Summary: Intervention & Options

Department /Agency:	Title:	
HMRC	Impact Assessment of Reduction of Administrative Burden of Stamp Duty	
Stage: FINAL	Version: 1	Date: 14 February 2008
Related Publications:		

Available to view or download at:

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

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

Standard Cost Model research in 2005 assessed the costs to business of complying with stamp duty legislation as £49m annually, of which 85% (£41m) is attributed to 'applications for authorisation', the main burden of which is the requirement to present instruments legally transferring shares to the Stamp Office within HMRC for stamping. Some 350,000 documents are presented each year, but the majority of these are chargeable only with the minimum £5 stamp duty. Reducing the administrative burden on business will improve economic efficiency and contributes towards Budget 2006 targets.

What are the policy objectives and the intended effects?

The policy objective is to remove as many as possible of these low value instruments from the stamping process with the aim of drastically reducing the burden on business, because the documents would not then need to be seen by the Stamp Office. They may therefore be sent directly to the Company Registrar in order to amend the company's share register to reflect the change of ownership. As well as reducing costs and simplifying the process for business, there will also be cost savings for HMRC.

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

Two options considered: 1. Do nothing; and 2. acting to reduce administrative burdens caused by Stamp Duty by: (a) Removing the £5 fixed charge applying to some instruments; and (b) introducing a consideration threshold below which instruments would be exempt from duty. After weighing the saving in administration burdens against the possible avoidance risk to Stamp Duty yield, the consideration threshold was set at £1,000.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? Costs and benefits will be routinely reviewed after 1-3 years

Ministerial Sign-off For final proposal/implementation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.

Signed by the responsible Minister:

Jane Kennedy...Date: 1 March 2008

Summary: Analysis & Evidence

Policy Option:	Description:

COSTS

ANNUAL COSTS		Description and scale of **key monetised costs** by 'main affected groups'
One-off (Transition)	**Yrs**	
£ 0		
Average Annual Cost (excluding one-off)		
£ 0		**Total Cost** (PV) **£ 0**

Other **key non-monetised costs** by 'main affected groups'

BENEFITS

ANNUAL BENEFITS		Description and scale of **key monetised benefits** by 'main affected groups'
One-off	**Yrs**	This policy reduces the administrative burden on businesses, which improves economic efficiency. The estimates are based on elimination of the administrative burden for a small number of transactions currently liable to Stamp Duty.
£		
Average Annual Benefit (excluding one-off)		
£ 15.5 million		**Total Benefit** (PV) **£**

Other **key non-monetised benefits** by 'main affected groups'

Key Assumptions/Sensitivities/Risks This measure may slightly increase opportunities for avoidance. However, we do not believe that the risks are significant in this instance.

Price Base Year 2008	Time Period Years	**Net Benefit Range** (NPV) £	**NET BENEFIT** (NPV Best estimate) £

What is the geographic coverage of the policy/option?			UK	
On what date will the policy be implemented?			Budget Day	
Which organisation(s) will enforce the policy?			HMRC	
What is the total annual cost of enforcement for these organisations?			£ 0	
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?			£	
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 £	Decrease of £ 13.8 m	**Net Impact**	£ 13.8 m

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

Evidence Base (for summary sheets)

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

The Issue/Situation

There are two processes by which shares, marketable securities and certain partnership interests can be transferred – by means of a formal instrument of transfer, or electronically. Electronic transactions attract Stamp Duty Reserve Tax ('SDRT') at a rate of 0.5% of the consideration, whereas paper-based transactions are subject to Stamp Duty (not SDRT) at the rate of 0.5%. The paper instrument is physically stamped by HMRC when Stamp Duty is paid on the transaction. Instruments transferring shares or securities otherwise than on sale, which attract a £5 fixed Stamp Duty charge, also need to be physically stamped.

In 2005, standard cost model research measured all the administrative burdens imposed by the UK tax system (http://www.hmrc.gov.uk/better-regulation/kpmg1.pdf). This included an assessment of the administrative burden of Stamp Duty, estimated at £49 million in 2005 prices (http://www.hmrc.gov.uk/better-regulation/part21.pdf). £41m (85%) is due to 'applications for authorisation' and its 'requirement to present the legal transfer document to the Stamp Office within HMRC for stamping'. Approximately 900,000 paper share transfer forms are completed each year. Transfers fall into one of three categories:

1. Exempt Instrument
   550,000 transactions are 'self-certified' as not being chargeable with Stamp Duty. They do not need to be presented to the Stamp Office and the stock transfer forms to reallocate ownership of shares can be sent directly to the company registrar. Examples are gifts of shares and transfers from estates of deceased persons.

