Summary: Intervention & Options

Department /Agency:	Title:	
HMRC	**Impact Assessment of implementing EC Legislation regarding the place of supply of services and measures to combat VAT fraud**	
Stage: Implementation	**Version:** 2.0	**Date:** 16 April 2009

Related Publications: Council Directive 2008/8/EC of 12 February 2008, Council Directive 2008/117/EC of 16 December 2008 and Council Regulation (EC) 37/2009

Available to view or download at:

http://www.hmrc.gov.uk/ria/index.htm#full

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

The EC 'VAT package' of EC legislation seeks to modernise and simplify the VAT place of supply of services rules and introduces a requirement for reporting business to business (B2B) intra-EC supplies of taxable general rule services on EC Sales Lists (ESLs). Other EC anti-fraud legislation has been adopted to require monthly, rather than quarterly ESL declarations for intra-EC supplies of goods, and new time of supply rules for intra-EC supplies of services. The UK has an obligation to implement these measures.

What are the policy objectives and the intended effects?

The new place of supply of services rules aim to achieve taxation in the place of consumption. From 1 January 2010 (B2B) supplies of services will be subject to VAT in the place where the customer is established (the general rule). As now there will be exceptions to the general rule.

To help enforce these place of supply rule changes and to deal with high levels of intra-EC related VAT fraud, from 1 January 2010 there will be a monthly reporting period for most intra-EC B2B supplies of goods, with the information being made available to tax authorities in other Member States within a further month. There will also be a new requirement for the quarterly reporting of supplies of B2B intra-EC supplies of taxable general rule services on ESLs.

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

Doing nothing is not an option, as to prevent widespread double or no taxation (and confusion to businesses) all Member States must implement the EC VAT regime governing the place of supply of services simultaneously. Directive 2008/117 allows Member States some options in implementation which will reduce the burdens to business. Failure to implement the rules risks legal proceedings being taken by the Commission.

Therefore the preferred policy option is to implement the measures making use of such options as will reduce burdens on business and to publish detailed guidance for businesses on the changes.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? HMRC intends to review the policy to establish the actual costs and benefits and achievements of the desired effects within three 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:

Stephen Timms

....Date: 16 April 2009

Summary: Analysis & Evidence

Policy Option:	**Description: Implement the EC Legislation into UK law and publish detailed guidance to businesses on the place of supply of services changes and anti-VAT fraud measures**

COSTS

ANNUAL COSTS		Description and scale of **key monetised costs** by 'main affected groups' An estimated 130,000-140,000 businesses will be affected by the requirement to submit ESLs for services, 65,000-75,000 businesses will be affected by the reverse charge rules and 22,000 will be affected by the changes to ESLs for goods. About 1.3 million businesses will not be affected by the ESL requirements but will need to be aware of the changes.
One-off (Transition)	**Yrs**	
£ 43.2-44.8 million		
Average Annual Cost (excluding one-off)		
£ 7.4-7.7 million	5	**Total Cost** (PV) **£ 69-71million**

Other **key non-monetised costs** by 'main affected groups' IT upgrade costs for business have not been quantified. Some but not all HMRC's costs have been quantified.

BENEFITS

ANNUAL BENEFITS		Description and scale of **key monetised benefits** by 'main affected groups' UK businesses making or receiving general rule B2B supplies will benefit as they will no longer charge and collect UK VAT from overseas business customers, or pay overseas VAT respectively. The benefit to such businesses of no longer having to submit claims to recover overseas VAT has been quantified at £0.3million.
One-off	**Yrs**	
£ 0		
Average Annual Benefit (excluding one-off)		
£ 0.3million	5	**Total Benefit** (PV) **£ 1 million**

Other **key non-monetised benefits** by 'main affected groups' The introduction of ESLs for services will facilitate HMRC's control of revenue risks that could arise from such services. It is not possible to quantify the revenue benefits of this change, but they may well prove substantial.

Key Assumptions/Sensitivities/Risks The key assumption is in relation to the number of affected businesses, especially the figures for businesses supplying services who will be required to submit ESLs/apply the reverse charge from 2010 onwards. The net benefit figure has been estimated over a 5 year period to ensure it accounts for the implementation of all the changes.

Price Base Year 2009	Time Period Years 5	**Net Benefit Range** (NPV) **£ -68m to -70m**	**NET BENEFIT** (NPV Best estimate) **£ -69m**

What is the geographic coverage of the policy/option?			UK	
On what date will the policy be implemented?			01/01/2010 onwards	
Which organisation(s) will enforce the policy?			HMRC	
What is the total annual cost of enforcement for these organisations?			£ Not quantified	
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 £ 6.0-6.3m	Decrease of £ 0.3m	**Net Impact**	£ 5.7-6.0m

Key: **Annual costs and benefits:** **(Net) Present**

Evidence Base (for summary sheets)

1. The Issue

Place of supply of services changes including the introduction of EC Sales Lists for services

1.1 A 'VAT package' of EC legislation was agreed by EU Finance Ministers in December 2007 and adopted and published in February 2008[1]. These legislative changes will modernise and simplify the EC VAT rules for businesses involved in cross-border activity. The legislation (Council Directive 2008/8/EC of 12 February 2008 http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:04) changes the rules on the place of supply of services and introduces a requirement to submit EC Sales Lists (the form currently used to declare intra-EC B2B supplies of goods) for intra-EC B2B supplies of taxable general rule services from 1 January 2010. Other EC legislation introduces changes to the system used by EC businesses to recover VAT incurred in Member States, other than their own Member State. UK legislation is required to implement these changes.

1.2 There is a phased implementation of the place of supply changes which will take effect on 1 January 2010, 1 January 2011, 1 January 2013 and 1 January 2015. This Impact Assessment covers the changes (including the introduction of EC Sales Lists for B2B general rule services) taking place between 2010 and 2013. It does not cover the changes that will be introduced on 1 January 2015 in relation to B2C supplies of electronically supplied services, telecommunications services and radio and TV broadcasting services. On 1 January 2015 a One Stop Scheme will be introduced aimed at minimising the additional burdens on business of those changes. It therefore makes sense for the relevant place of supply changes and One Stop scheme changes to be covered by a single Impact Assessment. HMRC will be working with the relevant business sectors in implementing those changes. These further changes will be the subject of a separate Impact Assessment in due course.

1.3 A consultation Impact Assessment covering the implementation into UK law of the place of supply changes was published on 23 December 2008. It sets out in detail all the place of supply of services rule changes.

