

Summary: Intervention & Options

Department /Agency: HMRC	Title: Impact Assessment of Tax Law Rewrite Bill 7 Taxation (International and Other Provisions) Bill	
Stage: Consultation	Version: 1	Date: 27 January 2009
Related Publications: RIAs on previous rewritten legislation; CAA, ITEPA, ITTOIA, ITA 2007, Bill 5 (Corporation Tax) and Bill 6 (Corporation Tax)		

Available to view or download at:

<http://www.hmrc.gov.uk/ria/index.htm#partial>

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

The existing legislation is generally perceived to be neither user friendly nor structured in a logical way. The Government made a commitment in 1996 to rewrite most direct tax legislation. Intervention is necessary because many users struggle to use existing legislation and may misinterpret it. Two strategic decisions were taken to help users: some "international" provisions (e.g. DTR and transfer pricing) should not be "split" but rather continue to apply for both corporation tax and income tax purposes and some tidying of the legislative landscape should be undertaken.

What are the policy objectives and the intended effects?

Rewriting existing legislation in modern language to make it clearer and more user-friendly but without changing the law other than in a minor and agreed way. There will also be a more logical structure to the legislation, shorter sentences and better use of definitions. The intended outcome/result is a coherent tax code that is accessible to users.

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

- 1) Apply rewrite style and format to the existing legislation. This is the preferred option because it fulfills the Government's commitment to rewrite most of direct tax legislation.
- 2) Do nothing
- 3) Leave the legislation as it is and provide better guidance
- 4) Consolidate the legislation rather than rewrite it

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? The independent project Steering Committee have requested that a review of all rewritten legislation is made after April 2010.

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: 29 January 2009

Summary: Analysis & Evidence

Policy Option: Rewrite legislation

Description: Apply rewrite style and format to the selected existing legislation

COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' One-off 'familiarisation cost' to business, tax professionals and agents. The time taken will vary considerably but using indicative figures in the way described in paragraph 36, these costs amount to £1m. In addition, there are one-off HMRC resource costs of redrafting legislation, reproducing the Bill and publishing guidance (£1m total).
	One-off (Transition)	Yrs	
	£ 2m	1	
	Average Annual Cost (excluding one-off)		
	£ Negligible		Total Cost (PV) £ 2m
<p>Other key non-monetised costs by 'main affected groups'</p> <p>There will be a negligible ongoing cost from minor agreed changes. Though small and hard to quantify, there will also be time losses in a transition period when new tax professionals will have to be trained to be familiar with both the old and new legislation.</p>			

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups' Monetised benefits relate solely to the time saved by individuals and businesses in dealing with their tax affairs. An indicative saving of half an hour per year per user has been assumed, applying to a proportion of the one million users (£1.6m total).
	One-off	Yrs	
	£ 0		
	Average Annual Benefit (excluding one-off)		
	£ 1.6		Total Benefit (PV) £ 7m
<p>Other key non-monetised benefits by 'main affected groups' Ongoing benefits for tax professionals, and individuals, as well as HMRC, stemming from clarification of existing law and clearer future amendments. Provisions are easier to locate making the legislation more accessible to practitioners newly dealing with the topics. Valuable lessons to benefit future drafting.</p>			

Key Assumptions/Sensitivities/Risks

The above estimates of cost and benefits are purely indicative. Unintentional changes in law may have been made. A significant amount of work was involved for consultees. There should be no changes to tax yield.

Price Base Year 2009	Time Period Years 5	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate) £ 5m
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What is the geographic coverage of the policy/option?	UK			
On what date will the policy be implemented?	1 April 2010			
Which organisation(s) will enforce the policy?	HMRC			
What is the total annual cost of enforcement for these organisations?	£			
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?	£ 0			
What is the value of changes in greenhouse gas emissions?	£ 0			
Will the proposal have a significant impact on competition?	No			
Annual cost (£-£) per organisation (excluding one-off)	Micro -£25	Small -£25	Medium -£25	Large -£25
Are any of these organisations exempt?	No	No	No	No

