Summary: Intervention & Options

Department /Agency:	Title:	
HM Revenue and Customs	Impact Assessment of Tax Law Rewrite Bill 5 (Corporation Tax)	
Stage: Consultation	**Version:** 1	**Date:** 16 January 2008

Related Publications: RIAs on previous rewritten legislation; CAA, ITEPA, ITTOIA, ITA 2007

Available to view or download at:

http://www.hmrc.gov.uk/consultations/index.htm

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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. The direct tax treatment of business sees parallel rules in income tax and corporation tax (reflecting the fact that business may be incorporated or unincorporated). The tax code is currently written in two different forms; the original and the rewritten style. It is desirable to adopt consistent terminology for parallel rules, style and structure in order to avoid misunderstanding and to facilitate later amendments.

What are the policy objectives and the intended effects?

To provide clearer, more user friendly legislation written in modern language. 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) Rewrite corporation tax in rewrite style. This is the preferred option.

2) Do nothing

3) Leave the legislation as it is and provide better guidance

4) Consolidate the corporation tax legislation rather than rewrite it

5) Rewrite corporation tax in rewrite style excluding specific areas.

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 the rewrite of corporation tax Bill 6 has been completed.

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:

Jane Kennedy..Date: 18/02/08

Summary: Analysis & Evidence

Policy Option:	Description:
Rewrite legislation	Apply proven rewrite style and format to the existing Corporation Tax legislation.

COSTS

ANNUAL COSTS		Description and scale of **key monetised costs** by 'main affected groups'
One-off (Transition)	**Yrs**	Modest costs associated with retraining of tax professionals. There will also be an impact from minor and agreed changes. HMRC will incur costs in producing legislation but this is offset by the costs that would have been expended on consolidation. There are costs associated with reproducing the Bill and published guidance. The cost of consultees' time has been estimated at £1m.
£ 7m	1	
Average Annual Cost (excluding one-off)		
£ Negligible		**Total Cost** (PV) **£ 7m**

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

None

BENEFITS

ANNUAL BENEFITS		Description and scale of **key monetised benefits** by 'main affected groups'
One-off	**Yrs**	Clarification of existing law for tax professionals, clearer expression of future amendments. HMRC will benefit from clearer legislation and fewer disputes.
£ 0		See paragraph 44in evidence base.
Average Annual Benefit (excluding one-off)		
£ 25m		**Total Benefit** (PV) **£ 25m**

Other **key non-monetised benefits** by 'main affected groups' The relevant legislation has been drafted using techniques developed through consultation. It is clearer to users and reduces the time it takes to find and understand legislation. The legislation is more accessible to practitioners newly dealing with corporation tax. Valuable lessons have been learned benefiting future drafting.

Key Assumptions/Sensitivities/Risks

Unintentional changes in law may be made.

A large amount of work for consultees.

Price Base Year	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?			1 April 2009	
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?			N/A	
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	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 £ **Net Impact** **£** Nil

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

Summary: Analysis & Evidence

Policy Option: Do nothing	**Description: Retain the legislation in its current form**

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**		
£ 0			
Average Annual Benefit (excluding one-off)			
£ 0		**Total Benefit** (PV)	**£ 0**

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

Key Assumptions/Sensitivities/Risks

Price Base Year	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?				
Which organisation(s) will enforce the policy?				
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?			Yes	
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	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 £	**Net Impact**	£ 0

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

Evidence Base (for summary sheets)

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). 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. The risk of not rewriting corporation tax legislation in Bill 5 is that users will continue to struggle to understand the primary legislation or will misunderstand it.

5. Bill 5 has been drafted to reflect the approach adopted in ITTOIA to ensure consistency and ease of reference especially where provisions cover similar ground.

6. 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.

7. 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

8. 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.

9. 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;

10. The project has rewritten the legislation covering income tax in a series of three Bills. It is now turning its attention to the rewrite of corporation tax and this will be spread over two Bills of which Bill 5 is the first.

11. The risk of inadvertent changes is mitigated by the “continuity of law provisions” contained in the Bill, and by the ability of the government to use powers in the Bill to amend other legislation by regulations to that end.

12. 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.

13. 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.

14.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 options

15. There are five possible options available:

<u>(i) Rewrite corporation tax in rewrite style</u>

There is a clear Government commitment to rewrite primary direct tax legislation. The project was set up to do this and has successfully rewritten income tax as evidenced by market surveys. This Bill will underpin the commitment and provide rewritten legislation for companies.

<u>(ii) Do nothing</u>

Some source legislation for this Bill covered both income tax and corporation tax. With the separation of these codes, income tax is now in rewrite style, but the same legislation, if not rewritten for corporation tax, would remain in the ‘old’ style. Businesses may be incorporated or unincorporated and it is desirable to adopt consistent terminology for parallel rules’ style and structure in order to avoid misunderstanding and to facilitate later amendments through Finance Bills.

If the Government commitment is to be met, the task of rewriting corporation tax must be completed. The reactions to draft clauses included in consultation documents have mainly been positive and it is clear that support remains throughout most of the tax community for the rewrite of corporation tax.

Failure to complete this job would incur the risk outlined in 4) above.

<u>(iii) Leave the legislation as it is and provide better guidance</u>

An overhaul of the guidance to existing corporation tax 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.