2. £5 Fixed Stamp Duty
   This category includes instruments transferring shares otherwise than on sale. Declarations of trust (provided they do not constitute a sale) and replacement or second copies of instruments (so that each party has his own copy) also fall within this category.

3. *Ad valorem* Stamp Duty
   This includes any instrument (including a court order) that transfers shares on sale to a purchaser and hence is chargeable with ad valorem Stamp Duty. The rate is 0.5% of the chargeable consideration which can consist of cash, shares or debt, and the charge is rounded up to the nearest £5 above – i.e. presently any qualifying instrument where the consideration is less than £1,000 will attract Stamp Duty of £5.

Policy objectives and intended effects

The aim is to remove from the process of physical stamping the vast majority of transfer instruments that currently attract the minimum charge of £5. The effect of so doing will be to enable such instruments to be passed directly to the company registrar (who is responsible for amending the register of shareholders to reflect changes of ownership) without first having to be presented to the Stamp Office for the impression of a physical stamp. This will simplify the process and reduce the costs for both business and HMRC.

The Options

1. Do nothing

Stamp Duty places a disproportionate strain upon businesses that use paper based rather than electronic stock transfer. This is mainly due to the customer groups having to arrange to get each document stamped; in many cases involving visiting the Stamp Office. As part of decreasing these administrative burdens on business, HMRC has examined risks involved. This is an area of tax in which great reductions in administrative burdens can be gained without a high risk of abuse, as will be shown later. Therefore to do nothing would undermine the view that HMRC is looking forward and trying to aid business by reducing their administrative burdens.

2. Exempting from Stamp Duty instruments that presently attract only £5 fixed stamp duty and introduce a consideration threshold of £1,000 beneath which instruments will no longer be chargeable with stamp duty

Removal of the £5 fixed duty charges would decrease the administrative burden on business by £0.8m (1.6%). It would include all types of instruments that currently attract the fixed £5 duty. Examples are transfers of the legal ownership of shares from one nominee to another, and transfers of shares as security for a loan.

Currently 5% of all transactions fall to be charged the fixed £5 duty. So by extending the definitions of exempt instruments, there would be a negligible impact on yield. There is a low risk to the change in behaviour of business if HMRC were to do this. Also, HMRC's opportunity to challenge disguised changes of beneficial ownership attracting *ad valorem* duty would be lost. The risk is, however, regarded as very low (estimated loss of yield between £0.2m – £2.1m) and would not prohibit the removal of the £5 fixed duty charge, and thus the potential savings outweigh the risks to revenue.

The administrative savings to business if a consideration threshold of £1,000 was introduced would be £13m (26.6%). It removes the need for approximately 220,000 documents to be presented to HMRC annually, but comes at a cost to the Exchequer of £1.1m per annum.

There is a potential risk of avoidance – whereby there is 'fragmentation' of a transaction into smaller parcels each falling below the threshold and therefore becoming exempt. This will be countered in part by a requirement to certify that a transaction is not part of a larger transaction or series of transactions. In addition, some transactions might be removed from the electronic system ('materialisation') to take advantage of the threshold. However, the threshold is low enough that it would not be cost effective to do this. HMRC will also retain the power to inspect registrars' records and to impose a penalty upon any person who, with intent to defraud the Crown, registers an instrument in which all the facts and circumstances affecting the liability of the instrument to duty are not fully and truly set forth in the instrument.

Costs and Benefits

Based on a survey of Stamp Duty transactions, it was estimated that 5% of transactions pay the £5 fixed charge that applies to certain instruments, 63% pay £5 ad valorem and the remaining 32% of transactions pay ad valorem Stamp Duty above £5. Of these transactions, the fixed charge transactions account for only 0.03% of Stamp Duty yield and the £5 ad valorem charges account for only 0.34% of yield, with the remaining 99.63% of yield coming from ad valorem charges above £5. As such, 68% of Stamp Duty transactions raise only 0.37% of Stamp Duty yield and it is possible to significantly reduce administrative burdens on business with minimal loss of tax revenues.