1.4 A Refund Scheme Impact Assessment is being published.

1.5 Both of the above Impact Assessments can be found at: http://www.hmrc.gov.uk/ria/index.htm#partial

Anti-fraud measures

1.6 The European Council had concerns about levels of VAT fraud within the EC and has asked the European Commission to prepare a Community anti-VAT fraud strategy. In March 2008, the European Commission produced the first set of legislative proposals which contained changes to reporting requirements so that Member States are provided with information about intra-EC transactions received in their country much more quickly. The proposals covered the frequency of EC Sales Lists (ESLs) and the time taken to submit and exchange them. The proposals also included changes to the time of supply rules for reverse charge services.

1.7 These proposals have now been agreed by the European Council and EC legislation (Directive 2008/117/EC and Regulation 37/2009) in significantly modified form and have been published at:

http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:014:0007:0009:EN:PDF

[1] In the Official Journal of the European Union 20.02.08

Implementation of legislation beyond what is mandatory

1.8 HMRC considers that implementation of the place of supply of services changes and time of supply changes by the UK goes beyond minimum EU requirements as it is retaining the current 'use and enjoyment' provisions (which are not mandatory under the EC Place of Supply of Services Directive) and extending the time of supply changes to all services subject to the reverse charge.

Use and enjoyment

1.9 The 'use and enjoyment' provisions provide that services that would be treated as supplied within the EC but are used and enjoyed outside the EC are relieved from VAT, and those services that would be treated as supplied outside the EC but are used and enjoyed within the EC become subject to VAT.

1.10 The purpose of any 'use and enjoyment' provision is to avoid double-taxation, non-taxation or the distortion of competition. Currently, Member States are able to enact 'use and enjoyment' provisions to a narrow range of services under the Principal VAT Directive.

1.11 To date the UK has applied the 'use and enjoyment' provisions to a narrow range of services (hire of transport, hire of goods, telecommunications, broadcasting and electronic services (the latter for B2B supplies only)), but this is more than required under the EC Place of Supply of Services Directive which only specifies that 'use and enjoyment' provisions be implemented in relation to B2C supplies of telecommunications services and radio and broadcasting services where these supplies are made by non-EC suppliers to consumers who are in the EC.

1.12 HMRC has undertaken a public consultation to expose the proposed draft legislation (see section 4 for full details of the consultation). The published consultation document set out HMRC's proposed retention of the UK's existing 'use and enjoyment' provisions. It also confirmed that HMRC would consider wider application, if it was necessary to counter or prevent avoidance or otherwise protect the revenue.

1.13 The legislation to be introduced by Finance Bill 2009 implements the UK's existing 'use and enjoyment' provisions with which UK businesses are already familiar and accordingly UK businesses will not incur any additional one-off compliance cost nor administrative burden. As such it has not been necessary for HMRC to undertake an exercise to determine any cost or burden placed on UK businesses.

Time of supply

1.14 From 1 January 2010, EC law brings in certain time of supply rules [see section 3.6] for cross-border services subject to a reverse charge. Strictly speaking, the UK only needs to apply the new time of supply rules to taxable services covered by the B2B general place of supply of services rule. As drafted, the new rules would apply in the UK to all cross-border reverse charge services, which is permitted by EC legislation. This approach has been adopted to avoid the need for businesses to apply different time of supply rules dependent on the services they receive.

Purpose of this Impact Assessment

1.15 This Impact Assessment combines the impacts on and associated costs to business as a result of the UK legislative changes being introduced. References to 'business/businesses' encompasses unregistered businesses and VAT registered entities (including VAT registered charities, public bodies and similar).

1.16 These changes will have different impacts on businesses that undertake cross-border trading (depending on whether they supply goods and/or services to other businesses) and those that buy in services from overseas suppliers. For the purposes of this Impact Assessment HMRC has attempted to quantify the impacts for each individual change , as this is the only practical way of measuring the potential costs. However it is probable that there will be overlap between the various changes.

2. Policy objectives and intended effects

Place of supply of services changes including the introduction of ESLs for services

2.1 The policy objectives of the place of supply changes are:

- to achieve, as far as possible, taxation in the place of consumption; and
- to monitor and control the application of the mandatory reverse charge for B2B taxable supplies of general rule services through the introduction of ESLs for services.

2.2 In doing so consideration has been given to simplification and the need to ensure the rules are being applied properly. The intended effect is that for UK businesses there will be a reduction in the costs associated with:

- charging UK VAT and collecting payment thereof from an overseas customer when supplying general rule B2B services; and
- paying overseas VAT on services received from an overseas supplier that then must be recovered from an overseas VAT authority.

Anti-fraud measures

2.3 The policy objective is to reduce VAT fraud on intra-EC supplies of goods and control the application of the mandatory reverse charge for B2B taxable supplies of general rule services by reducing the time it takes for the tax authorities to collect and exchange relevant data, and to introduce legislative measures which will help Member States better control the EC VAT system. The intended effect of these changes is that Member States will be able to identify new frauds much more quickly, have more data with which to monitor the mandatory reverse charge for B2B taxable supplies of general rule services, and rapidly develop new countermeasures to protect VAT revenues across the EC.

3. The Options

Place of supply of services changes including the introduction of ESLs for services

3.1 Apart from the application of the 'use and enjoyment' provisions to certain services (see sections 1.6-1.14 above), Member States have little or no flexibility regarding implementation of the place of supply of services changes under the EC Place of Supply of Services Directive into national law.

3.2 The place of supply of services changes covered by this Impact Assessment and effective from 1 January 2010 are:

- the new general rule for B2B supplies of services. Currently the place of supply of such services under the 'basic' (general) rule is where the supplier is established. Under the new rule the place of supply of supplies of B2B services will be determined by where the recipient of the service is established;
- a mandatory reverse charge introduced for cross-border supplies of B2B taxable general rule services (see sections 5.26-5.34). This will also impact upon when a supply subject to the mandatory reverse charge should be included on an ESL for services. As now the UK will continue to apply a wide reverse charge for cross-border supplies of services; and
- there will be a requirement for B2B intra-EC supplies of taxable general rule services to be reported on ESLs on a quarterly basis (see sections 5.19-5.25 and 5.48-5.51).