<u>(iv) Consolidate the corporation tax legislation rather than rewrite it</u>

Consolidation would take fewer resources within HMRC, Parliamentary Counsel and from consultees. But it would not meet the needs of those users of the legislation who find the existing legislation completely inaccessible or time consuming and difficult to understand and comply with. It would also be extremely difficult to deliver because the income tax code and the corporation tax code would be out of step and it is therefore not a realistic option.

(v) A small number of specialist correspondents suggested that specific areas of corporation tax (notably loan relationships and derivative contracts) in which they had a specialist interest could be left unrewritten. This would not meet the needs of the large numbers of users of these aspects of the legislation who do not have the same degree of specialist expertise, so is not a realistic option.

Review of policy

16. The project carried out a stock take in late 1998, 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 still firmly believe that any costs will be more than outweighed by the benefits flowing from the project.

17. The Capital Allowances Act 2001 had been in existence for some time giving tax practitioners the chance to experience how it worked in practice and the project's Steering Committee felt that it was appropriate to assess its effectiveness. Research showed that it was well received both outside and within HMRC.

18. 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'.

19. The Income Tax Act 2007 brought together various pieces of legislation and completed the project's successful rewrite of Income Tax.

20. The benefits of the Corporation Tax Bill are likely to be widespread affecting nearly a million companies, over 90 per cent of which are small.

21. 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 profession

c). HMRC staff

22. 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.

23. 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.

24. 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.

25. 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 the final Corporation Tax Bill is enacted.

Costs

Key monetised costs

26. The first Corporation Tax Bill is concerned with arriving at the overall profits of a company and the provisions apply to all companies, clubs and unincorporated associations.

27. Although there is no major change to the underlying tax system, there will be some costs to tax professionals involved in familiarisation with the new structure, section numbers and language used in the Bill. 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.

28. Retraining costs are difficult to estimate, as they will vary depending on how any training is organised. But these are expected to be modest and offset by lower training costs in the long term.

29. People new to tax should need less time than at present to learn the legislation- for example trainee accountants and HMRC staff.

30 The cost to HMRC in producing the first Corporation Tax Bill is approximately £6m spread over the years up to 2009.These costs can in part be offset by the costs that would have been expended on any consolidation of ICTA and subsequent Finance Acts which would otherwise have been necessary, probably within the next five years or so.

31. There are some costs to HMRC in the use of policy specialists' time in reviewing the draft clauses for operational implications.

32. 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.

33. 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.

34. 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.

35. 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 ICTA, this is not all additional cost.

36. The project has considered the impact on small businesses generally and a member of the Federation of Small Businesses serves as a member of the Consultative Committee. 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.

37. 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 £1m. Those consulted continue to urge the project to maintain the same level of consultation.

Benefits

Key monetised benefits

38. Many larger companies have highly skilled and experienced tax professionals providing advice and interpreting the legislation whereas this is not the case with smaller enterprises. Under the umbrella term 'company' are also included clubs and unincorporated associations, most of which are very small.

39. Larger companies will undoubtedly continue to employ the services of tax professionals and the greatest benefit to this group 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.

40. Some companies 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.

41. 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. Training and guidance material should be easier to use and more straightforward to produce.

42. 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.

43. Our analysis shows that small companies do not have significantly fewer sources of income than others and therefore 'small' does not always mean 'simple'. We have assumed an average saving of half an hour per company across the range giving an overall saving of 491,939 hours. This figure has been broadly accepted by consultees. Using a cost of £50 per hour, this would produce a saving of £25m based on a total number of relevant companies of just under one million as shown in the following table.

Company size	**Number of companies with a turnover greater than zero**
Total for Small Size Companies:	929,665
Total for medium Size Companies:	29,778
Total for Large Size Companies:	24,436
Overall Total (all sizes):	**983,879**

Key non-monetised benefits

44. The complexity of corporation tax legislation is greater than that for income tax. Corporation tax legislation has to be able to cater for extremely complicated things that are part of the affairs of some companies. As an example, the legislation on derivative contracts has to cope with complex financial instruments. A benefit for small company users may be in realising which legislation applies to them and which they do not need to consider. This may not always have been apparent prior to the rewrite.

45. For a variety of reasons in the past few years small businesses have incorporated regardless of any expectation of growth and the need to finance that growth. This has meant that accountants and advisors who may previously have dealt only with income tax have recently had to master corporation tax, with all its complexities. 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 corporation tax legislation will be more readily apparent for these users.

46. UK corporation tax is a matter of international as well as national concern. This arises both as a competitive matter: should a company be a UK company rather than one registered and/or or resident elsewhere; and also as a practical matter - dealing with problems as the UK corporation tax interacts with similar taxes in other jurisdictions through the European Union's rules, double tax agreements or in specific double tax claims and negotiations. Having a clear corporate law that can be understood by overseas companies and advisers is therefore a matter of importance.

47. Lessons have been learned from successful rewriting and these can be developed into best practice for the production of tax legislation in the future.

Key assumptions/sensitivities/ risks

48. The first Corporation Tax Bill extends to over 1200 clauses and is the largest Bill that the project has produced so far. 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. This has meant much larger volumes of work for our consultees and the project has worked closely with them to manage the process.

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. As the Bill rewrites legislation without making significant changes, there is no impact on the Admin Burden.

Competition

51. This measure has no restrictive impact on competition; if there is any effect it would 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: 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	No	No
Legal Aid	No	No
Sustainable Development	No	No
Carbon Assessment	No	No
Other Environment	No	No
Health Impact Assessment	No	No
Race Equality	No	No
Disability Equality	No	No
Gender Equality	No	No
Human Rights	Yes	No
Rural Proofing	No	No