over as required, HMRC can issue an assessment. Tax suffered at source on interest etc. received can be set off against the tax payable. The procedures can be modified by regulation.
6. The return required under this procedure is known as the CT61 Return. The return is issued each quarter automatically by HMRC to registered companies. The majority of tax collected via the CT61 regime is tax withheld on bank and building society deposits.
7. HMRC invites views on the following possible changes to the CT61 procedure.
 - Would an online form available for downloading from the HMRC website when required be an improvement over the current CT61 system?
 - If we were to bring in an online form, would such a change necessitate costly adaptations to taxpayers' systems?
 - Since the abolition of ACT there is no ongoing need to require the delivery of CT61 returns in line with the end of a company's accounting period. Would a modest change to the rules such as restricting the number of returns required to be the four stated in the CT61 Notes

with no additional return at the end of a company's accounting period be a welcome simplification?

- In some cases the cost of completing a CT61 return relative to the sum to be remitted to HMRC per quarter is disproportionate for both the taxpayer and HMRC. Comments are invited on whether, for example, any significant difference to the administrative burden represented by the CT61 system would be made by moving from quarterly to annual returns where the sum payable to HMRC does not exceed a specified threshold per quarter (say £1000).

Individuals and other non-corporate taxpayers

8. The CT61 procedure applies to banks, building societies and companies. Different procedures apply to individuals and other non-corporate persons. These procedures are set out in Chapters 16 and 17 of Part 15 ITA 07.
9. If Chapter 16 applies, a person must deliver an account, without delay, to HMRC of the tax deducted from interest and similar payments, which HMRC can then collect by raising an assessment on that person.
10. If Chapter 17 applies, where the payments are qualifying annual payments and patent royalties, and are made by an individual, or by other persons who have some 'modified net income', the a person must include the sum deducted in their self assessment tax return and pay the withheld sum to HMRC as if it were part of their liability to income tax for the year of assessment. Chapter 17 also applies to certain payments made by trustees.
11. Unlike the CT61 procedure, in neither instance is there any specific form on which the tax, or the sum from which it has been deducted, is identified, and the tax is not payable with the delivery of the account.
12. The key change under consideration here is that individuals and other non-corporate persons would use a designated form on which to deliver an account to HMRC of tax deducted from interest and similar payments. Such a form might also be used for tax deducted from annual payments and currently accounted for under Chapter 17.
13. Views are therefore invited on the following matters:
 - Would a specific form, available online for downloading from the HMRC website, make it easier for individuals and other non-corporate persons to comply with their obligation to deliver an account of tax deducted?
 - Companies are required to pay a sum equal to the sum representing income tax deducted to HMRC without first receiving an assessment. Would it be less confusing for individuals and other non-corporate taxpayers if this practice was extended so that a person to whom the procedure in Chapter 16 of Part 15 ITA applies would both deliver an account of the tax deducted and pay it over to HMRC without assessment?
 - Is the difference in the circumstances in which income tax deducted must either be accounted for 'without delay' (under Chapter 16 of Part 15 ITA), or added to the taxpayer's self assessment tax return (under Chapter 17 of Part 15 ITA), well understood?
 - Would amalgamating these procedures into a single system (requiring all income tax deducted to be accounted for on a 'return of income tax deducted' form and abolishing the requirement to add it to the payer's self assessment tax return) make it easier for non-corporate taxpayers to comply with their obligations?

Annual payments and patent royalties

14. HMRC has also become aware of practical difficulties in applying the rules on the deduction of income tax by individuals and other non-corporate taxpayers from annual payments.