Given that these transactions are low in value, it is likely that the main administrative burden has fallen on nano and small businesses, which tend to have lower administrative burdens per Stamp Duty transaction in absolute terms, although the burden tends to be high compared to the amount of tax. This means that the 68% of transactions affected represent considerably less than 68% of the administrative burden. Based on the research data and removing an estimated 230,000 of the smallest Stamp Duty transactions per annum, the estimated saving in administrative burden is £13.8 million in 2005 prices. Based on RPI inflation since May 2005, it is estimated that this saving will represent approximately £15.5 million mid-2008 prices.

Based on the survey data used for the administrative burden savings, the accompanying direct loss of tax yield associated with exempting these transactions was estimated at around £1.2 million per annum. In economic terms, this represents a transfer rather than a cost or benefit, so it is not included in the Analysis and Evidence Summary above.

Lastly, there may also be an indirect loss of tax yield if there is a behavioural response to introducing the threshold whereby other transactions changed their economic form to attempt to avoid paying Stamp Duty. For example, larger transactions could fragment into a number of small transactions in order to attempt to avoid Stamp Duty. This risk was assessed as low with a £1,000 consideration threshold but rises considerably with a higher threshold with even a consideration threshold of around £10,000 likely to put tens of millions of tax revenue at risk despite relatively low incremental reductions in administrative burdens. On this basis, setting a consideration threshold of £1,000 achieves a high saving in administrative burden whilst maintaining the integrity of the tax system.

Economic Impact Tests

1. Competition Assessment

This measure will have little or no effect on competition within the markets to which it applies namely company registrars. They do not affect any firms substantially more than any others. Although there is a direct loss of yield for HMRC, there are no additional costs for businesses. In fact, the opposite is true, but this still will not effect competition.

2. Small Firms Impact Test

The introduction of a consideration threshold and the increase in exempt instruments will mean that all firms no longer have to present to the Stamp Office within HMRC stock transfer forms for transactions under £1,000, thus reducing the administrative burden and saving time. This measure provides a more expedient and efficient way for business to perform stock transfer when dealing with low value transactions.

3. Legal Aid Impact Test

There will be no need for a new criminal sanction or civil penalty.

Environmental/Social/Sustainable Development Impact Tests

There are no other issues relating to this measure that need to be addressed.

Implementation

This measure was announced as part of the Pre-Budget Report 2007 on simplification. The measures will take effect from midnight on Budget Day 2008. They will be introduced by primary legislation. HMRC is discussing necessary changes to the stock transfer form with the publishers of those forms. Guidance for customers and registrars will be placed on the HMRC website.

Post-Implementation Review

Through the SD/SDRT Working Together Steering Group, HMRC continues to work with all the key stakeholders of Stamp Duty. Within these groups, stakeholders continually assess the performance of the Stamp Duty regime, suggest ideas for improvements and evaluate changes that have already been made. This is a vital tool for gauging the effectiveness of any changes in the Stamp Duty system and has already provided useful insights to further change.

HMRC will conduct a post-implementation review with reference to the operational impacts of this new process within a controlled timescale. It is currently anticipated that this will be between one and three years from the date of implementation. The review will cover the impacts for practitioners and the anticipated positive impact on transaction timescales for both practitioners/taxpayers and HMRC. It will also endeavour to see what impact it has upon tax avoidance and errors made.

Enforcement, Sanction and Monitoring

These new measures will be closely monitored to gather information as to whether an increase in consideration threshold is viable. Monitoring will also permit HMRC to establish if the risks were assessed properly and correctly. Close contacts have been maintained throughout with our user groups via the SD/SDRT Working Together Steering Group. This will permit HMRC to gather information and help in administering the change, as well as seeking what the legislative requirements are. These channels of communication will continue to enable HMRC to evaluate their effectiveness almost immediately.

Summary

The proposed extension to the categories of exempt instruments and the introduction of a £1,000 consideration threshold was announced as part of the simplification package in PBR 2007. The measures will take effect from Budget Day 2008. In total the savings will be £13.8m (28.2%) of administrative burdens for business, with a reduction in yield of around £1.1m. Initial consultation shows this measure has been well received by HMRC's customer groups, as it goes some way to reducing their administrative burdens.

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	***Results in Evidence Base?***	***Results annexed?***
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

None