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

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

The problem and the reason for the legislation

1. The source legislation lacks clarity and logical order. This leads to mistakes and wasted resources. A Government commitment was made in 1996 to rewrite all of the direct tax legislation and this continues to have full cross-party support.
2. HMRC priorities are to improve customers' experience of dealing with the Department, to increase levels of compliance and to improve its internal cost effectiveness.
3. The project has so far rewritten the Capital Allowances Act 2001 and the income tax code in three previous Acts, the Income Tax (Earnings and Pensions) Act 2003 (ITEPA), the Income Tax (Trading and Other Income) Act 2005 (ITTOIA), and the Income Tax Act 2007 (ITA). Bill 5 (Corporation Tax) will be [was] introduced into Parliament in December 2008 and Bill 6 (Corporation Tax) will be published in draft form in February 2009. The project has also rewritten the PAYE Regulations in response to requests from users and representative bodies. These Regulations (SI 2003/2682) came into force in April 2004.
4. As the Bill only rewrites existing legislation and does not change the law (except for minor identified changes at the margins intended in the main to bring clarification or consistency or to bring the law into line with well established practice); there has been only limited consultation within government.
5. The report of the last Joint Committee meeting which was held on 24 January 2007 to look at the Income Tax Bill, states that the Chairman of the Committee, the Rt Hon Kenneth Clarke QC, MP congratulated the project on putting income tax law into one body of clear legislation. He also acknowledged the project's attention to detail in order to get things right.

Policy objectives and intended effects

6. The Tax Law Rewrite project (the project) aims to rewrite legislation so that it is clearer and easier to use, without changing or making less certain its general effect.
7. The project was set up in 1996. Its key objectives and characteristics are:
 - a) clearer, more user-friendly tax legislation;
 - b) a new more logical structure for rewritten legislation;
 - c) shorter sentences and harmonisation of definitions;
 - d) use of modern language, as long as this can be done without changing the law or making its effect less certain;
 - e) better signposts and similar rules grouped together, to make rules easier to find;
 - f) no change in the underlying tax system (but the work of the project will not prevent any such changes);
 - g) some minor changes, where they further improve the legislation;
 - h) consultation with interested parties throughout the life of the project.
 - i) a specific streamlined Parliamentary procedure for enactment of rewrite Bills.
8. The project has rewritten the legislation covering income tax in a series of three Bills. On completing this work it turned its attention to the rewrite of corporation tax and then to the provisions covered in this Bill.
9. The risk of inadvertent changes is mitigated by the "continuity of law provisions" contained in the Bill, and also by the ability of the government to use powers in the Bill to amend legislation by regulations where the rewrite introduces an unintended change.

10. Full consultation with interested parties has been a key feature of the project. It has been conducted on a structured and published timescale agreed by the project's Consultative and Steering Committees.
11. There are two outside Committees which are concerned with the workings of the project. They are:
 - a) the Steering Committee, which provides strategic guidance to the project. Its members include MPs, the judiciary, and representatives of the legal and accountancy professions and consumer interests.
 - b) the Consultative Committee, whose role is to ensure continuous consultation on the rewritten law with all the main private sector interests. Its members include representatives of the CBI, CIOT, ICAEW, ICAS, ACCA, Law Society, the Federation of Small Businesses and other bodies.
12. The comprehensive consultation process has allowed the project to ensure, as fully as possible, that it has not changed the law in any way other than through minor identified changes (such as the incorporation of extra-statutory concessions or dropping redundant material) to improve the legislation.

Policy appraisal

13. There are four possible options available:

(i) Apply rewrite style and format to the existing legislation.

There is a clear Government commitment to rewrite primary direct tax legislation. The project was set up to do this and for example has so far rewritten income tax and corporation tax. This Bill along with the second corporation tax Bill will complete the work and honour the commitment made.

(ii) Do nothing

Failure to rewrite this legislation would be unwelcome to users who have pressed for the rewrite of the DTR provisions and welcomed the rewrite of other international provisions. Failure to take the opportunity to rewrite and relocate certain provisions currently in ICTA and various Finance Acts would also be unwelcome to users who have indicated a preference for action to tidy the legislative landscape where it is possible and helpful to do so.