Anti-fraud measures

Reduced timescales for ESL reporting

3.3 As adopted, Directive 2008/117 and Regulation 37/2009 contain various elements:

- the standard reporting method for ESLs for goods is increased from quarterly to monthly;
- although the basic rule for submission of ESLs has been changed from quarterly to monthly submission, Member States have the option of allowing their businesses to submit ESLs

quarterly for services, with no value threshold, and quarterly for goods, provided intra-EC supplies are below a threshold which is no more than €100,000 (£70,000) per quarter from 1 January 2010 to 31 December 2011, reducing to €50,000 (£35,000) per quarter from 1 January 2012 (see section 5.35-5.40 and 5.57-5.60). The UK has decided to make use of this threshold to keep burdens on business to a minimum;

- Member States have the option of allowing a quarterly rather than a monthly ESL reporting period for taxable supplies of B2B general rule services. Again the UK has decided to make use of this longer reporting period to keep burdens on business to a minimum;
- Member States which opt to allow quarterly ESL reporting periods for taxable supplies of B2B general rule services may require businesses which supply both goods and services to submit ESLs for services at the same frequency as applies to their supplies of goods (e.g. monthly). The UK will allow businesses to decide on the reporting periods within the specified general rules. So if a business would prefer to have different reporting periods for services and goods they may do so. Alternatively, they may choose to adopt the same (monthly) reporting periods for both goods and services; and
- reduced timeframe of one month in total for businesses to submit their ESLs to their tax authority, and for that tax authority to collate and send that data to the tax authorities in the other Member States. The UK has decided to allow businesses 14 days after the end of the reporting period to send HMRC paper ESLs, and 21 days to submit electronic ESLs. The shorter time period allowed to businesses to submit paper ESLs is because HMRC needs additional time to key in, or scan, the ESL data into the VAT Information Exchange System (VIES) so it can be sent to other Member States.

3.4 Apart from these options, Member States have little or no flexibility regarding implementation of the anti-fraud measures under the EC Directive 2008/117 into national law. Regulation 37/2009 has direct effect and is binding on all Member States. Therefore no national law is required to implement its provisions.

3.5 Member States must also offer electronic file transfer of ESL data as a method of submission for businesses. The UK already offers this facility.

Time of supply for cross border services

3.6 From 1 January 2010 new time of supply (tax point) rules will be introduced for supplies of B2B taxable general rule services subject to a mandatory reverse charge. These determine when the reverse charge VAT must be accounted for as follows:

- the tax point to be the completion of the service with an earlier tax point in the event of a payment being made beforehand; and
- for continuous supplies, a tax point at the end of each billing or payment period (or upon payment where this is earlier), with a compulsory tax point on 31 December each year in cases where such periods (or payments) do not arise.

The EC changes to the time of supply rules also determine when a business must include a supply of services on an ESL.

Member States have flexibility as to how to apply the time of supply rules to services other than to supplies of B2B general rule services. HMRC will apply the same time of supply rules as those required under the anti-fraud measures to other services subject to a reverse charge in the UK.

Option selected by HMRC

3.7 Failure by the UK (or any Member State) to implement the EC Directives into national law, would risk legal proceedings by the Commission.

3.8 Therefore, doing nothing is not an option and there is only one option for implementation:

- to enact the EC Directives into UK law and to ensure that HMRC staff and business have clear and detailed guidance on the changes and their impact; and

- where options are available that will simplify the new rules for business or ease the administrative burden associated with the new rules, HMRC will take those options.

4 Consultation

Place of supply of services changes

4.1 The views of businesses and advisers were sought informally on the various elements of the VAT Package including discussions with the Joint VAT Consultative Committee (JVCC), the HM Treasury VAT Forum and meetings with specific industry groups including the finance and insurance sector. Concerns were expressed at that stage over practical impacts on business.

4.2 HMRC has undertaken a consultation with business and other stakeholders to expose the UK draft legislation for the place of supply of services rule changes. Comments were sought on whether the UK draft legislation fully enacted the EC law, wider issues of interpretation and how businesses might be affected. The consultation documentation consisted of:

- a consultation paper setting out all the place of supply of services changes from 1 January 2010 to 1 January 2013 inclusive (the changes effective from 1 January 2015 to be covered separately at a later date) together with HMRC's interpretation where appropriate, the draft UK legislation for the changes from 2010-2013 inclusive; and
- a consultation stage Impact Assessment.

4.3 HMRC has published a consultation response document regarding the UK's proposed implementation of the changes which can be found at: http://www.hmrc.gov.uk/consultations/index.htm

4.4 Where respondents to the consultation have commented on the impact of the changes on business, these have been included in this Impact Assessment along with impacts previously identified in the consultation stage Impact Assessment.

Anti-fraud measures

4.5 The views of businesses and advisers were sought on the various elements of the first set of proposals and it was discussed at meetings of the Joint VAT Consultative Committee (JVCC) and with representatives from the finance and insurance sector. A consultation Impact Assessment was also published on the HMRC website and can be found here:

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

4.6 Feedback received before the publication of this consultation Impact Assessment included quantification of impacts, but not in monetary terms. In essence businesses recognised the need for tax authorities to respond vigorously to the VAT MTIC fraud threat and the high revenue losses by introducing reduced ESL reporting timeframes for goods. However, they did not consider there to be any credible justification for extending the ESL regime to intra-EC supplies of services. They did not dispute that there might be some fraud associated with intra-EC supplies of services, but considered that this would not be prevented or managed by the ESL reporting regime. Consequently, businesses felt that this initiative simply imposed a significant additional administrative and compliance cost burden on businesses. In addition, some respondents questioned whether the tax authorities would be able to make effective use of all the additional information they would be collecting from businesses under the enhanced reporting requirements. This Impact Assessment includes narrative on the potential impacts identified by businesses and advisers.

5 Costs

5.1 The sections below examine the impacts on business of the changes on a costs basis.

Costing assumptions.

5.2 HMRC is subject to quantified targets to reduce one aspect of compliance costs in particular; the administrative burden on business of disclosing information to HMRC or to third parties. This burden is assessed through the 'Standard Cost Model', an activity-based costing model which identifies what activities a business has to do to comply with HMRC's obligations, and which estimates the cost of these activities, including agent fees and software costs.

5.3 A brief outline of the Standard Cost Model is in the annex to this Impact Assessment. The report to HMRC is available online at:

http://www.hmrc.gov.uk/better-regulation/kpmg1.pdf

5.4 Unless otherwise stated, the methodology used to quantify the number of businesses affected by the place of supply of services changes (including the introduction of ESLs for services) can be found in section 5 of the consultation Impact Assessment which can be found here:

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

5.5 The estimates of the number of businesses affected by the rule changes for ESLs for goods have been obtained from data held by HMRC.