15. The term 'qualifying annual payment' is defined in section 899 ITA. It includes certain types of annuities, royalties from intellectual property, certain telecommunication rights and other 'annual payments not otherwise charged'. This last category includes payments of an income nature paid under a legal obligation that extends for more than one year. Deduction of income tax from qualifying annual payments is required where the payment is made for genuine commercial reasons in connection a person's trade, profession or vocation.
16. If income tax is required to be deducted from qualifying annual payments made for genuine commercial reasons, or from patent royalties, tax relief on the gross amount of the payment can be claimed under Chapter 4 of Part 8 ITA, as a deduction from a person's total income. However, tax relief may be claimed in this way only if the payment is not deductible in calculating income from any source, which it often will be, where the person making the payment is able to deduct it in computing trade profits.
17. Certain specified types of annual payment are taxable in the hands of the recipient as 'savings and investment income' under Part 4 of the Income Tax (Trading and Other Income) Act 2005, or as 'miscellaneous income' under Part 5 of the same Act. Where an annual payment is made by an individual it is only taxable in the hands of the recipient if made by the payer for commercial reasons in connection with their trade. In effect, most non-trade annual payments made by individuals are not taxable.
18. The duty to deduct income tax from such payments arises whether or not the payment is claimed as a trade expense. It can then be difficult for a person who deducts income tax from such payments to correctly account for the tax deducted through the self assessment tax return. If tax relief is claimed for an annual payment or royalty which has also been claimed as a business expense, the person is asked to make a note under 'any other information' on their tax return. But there is a possibility that relief may be claimed twice for the same expense because of the ambiguity in the rules.
19. Views are invited on the following matters.
 - Would removing the requirement to deduct income tax from 'commercial' annual payments and patent royalties made in connection with a person's trade reduce administrative burdens for non-corporate business taxpayers?
 - Would a requirement to notify HMRC of 'commercial' annual payments and patent royalties paid, instead of a duty to deduct income tax from them, represent an increase or a decrease in the administrative burden on business?
 - To what extent would repeal of the requirement to deduct income tax from 'commercial' annual payments and patent royalties represent an increase in compliance burdens for the recipients of such payments, who would now be required to account for tax on amounts received?
 - Is there a continuing need for the tax relief available to non-corporate taxpayers under Chapter 4 Part 8 ITA for commercial annual payments and patent royalties, in view of the fact that such payments are in principle deductible as trade expenses?

Other circumstances where income tax is required to be deducted

20. In addition to the requirement to deduct income tax from interest and other annual payments contained in chapters 15, 16 and 17 Part 15 of ITA 07 there are other types of payments from which tax is required to be deducted, in particular chapter 18. This chapter includes payments visiting performers, non-resident landlords and real estate investment trusts.
21. No major changes to these provisions are envisaged, but views are invited on whether there is merit in expanding the scope of a general purpose 'return of income tax deducted' form, so that it would be the mechanism by which income tax deducted under these provisions is accounted to HMRC.

22. No changes are proposed to the Pay As You Earn (PAYE) system under which income tax is deducted from employment income.

Impact on small firms

23. Changes to the rules on deduction of income tax would have minimal impact on small and medium enterprises.

Competition Assessment

24. There is unlikely to be any difference in impact on particular companies or sectors of the economy from changes to the tax rules on deduction of income tax from interest, annual payments and similar payments, and no competition issues arise.

Legal Aid

25. Changes to the rules on deduction of income tax would have no impact on Legal Aid.

Sustainable Development, Carbon Assessment, Other Environment, Health Impact Assessment

26. Changes to the rules on deduction of income tax proposals would have no impact, either positive or negative, on either the environment or public health.

Race Equality, Disability Equality, Gender Equality, Human Rights Equality

27. Changes to the rules on deduction of income tax would have no impact on race, disability, gender or Human Rights equality.

Rural proofing

28. Changes to the rules on deduction of income tax would neither impact on nor be impacted on by rural proofing.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	Yes	No
Sustainable Development	Yes	No
Carbon Assessment	Yes	No
Other Environment	Yes	No
Health Impact Assessment	Yes	No
Race Equality	Yes	No
Disability Equality	Yes	No
Gender Equality	Yes	No
Human Rights	Yes	No
Rural Proofing	Yes	No

Annexes