(iii) Leave the legislation as it is and provide better guidance

An overhaul of the guidance to existing legislation would be a costly and time consuming exercise. It would be unlikely to provide satisfactory clarification where the legislation is particularly complex or confusing. If the source legislation remained unchanged, the updated guidance would have to reflect the lack of clarity in the source legislation. This is not a realistic option.

(iv) Consolidate the legislation rather than rewrite it

Consolidation would take fewer resources within HMRC, Parliamentary Counsel and from consultees. But it would not meet the needs of those users who find the existing legislation completely inaccessible or time consuming and difficult to understand and comply with. It would also be more difficult to deliver as some sections have already been rewritten and as a result there would be a risk that consolidation might confuse users.

Review of policy

14. The work of the project has been reviewed regularly. In 1998, prior to the first Bill which became the Capital Allowances Act 2001, the project carried out an internal stock take, sending a questionnaire to some 200 people involved in the consultative process. They were asked about the likely costs and benefits of the project. All agreed that it would be difficult to quantify most of the costs in advance, and all but impossible to arrive at any objective measure of the benefits. But most interested parties firmly believed, and still do so, that any costs will be more than outweighed by the benefits flowing from the project.
15. When the Capital Allowances Act 2001 had been in existence for some time giving tax professionals the chance to experience how it worked in practice the project's Steering Committee felt it would be appropriate to assess its effectiveness. Research showed that it was well received both outside and within HMRC.
16. Similarly, research showed the project's first and second income tax Acts known as ITEPA and ITTOIA were equally well received. For example the Institute of Chartered Accountants in England and Wales (ICAEW) described the ITEPA as 'another step forward in improving the intelligibility of United Kingdom tax legislation in areas of the law that affect a large number of taxpayers'. Of ITTOIA they said 'the draft Bill was well constructed and we commend its drafting. It covers important ground and as it facilitates taxpayers' easier understanding of legislation which will affect very many of them, it is a useful addition to the rewritten legislation'.
17. The benefits of the International and other provisions Bill are likely to be widespread, affecting individuals and businesses.
18. The project has looked at the benefits and costs by reference to the main groups affected by the Bill such as:
 - a) tax professionals working in-house as tax managers within companies or as agents or other intermediaries;
 - b) advisors within the legal and accountancy professions;
 - c) individuals wishing to research provisions applying to their circumstances;
 - d) HMRC staff
19. The benefit to this broad group of users will come from the clarification of existing law and the clearer expression of future changes to that law. They potentially include:
 - i) less time consuming legislation and fewer errors caused by misunderstanding of the law;
 - ii) fewer issues on which time needs to be spent on obtaining specialist advice;
 - iii) less resource expended on queries about interpretation.
 - iv) fewer disputes with HMRC about the meaning of legislation; and
 - v) less time for training of new professionals.
20. One indication of the impact of the project is that most users' representatives continue both to support the project and to contribute substantially by commenting on draft clauses and other publications.
21. It is very difficult to quantify the actual benefits to users of a particular body of rewritten legislation until it has been in force for some time.
22. The project has recently proposed, in consultation with its Steering Committee, that a more valuable and significant result would be obtained by evaluating all the rewritten legislation after this Bill is enacted.