5.6 In summary, HMRC has estimated the following:

- the current population of UK VAT registered businesses stands at around 2 million, of which 1.3 million will not be required to submit ESLs for services but will require some level of familiarisation with the changes. They may or may not be affected by the other place of supply of services changes, including the mandatory reverse charge, or by the rule changes for ESLs for goods (see below). The majority of the remainder, will not be affected by the various rule changes at all, except for:
  - 130,000 to 140,000 UK businesses estimated to be required to submit ESLs for services;
  - 65,000 to 75,000 UK businesses estimated to be affected by the mandatory reverse charge requirement in relation to supplies of taxable general rule services received from suppliers established outside the UK; and
  - 22,000 UK businesses estimated to be required to submit monthly ESLs for goods.

5.7 'Second round' impacts in relation to the changes are beyond the scope of this Impact Assessment and the 'second round' impacts could include:

- the information collected as a result of the introduction of ESLs for services and more frequent submissions of ESLs for goods enabling better risk assessment by HMRC allowing compliance activity to become more targeted and/or potentially leading to more enquiries by HMRC; and
- legitimate businesses benefiting from a reduction in fraud as they will be able to compete without the distortions introduced by fraud.

5.8 Where businesses need time to understand the changes and how they will be affected this Impact Assessment assumes the task is undertaken by a 'taxation expert' at an hourly rate of £22 using current (2009) prices. HMRC acknowledges that for some businesses this task will be undertaken by a more senior employee earning a higher hourly rate, but adopts the above assumption as a broad average costs across all businesses (small to large).

5.9 HMRC has also made the following assumptions on the time taken by businesses to familiarise themselves with the changes:

- businesses will be affected by varying degrees to the changes covered by this Impact Assessment. Some businesses will not be affected at all, although they will still need to spend some time on clarifying that they are not affected. Other businesses may be affected by all of the changes and consequently their familiarisation costs will be significantly higher; and
- respondents indicated that the estimated average of 30 minutes referred to in the consultation Impact Assessment as the time required for businesses supplying services unaffected by the requirement to submit ESLs for services to familiarise themselves with the new place of supply of services rules was insufficient. HMRC acknowledges this view and

this Impact Assessment therefore assumes that these businesses will spend on average one hour broadly familiarising themselves with the changes.

The assumption of an average of one hour has been made by HMRC because some businesses may only need a few minutes to check whether they are affected by the changes because it will be very clear that supplies of services they make or receive will not be affected at all. For example, if a UK business currently only makes supplies of services where the place of supply is the UK and will continue to do so after 1 January 2010, there will be no requirement to complete and submit ESLs. Other businesses will need significantly more time to consider if and how they are affected. For example, ESLs are not required if a B2B intra-EC supply of a service is exempt from VAT in the customer's Member State. HMRC recognises and respondents have commented that such businesses will incur greater one-off compliance costs and administrative burden costs in this respect.

HMRC intends to publish clear guidance that will enable businesses to decide whether and how they are affected by the ESL requirements.

- Respondents also indicated that HMRC's assumption in the consultation stage Impact Assessment that:
  - UK businesses required to submit ESLs for services; and
  - UK businesses required to apply a mandatory reverse charge for supplies of taxable general rule services

would need to spend on average an estimated 1.5 hours on familiarisation on each requirement (i.e. 3 hours in total if affected by both) was insufficient.

HMRC considers that such familiarisation will include reading and understanding the legislation and associated guidance. Many affected businesses will need to evaluate the implication of these changes on their IT capability and HMRC recognises that businesses are differently resourced and the time that will be allocated by businesses to this process will vary. Consequently, HMRC estimates **each** change will require on average 3 hours familiarisation time, as opposed to the 1.5 hours estimated for each change in the consultation Impact Assessment for the implementation of the place of supply of services legislation.

5.10 Respondents made the following general comments on the place of supply of services changes and the anti-fraud measures:

- the estimated administrative burden and compliance costs associated with the changes were generally under-estimated in the two consultation stage Impact Assessments;
- the costs did not take into account the education and training of staff which will be required by businesses in order to implement the changes;
- more frequent submission of ESLs for goods, the introduction of ESLs for services and the introduction of the mandatory reverse charge will increase the administrative burden to businesses because additional staff resource will be spent on meeting these requirements;
- intra-EC trade may reduce because of the burdens placed on business in relation to cross-border trade;
- some respondents consider that without a formal procedure for the resolution of disputes between Member States on the tax treatment of transactions, there could be significant costs to businesses;
- concerns have been raised that difficulties in applying or interpreting the new rules and the potential inconsistency between Member States' implementation will all involve potential additional costs for business;
- the changes impose burdens on business at a time when the economic climate places other pressures on businesses;
- there is insufficient time for businesses to implement the changes required to take effect from 1 January 2010; and

- clear guidance from HMRC will assist business and will help to reduce the burdens placed on business as a result of the changes.

5.11 Where data provided by respondents was representative it has been used to update the costs previously calculated in the consultation stage Impact Assessments and has been included in this Impact Assessment.

5.12 HMRC aims to minimise the additional burdens on business whilst remaining consistent with the legislation.

Costs – one off compliance costs

5.13 Unless otherwise stated, one-off costs are quoted in current (2009) prices. The average costs provided are stand alone costs for the change in question; where a business is affected by more than one change the average cost faced by the business is the sum of the averages of each change.

Familiarisation costs: UK businesses not affected by the requirement to submit ESLs for services

5.14 HMRC estimates that about 1.3 million UK businesses will not be required to submit ESLs for services. They may be affected by none, one or more than one of the other changes referred to in this Impact Assessment.

5.15 Annually about 88,000 UK businesses currently complete ESLs for goods. Of these it is estimated that about 22,000 UK businesses will be required to submit monthly ESLs for goods (15,000 businesses with effect from 1 January 2010 and an additional 7,000 businesses with effect from 1 January 2012), although it is recognised that this figure may not be static.

5.16 If it is assumed that the numbers of UK businesses affected by the ESLs for services and those affected by the ESL requirements for goods are mutually exclusive, an estimated 1.28 million (being 1.3 million minus 22,000) UK businesses will not be affected by the introduction of ESLs for services and related changes.

5.17 For the purposes of this Impact Assessment, HMRC has assumed that 1.28-1.3 million businesses will not be affected by the ESL requirements for services. By spending one hour generally familiarising themselves with these rules at a cost of £22 per hour, HMRC estimates these businesses will face a one-off familiarisation total cost of £28.3-28.6 million (or an average cost of £22 per business).

5.18 While this is viewed as a one-off compliance cost because it will be clear to most businesses how they will be affected, HMRC recognises some businesses might have to re-check over time following particular changes of circumstance.

Familiarisation costs: UK businesses required to submit ESLs for services

5.19 Businesses required to submit ESLs for services will need to list the value of supplies of taxable general rule services made to each VAT registered customer in other Member States. UK VAT registered suppliers will be required to complete and submit ESLs on a calendar quarter basis and may do so either on-line, by electronic file transfer or by using a paper form.

5.20 Reporting such supplies on ESLs will provide an audit trail which will facilitate HMRC's control of revenue risks that could arise from such services for the tax authority in the customer's Member State where the VAT on the supply falls due.

5.21 For the estimated 130,000-140,000 UK businesses expected to be affected by the requirement to submit ESLs for services, an average of 3 hours is expected to be spent by each business on familiarisation with the changes at a cost of £22 per hour. These businesses will face an estimated one-off familiarisation cost totalling £8.6-9.2 million (or an average cost of £66 per business).

5.22 Some of these businesses currently supply B2B cross-border services that are already treated as supplied where the customer is established. Therefore, these businesses will already be familiar with the place of supply implications and the cost to these businesses will be reduced.

5.23 Those businesses that already complete ESLs for intra-EC supplies of goods that will be required to compete ESLs for services, will already have an understanding of most of the information required. Where this is the case the cost to businesses in relation to their supplies of services would be reduced because the same ESL form will be used for goods and services.

5.24 Businesses required to submit ESLs for services will need to familiarise themselves with the new time of supply rules (see section 5.26-5.28) which may result in increased complexity in terms of businesses establishing when a supply should be reported on an ESL.

5.25 Businesses affected by this change may also be affected by the mandatory reverse charge requirements if they receive supplies of taxable general rule services from suppliers established outside the UK (see sections 5.26-5.34), and also by the new rules for ESLs for goods (see sections 5.35-5.40).

Familiarisation costs: UK businesses receiving supplies of taxable general rule services from suppliers established outside the UK who will be required to apply the reverse charge[2] *and the time of supply rule changes*

5.26 Under the reverse charge procedure the customer acts as if they are both the supplier and the recipient of the services by accounting for the VAT due on the supply and recovering the VAT on the supply in accordance with their entitlement to recover under the normal rules. Currently, UK recipients of reverse charge services are, for the most part, only required to account for VAT as and when they pay for the supplies in question.

5.27 With effect from 1 January 2010 UK customers receiving supplies of services from suppliers established outside the UK where the place of supply of those services is the UK will need to apply a reverse charge to such services. In addition, the tax point will change to the time at which the service is completed, unless payment is made earlier. For continuous supplies the tax point will arise at the end of each billing or payment period (or on payment where this is earlier), with a compulsory tax point on 31 December each year in cases where such periodic tax points (or payments) do not occur. Under the new arrangements businesses will therefore need to put in place additional accounting procedures to identify and respond to:

- completion of the service;
- the end of billing or payment periods for continuous supplies;
- payments made beforehand; and
- at each year end, continuous supplies that have not been subject to earlier tax points.

5.28 Respondents expressed the following concerns about the time of supply changes:

- service completion is not recorded on accounting systems and therefore a proxy for completion would be needed which could entail changes to existing accounting systems and/or manual processes in accounting for reverse charge VAT and extracting information to include on an ESL. This cost could be significant; and
- the continuous services rules could introduce a new burden of having to value a service for VAT purposes only in order to comply with the new rules.

5.29 HMRC does not hold data on the number of businesses that will be required to apply the reverse charge. For illustrative purposes 65,000-75,000 UK businesses are assumed to have the potential to be affected by the reverse charge rule changes.

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[2] The mandatory reverse charge for B2B cross-border taxable supplies of general rule services is distinct from the reverse charge for supplies of goods of a kind used in MTIC fraud.

5.30 HMRC recognises, however, that among the potentially affected UK businesses there will be businesses already familiar with the reverse charge procedure that applies under the current rules. In addition, UK businesses are not required to account for the reverse charge on supplies of exempt services received from suppliers established outside the UK. HMRC does not hold data on these two categories of businesses and so, for the purposes of this Impact Assessment, has used the total illustrative figure of 65,000-75,000 to estimate the one-off familiarisation costs. While businesses already familiar with the reverse charge procedure and those receiving exempt supplies will not incur an additional administrative burden, HMRC recognises that they will need to spend time on familiarisation, even if it is just to clarify that they understand the requirements and when they apply.

5.31 The Refund Scheme Impact Assessment assumes that about 20,000 UK businesses claim VAT from other Member States using the scheme. The Refund Scheme Impact Assessment is being published at the following link:

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

5.32 This Impact Assessment assumes about 5,000 businesses of these 20,000 currently claiming VAT using the Refund Scheme will start applying the reverse charge to supplies of services with effect from 1 January 2010, with 50% of the 5,000 applying the reverse charge and also making claims under the Refund Scheme.

5.33 The estimated 65,000-75,000 UK businesses are estimated to spend about 3 hours each on average familiarising themselves with the changes at a cost of £22 per hour and will incur an estimated one-off familiarisation total cost of £4.3-5.0 million (or an average cost of £66 per business). This is likely to be a one-off cost to most businesses, since it will be clear to most whether the changes apply to them or not. Some businesses might have to re-check over time, following particular changes of circumstances.

5.34 A business affected by this change may also be affected by the requirement to submit ESLs if it makes supplies of taxable general rule services to VAT registered customers established in other Member States. See sections 5.19-5.25 and 5.48-5.51.

Familiarisation costs: UK businesses affected by the increased frequency of submission of ESLs for goods

5.35 UK VAT registered suppliers of goods to VAT registered businesses in other Member States are currently required to submit ESLs for goods on a quarterly basis. Each year some 88,000 UK businesses currently submit quarterly ESLs for goods.

5.36 With effect from 1 January 2010 monthly ESLs will be required to be submitted where intra-EC supplies of goods are over a threshold of £70,000 per quarter in 2010 and 2011, and £35,000 per quarter from 1 January 2012 onwards.