Benefits

Key monetised and non-monetised benefits

23. Many companies and individuals make use of highly skilled and experienced external tax professionals and agents to provide advice and interpret the legislation.
24. For those businesses and individuals employing the services of external tax professionals and agents the greatest benefit will be derived from the greater ease of use for their advisors. Past market surveys have demonstrated that previously rewritten legislation is clearer and easier to use. This should mean fewer disputes and less litigation. Nevertheless this impact assessment adopts the cautious assumption that there will be no expected reduction in the overall level of fees paid by businesses to agents.
25. Some companies and individuals will also be able to consult the legislation themselves to resolve more straightforward questions and ultimately be able to benefit from more user friendly software based on the rewritten legislation. It is not possible to quantify the number who may take this route. This impact assessment adopts the cautious assumption that there will be no switching away from using an agent as a result of the tax law rewrite.
26. HMRC are in a similar position to other tax professionals. Clearer legislation is likely to reduce the number of disputes over interpretation and the number of cases which need to be referred to a specialist for a definitive ruling. We have not attempted to monetise the value of this benefit. Training and guidance material should be easier to use and more straightforward to produce. Moreover, as the legislation becomes easier to understand, more resources can be released to concentrate on other issues, for example the provision of better guidance.
27. Those businesses and individuals which do not use external tax professionals and agents should benefit directly as a result of the legislative rewrite. The nature of these savings is likely to be similar to those outlined above, i.e. reduced time spent navigating, understanding and applying the legislation correctly as a result of its improved ease of use.
28. The legislation applies to both businesses (large and SMEs) and to individuals. In order to monetise these benefits we have used the same methodology as in other rewrite Bills and applied an average saving of half an hour per tax payer per year which is an approximation across the range giving an overall saving of 31300 hours. Using a cost of £50 per hour, this would produce a saving of £1.6m based on a proportion of the total number of income tax and corporation tax payers as shown in the following table. This aggregate estimate of benefits includes savings achieved by those using the legislation directly and by those using external professionals and agents whether or not the professionals and agents fully pass on the savings to their clients. The population figures were extracted from HMRC's own analysis of income tax and corporation tax returns. We have provided a present value figure of £7m based on a 5-year period, using a discount rate of 3.5%.

Category of taxpayer	Number
Large businesses	770
SMEs	1830
Individuals	60,000
Overall Total	62,600

29. It must be emphasised that these savings are purely indicative. They stem from industry views which were passed to HMRC during the in-depth consultations which took place with tax professionals. In some cases the savings per business and individual will be far more significant; in other cases savings may not arise or might be one-off rather than ongoing. An accurate in-depth breakdown of savings has not been possible. Nevertheless we consider that this aggregate figure provides an appropriate indication of the extent to which the benefits of this initiative justify the costs.

Other non-monetised benefits

30. International tax legislation is complex and applies to both individuals and corporations. Users have expressed a desire for the rewrite of this legislation.
31. With the globalisation of business activity and the greater international mobility of individuals, international tax provisions are having an impact on a greater number of individuals and businesses. On the experience of surveys from previously rewritten legislation which show that it is easier to understand and use, it is possible that the benefits of the rewritten international tax legislation will be more readily apparent for these users.
32. Users have also indicated that they would find it helpful if some tidying of the legislative landscape were to be undertaken as part of this Bill which will complete the main work of the Tax Law Rewrite Project on the income tax and corporation tax codes.
33. Lessons have been learned from successful rewriting and these can be developed into best practice for the production of tax legislation in the future.

Costs

Key monetised and non-monetised costs

34. This Bill has two main themes - the rewrite of international provisions, and the rewrite and relocation of some provisions that are currently not helpfully located for users. The Bill includes provisions about double taxation relief, transfer pricing and tax arbitrage. It also includes schedules which rewrite and relocate a number of unconnected provisions.
35. Although there is no major change to the underlying tax system, there will be some costs to tax professionals who need to get to grips with the new structure, section numbers and language used in the Bill. In essence this relates to the costs to practitioners of finding their way round the new legislation. We have aimed to minimise these costs by including a number of tables in the legislation and guidance which show where various provisions have been relocated. There will also be some impact from the minor agreed changes made by the Bill. However, because the underlying legislation is not changing significantly, the impact on the administrative burden is likely to be negligible.
36. These one-off familiarisation costs are difficult to estimate, as they will vary considerably depending upon the nature of the business and the nature of the agent. We have applied these costs to the same population (around 62,600) which benefits from this reform. In order to take account of the very considerable variations between users, from no time for some to a number of hours for others, we have assumed an average illustrative familiarisation time of twenty minutes each, across the combined populations of business and corporation tax agents and applied an average hourly cost of just £50. This generates a total one-off cost of £1m.
37. As with the benefits figures, it should be emphasised that these costs are purely indicative, and that the actual costs per business and individual will vary significantly around this assumed illustrative mid-point. Nevertheless we consider that these figures portray a reasonable indication of the relativities involved, i.e. that one-off costs to users should be lower than the annual benefits.