5.37 All 88,000 businesses will need to familiarise themselves with the changes to the frequency of submission for ESLs for goods. However, HMRC estimates that from 1 January 2010 about 15,000 UK businesses will actually be required to submit ESLs on a monthly rather than a quarterly basis and therefore these businesses will need the most time to familiarise themselves with the changes. The estimate has been derived as follows:

- approximately 88,000 UK businesses are known by HMRC to submit ESLs for goods already;
- the 2007-08 VAT data held by HMRC on recorded values of “supplies to the EC” shows that around 17% (being approximately 15,000) of the 88,000 UK businesses are making supplies above an average value of £70,000 per quarter; and
- these 15,000 UK businesses are already familiar with the current ESL submission requirements for goods and therefore will spend an average of about one hour each familiarising themselves with the submission frequency changes at a cost of £22 per hour. The estimated total one-off familiarisation cost faced by these businesses is about £0.3 million (or an average cost of £22 per business).

5.38 Using a similar method as above to derive the number of businesses affected by the changes in 2010, an additional estimated 7,000 UK businesses will be required to submit monthly ESLs for goods with effect from 1 January 2012.

5.39 The additional 7,000 UK businesses will also be familiar with the current ESL submission requirements for goods and therefore will spend an average of about one hour each on familiarising themselves with the submission frequency changes at a cost of £22 per hour. The estimated total one-off familiarisation cost faced by these businesses is about £0.2 million (or an average cost of £22 per business).

5.40 Therefore the 22,000 UK businesses estimated to be affected by ESL for goods changes will face a total estimated £0.5 million in one-off familiarisation costs.

Summary: Familiarisation costs

5.41 UK businesses are estimated to incur a total of £41.7-43.3 million one-off familiarisation and compliance costs associated with all the changes (averaging £22-£198 per business).

IT upgrade costs

5.42 HMRC recognises that UK businesses will incur significant additional IT upgrading costs on a one-off basis as a result of the changes to the frequency of ESLs for goods and the introduction of ESLs for services.

5.43 Respondents have indicated that these changes are expected to impose significant IT costs to businesses in changing accounting systems to comply with the new requirements to identify and react to the various times of supply. In addition, the changes are due to take effect from 1 January 2010 which may be difficult for them, given the need to secure IT resources.

5.44 Changes may be required to upgrade the following IT systems in relation to ESLs for goods and services:

- XML schema; and
- the Electronic Data Interchange messaging facilities.

HMRC understands that where changes are required, in some instances costs incurred by software suppliers will be passed on to software users, in others software suppliers will bear the cost. HMRC is in the process of identifying what changes may be required and will publish guidance on the ESL requirements to assist business.

5.45 HMRC notes that respondents have commented that businesses required to submit ESLs for services who are on non-standard tax periods will incur greater compliance burdens because they will need to build reporting functions for ESL purposes that are out of line with reporting for financial purposes.

5.46 HMRC considers that businesses will be affected differently depending on the IT systems an individual business has in place and the level of intra-EC trade. In addition to IT upgrades, HMRC recognises that there may also be some additional annual costs if the required new accounting procedures require more staff resource. Based on the information provided these costs cannot be quantified, but given the numbers of businesses that could be affected and the potentially complex changes to rules, HMRC recognises that these costs could be in the order of tens of millions of pounds.

Other one-off compliance costs

5.47 Respondents also commented that the requirement for invoices for reverse charge services to indicate that supplies are subject to a reverse charge will require one-off changes to invoice templates. This is a pre-existing requirement so UK businesses currently supplying reverse charge services should already be complying with it. Therefore, any one-off costs will be confined to UK businesses that currently supply B2B taxable services where the place of supply will change to fall under the new B2B general rule. The actual number of affected businesses is not known but HMRC considers that the estimated one-off cost to business will be about £110 per business in 2009.

Annual costs

Administrative burden: quarterly submission of ESLs for intra-EC supplies of taxable general rule services

5.48 Based on filing patterns for ESLs for goods, it is estimated that the 130,000-140,000 affected businesses would submit about 400,000 ESLs per year on a quarterly basis (based on patterns observed in administrative data on ESLs for goods) as the overall average number of forms submitted is less than four per year because nil returns are not required.

5.49 The requirement to complete ESLs imposes an estimated additional annual administrative burden on the estimated 130,000-140,000 affected UK businesses of £4.3-4.6 million in 2008 values (£3.9-4.2 million in 2005 values).

5.50 Supplies of services subject to the B2B general rule that are exempt in the customer's Member State should not be reported on an ESL. In order to make this decision UK businesses will need to familiarise themselves with the VAT liability provisions in the Member State of consumption. Extensive comments have been made by consultees on the compliance burden of this requirement unless clear guidance is provided and a pragmatic approach to its operation is adopted.

5.51 A greater take-up of electronic filing of ESLs by the time of implementation would reduce the administrative burden cost to affected businesses. HMRC has not quantified this cost because it is not known at this stage what the take up of electronic filing might be. A wider analysis of the effects of increased use of online filing is in the published impact assessment *HMRC Online Services: Increasing Use of Online Filing and Electronic Payment*, available at http://www.hmrc.gov.uk/ria/5-online-services-carter.pdf

Administrative burden: UK businesses receiving supplies of taxable general rule services from suppliers established outside the UK who will be required to apply the mandatory reverse charge[3] and the time of supply rule changes

5.52 UK businesses receiving supplies of taxable general rule services from suppliers established outside the UK will be required to apply the mandatory reverse charge and the time of supply rule changes.

5.53 Under the reverse charge procedure the customer acts as if they are both the supplier and the recipient of the services by accounting for the VAT due on the supply and recovering the VAT on the supply in accordance with their entitlement to recover under the normal rules.

5.54 The administrative burden to businesses would be based on the cost of extracting and including the VAT element and the value of reverse charge services they receive to complete boxes 1, 4, 6 and 7 of the VAT return.

5.55 In 2007 HMRC published an Impact Assessment on the introduction of the reverse charge for businesses trading in mobile phones and computer chips. This Impact Assessment estimated the total extra administrative burden to businesses of the introduction of the reverse charge was about £90 per business. The £90 additional administrative burden per business covers administrative burdens for suppliers and customers. HMRC has used this cost per business for the purposes of this Impact Assessment.

5.56 Of the 65,000-75,000 UK businesses referred to in sections 5.29-5.33 above, there will be businesses that already apply the reverse charge and businesses that receive only exempt supplies of general rule services (the latter are not required to apply a reverse charge) which are not expected to face any significant additional administrative burden. HMRC has assumed that an estimated 5,000 UK businesses will switch from claiming overseas VAT using the Refund Scheme to applying the reverse charge and these businesses are

[3] The mandatory reverse charge for B2B cross-border taxable supplies of general rule services is distinct from the reverse charge for supplies of goods of a kind used in MTIC fraud.

estimated to face a gross additional administrative burden cost totalling £0.45 million in 2005 values. This gross figure excludes the saving these businesses will be making by no longer submitting claims using the Refund Scheme (see section 6.4).

Administrative burden: Monthly submission of ESLs for intra-EC supplies of goods

5.57 Since the requirement to submit monthly ESLs is based on monetary thresholds, HMRC has assumed that it is only the larger businesses described within the Standard Cost Model that will be affected. However, it is recognised that smaller businesses making a few supplies of goods of high value could also be affected.

5.58 UK suppliers will be required to submit monthly ESLs for goods where they make intra-EC supplies of goods over a threshold of £70,000 in the current and four previous quarters in 2010 and 2011, and £35,000 per quarter from 2012 onwards.

5.59 Some 88,000 businesses currently submit ESLs for goods. HMRC estimates that 15,000 businesses will be required to submit ESLs for goods on a monthly basis with effect from 1 January 2010; with an additional 7,000 UK businesses submitting monthly ESLs for goods when the threshold is reduced from 1 January 2012 onwards.

5.60 Based on comparisons between the annual administrative burdens of monthly VAT returns and quarterly VAT returns across businesses of all sizes, it is expected that moving to monthly ESLs for goods would increase the administrative burdens to businesses in 2010 by about £1.3 million in current prices (about £1.2 million in 2005 prices) and the changes effective from 1 January 2012 would then lead to a total administrative burden of about £1.8 million in current prices (about £1.6 million in 2005 prices).

Administrative burden: Reduced time to submit data

5.61 The time available for both the submission of ESL data by businesses to HMRC and for HMRC to process and exchange the data with other Member States will be reduced from the current three months to one month after the end of relevant ESL reporting period. Following consultation with businesses HMRC will allow businesses up to 14 days after the end of the ESL reporting period to submit their paper ESLs and 21 days to submit electronic ESLs.

5.62 In broad terms, the deadline does not entail a formal administrative burden (since such a change is not related directly to the actual information provided) but HMRC recognises that some businesses would incur additional costs in meeting a shorter deadline. For example, businesses have indicated that they may have to employ more staff in order to meet the deadlines.

5.63 Less time to submit data could also lead to an increase in errors or an increase in penalty processing work if businesses do not submit on time, resulting in increased administrative burdens.

5.64 In respect of penalties, HMRC intends to apply a 'light touch' approach to new declarants of ESLs for supplies of services. As such HMRC will:

- assist businesses to help them meet their obligations (for example by issuing clear guidance); and
- take into account, when considering whether penalties apply for any areas of non-compliance in relation to legal requirements, difficulties faced in adjusting to the changes.

HMRC costs

One-off costs

5.65 There are a number of expected one-off costs to HMRC in relation to the changes. The main one-off costs to HMRC will be:

- publicising the requirements to businesses;
- producing of tailored guidance;
- dealing with queries from businesses on the new requirements;

- the potential increase in enforcement and compliance monitoring work;
- IT upgrades; and
- redesigning the current VAT 101 form.

5.66 Publicity and guidance costs will predominantly be incurred on a one-off basis and quantified costs to date in this respect are estimated to be about £100,000. There will be ongoing costs, particularly for dealing with queries from businesses and potential increases in enforcement and compliance work.

5.67 HMRC will need to upgrade some IT systems to accommodate:

- the requirement to include the information HMRC receives in relation to ESLs for services (in addition to ESLs for goods) on the VAT Information Exchange System (VIES) under EC legislation (Council Regulation (EC) No. 143/2008 of 12 February 2008):

  http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:044:0001:0006:EN:PDF

  This is so that the information on ESLs submitted by UK suppliers of services provided to VAT registered customers in other Member States can be accessed by the tax authorities in the customer's Member State. Changes will be needed to the existing VIES database to cope with the additional data that needs to be captured and stored and to cope with increased usage; and
- changes required for the anti-fraud measures connected with intra-EC transactions, for example reduced time to submit, increased number of ESL forms. The IT changes will be required to recognise when the new due date had been reached and trigger potential penalty action. Reduced time to submit and exchange data would concentrate demands for HMRC processing resource.

5.68 The IT changes will be delivered by an in-house development team. To reduce overheads in testing and code changes, this work will have to be amalgamated with work required to deliver monthly ESLs and the reduced timescale for submission. Reduced time to exchange data will be likely to lead to an increase in data correction messages: both those from the UK to other Member States and those received by the UK from other Member States.

5.69 The current quantified costs for HMRC's IT system upgrades is estimated to be £1.4 million. Costs may increase.

5.70 HMRC will need to modify slightly the design of the current ESL form (VAT 101) so that it can be efficiently scanned, and to specify the use of a code for separately identifying intra-EC supplies of taxable services.

Annual costs

5.71 HMRC will need extra resources in relation to the introduction of ESLs for services, the monthly submission of ESLs for goods and the reduced time to process and exchange data with other Member States to:

- deal with queries from businesses on the new requirements;
- deal with a potential increase in enforcement and compliance monitoring work;
- deal with a potential increase in data errors and non-compliance penalties;
- key in ESLs for goods and services; and
- publicise to business on an ongoing basis the requirements in relation to completion and submission of ESLs for services. It is expected that this will be a small residual cost each year for newly VAT registered businesses or existing VAT registered businesses that have started making intra-EC supplies. HMRC intends to target its publicity to businesses that will be affected by these changes. However, it is recognised that a wide number of sectors could be affected and therefore the publicity needs to be extensive.

5.72 Quantified costs are estimated to be about £1.3 million annually.

5.73 HMRC will have a total of one month to submit and exchange data from the end of the relevant period and costs in terms of extra resources required to comply will be incurred. Ongoing operational, IT service and staffing costs are expected to be in the order of £millions.

5.74 In addition to collecting the information sooner from businesses, HMRC will be required to make use of that more timely information more quickly, reducing the time between the occurrence of possible intra-EC VAT fraud and its detection.

6 Benefits

Place of supply of services

6.1 The aim of the place of supply of services changes is to modernise and simplify the rules and to achieve, as far as possible, taxation in the place of consumption. This will be a benefit to businesses that are already registered for VAT, but will also benefit businesses registering for VAT on or after 1 January 2010.