38. We have also provided a Net Present Value calculation over a 5 year time frame, reflecting an assumption that we are not expecting any further significant legislative rewrite in this area for at least the next 5 years (and probably much longer).
39. People new to tax should need less time than at present to learn the legislation- for example trainee accountants and HMRC staff.
40. Compared to the option of doing nothing, the cost to HMRC in implementing the policy decision to produce this Bill is £1m spread over the years up to 2010. Some of these costs would have been incurred within the next few years if the alternative option of consolidation rather than rewriting had been viable and had been adopted.
41. There are some costs to HMRC in the use of policy specialists' time in reviewing the draft clauses for operational implications.
42. There will be a small cost to HMRC in updating the relevant parts of the guidance manuals and internal training material. But this is done on a regular basis in any event.
43. Policy costs represent the essential costs of meeting policy objectives. Because the rewrite of this legislation does not involve changes in the law, apart from some minor ones, policy costs arising from the rewrite will be minimal.
44. Commercial publishers and software suppliers will need to update their products. These costs are likely to be passed on to the end users but, as many of these are updated on an annual basis in any event, the level of extra costs passed on should be minimal.
45. Reproducing the Bill and detailed guidance material might cost the two major publishers up to £50,000 each. To the extent that the Bill obviates the need for consolidation of provisions in ICTA and various Finance Acts this is not all additional cost.
- 46. Small Business impact test**
- The Bill will affect all businesses including those with 20 or fewer employees.
 - HMRC has well established links with organisations representing small businesses. The project has worked with specialists throughout the Department in developing the rewritten legislation and the impact on small businesses was considered at all stages.
 - More specifically, a member of the Federation of Small Businesses serves as a member of the Consultative Committee and has had the opportunity to review all the rewritten legislation in this Bill.

The project concluded that as the Bill does not materially change the law, the position of small businesses will remain much as before. They will have to familiarise themselves with the rewritten legislation but will benefit from legislation that is easier to use.

47. Inevitably, some costs in terms of time expended have fallen on the tax professionals and representative bodies that have taken part in the consultation process. Again, these costs are difficult to quantify but we have estimated them to be £0.5m. Those consulted continue to urge the project to maintain the same level of consultation. Consultation costs are not normally classed as business compliance costs but the level of industry input in this exercise warrants a particular mention.

Key assumptions/sensitivities/ risks

48. The International and Other Provisions Bill extends to over 200 pages. The accelerated Parliamentary process to which Tax Law Rewrite Bills are subject relies on wide consultation on all draft clauses and agreement to any proposed minor changes.
49. Although the project has a proven and robust system of consultation on draft clauses, mistakes inevitably happen. A significant risk in rewriting legislation is that an unintended change in the law could result. Any inadvertent errors will as in previous rewrite legislation,

be corrected using special powers contained within the Bill. The project has identified only a small number of such errors in previous rewrite Acts.

50. The impact on admin burdens is assessed using the 'Standard Cost Model' (SCM). The SCM provides an estimate of the costs to business of complying with HMRC obligations to disclose information to HMRC or to third parties. The SCM considers which activities a business has to do to comply with an HMRC obligation, how many businesses have to comply, and how often they need to comply. The SCM considers the burdens applying to different sizes of business. As the Bill rewrites legislation without making significant changes, there is no impact on overall tax yield or on the business admin burden as measured by the Standard Cost Model which relates to the cost to business of disclosing information to HMRC or to third parties.

Competition

51. This measure has no restrictive impact on competition. If there is any effect it will be pro-competition, as it will reduce the difficulty encountered by potential new entrants to the tax agency business (by making it easier for such service providers to attain the requisite knowledge of the legislation). However, the Government has not sought to quantify any such possible effect or place reliance on it.

ECHR

52. As with previous Bills we are considering human rights issues but we do not expect any problems in this area.

Specific impact tests

53. We have considered other impacts and as this Bill is not intended to change the law but to express it more clearly, we do not consider that any of them will apply differently. The project has received no feedback from consultation to indicate that this will not be the case.

Specific Impact Tests: Checklist

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

ANNEX A

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

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