6.2 Most supplies of services to business customers in other Member States will be subject to the general rule for the place of supply of services. Therefore UK businesses will not be required to charge UK VAT on such supplies but will retain entitlement to recover UK VAT they have incurred in order to make their supplies, subject to the normal rules. UK businesses will not, as a consequence, suffer cash-flow problems due to customers paying VAT late (that is to say, after the date the business is required to remit payment to HMRC). HMRC considers this to be a benefit to affected businesses.

6.3 UK businesses receiving taxable supplies of general rule services from suppliers established outside the UK will be required to apply a mandatory reverse charge. The UK businesses receiving such supplies from businesses established in other Member States will no longer need to pay overseas VAT and claim a refund from the supplier's Member State or suffer the associated cash-flow consequence pending repayment. HMRC considers this to be a benefit to affected businesses.

6.4 HMRC has assumed that fifty percent (2500) of the 5,000 businesses estimated to be switching from claiming using the Refund Scheme will save an estimated £0.3 million in administrative burden costs. This is on basis that the estimated 2500 businesses will cease having to submit refund claims for overseas VAT, because the supplies of services they receive will no longer be treated as made in another Member State and subject to VAT in that Member State. Instead the supply will be treated as made in the UK and thus will be subject to UK VAT (and the reverse charge procedure if the supplier is not established in the UK). The remaining 2500 businesses are assumed to be required to apply the reverse charge with effect from 1 January 2010 and to continue incurring overseas VAT on certain supplies of goods or services they receive. Therefore these businesses would need to submit a refund claim if they wished to recover the overseas VAT.

6.5 Respondents identified a benefit to small businesses of the place of supply of services changes. Currently, where a B2B supply of services is made in another Member State, a small business may be required to register in that Member State if the customer cannot account for the tax under a reverse charge. The new general rule for B2B supplies will mean that small businesses making intra-EC supplies of such services will not be required to register in another Member State because the customer will account for any tax due using the mandatory reverse charge.

6.6 Businesses should find it simpler to determine whether UK VAT is chargeable on cross border supplies of services because those that are not supplied where the customer is established are more clearly defined. There are currently borderline issues in terms of whether a service should be treated as supplied in the UK under the current basic rule or is covered by Schedule 5 of the VAT Act 1994 (supplied where the customer belongs). HMRC considers that this may be a significant benefit for some businesses but perhaps less so for other businesses.

6.7 Tax practitioners and HMRC staff new to the place of supply of services rules should need less time than at present to understand the legislation.

6.8 HMRC does not hold data that permits quantification of these benefits and consultees were unable to provide quantitative data in this respect.

Anti-fraud measures

6.9 As stated in section 2 above, the benefit as a whole is that these measures should play some part in reducing intra-EC VAT fraud. However, these benefits are not quantifiable. VAT MTIC fraud represents a serious threat to the revenues of all Member States, although estimates of the level of fraud across the EC vary. The table below shows estimates of attempted fraud and the impact on HMRC's VAT receipts. In the UK attempted fraud was estimated at between £0.5 billion and £2.0 billion in 2007/08, but has been much higher in earlier years – it was at a peak of £4.0 billion to £6.0 billion in 2005/06.

Estimates of MTIC Fraud (£bn)

	2005-06	**2006-07**	**2007-08**
Attempted Fraud			
Upper Bound	6.0	5.0	2.0
Lower Bound	4.0	2.5	0.5
Impact on VAT receipts			
Upper Bound	4.5	3.5	2.0
Lower Bound	2.5	1.5	0.5

6.10 The UK believes that the main changes, for monthly ESLs for significant trade in goods and quicker submission of ESLs will improve its capacity to limit the impact of fraud by providing information earlier and in a form which can be used more easily in conjunction with quarterly VAT returns.

7. Cost summary for businesses

7.1 Summary table of Standard Cost Model anticipated compliance and administrative burdens costs (in 2009 values).

	One-off compliance costs £m / expected magnitude	**Annual administrative burdens costs £m / expected magnitude (in current prices)**
Quantified costs		
UK businesses not required to submit ESLs for services or goods	28.3-28.6	N/A
UK businesses required to submit ESLs for services	8.6-9.2	4.3-4.6
UK businesses affected by the increased submission of ESLs for goods from 1/1/2010 onwards Additional UK businesses affected from 01/01/2012 onwards	0.3 0.2	1.3 0.5
UK businesses required to apply the mandatory	4.3-5.0	0.5

reverse charge		
Total	41.7-43.3	6.6-6.9
Unquantified costs		
IT upgrade costs	Tens of millions	-

7.2 HMRC notes that new businesses and businesses starting to make supplies of services that are affected by the changes covered in this Impact Assessment will need to familiarise themselves with the changes depending on how they are affected. It is recognised by HMRC that there will be a cost to businesses in this respect, but because the place of supply of services rules have been simplified, it should take these businesses less time than currently to familiarise themselves.

7.3 There will be overlap in terms of the impact on particular businesses of the various elements of the place of supply of services changes and the measures to combat tax evasion connected with intra-EC transactions. For example:

- the ESL requirements will impact on those businesses supplying taxable general rule services supplied to VAT registered customers in other Member States; and
- the mandatory reverse charge will be of most interest to businesses receiving supplies of taxable general rule services from suppliers established outside the UK.

While available data does not allow HMRC to tell how much overlap there will be for individual businesses, it is expected that the place of supply of services changes and the measures to combat tax evasion connected with intra-EC transactions as a whole will impact most heavily on businesses involved in large volumes of two-way trade with businesses established in other Member States.

8. Implementation plan

Consultation stage

8.1 HMRC has consulted on the VAT Package place of supply of services and the measures to combat VAT fraud connected with intra-EC transactions with business and other stakeholders. Section 4 of this Impact Assessment refers.

Implementation stage

8.2 Following the consultation, this implementation Impact Assessment has been published along with a consultation response document.

8.3 The UK legislative changes for the place of supply of services will be included in Finance Bill 2009.

8.4 The changes to combat VAT fraud connected with intra-EC transactions, other than a minor amendment to primary legislation can be made via secondary legislation. Draft legislation to implement the ESL requirements and the time of supply changes will be published.

8.5 The changes will come into effect in accordance with the timetable laid down by the European Commission.

8.6 Draft guidance on the place of supply of services changes will be released as soon as possible, with finalised guidance issued as soon as possible thereafter. HMRC will provide an overview of how the place of supply of services changes will be implemented in the UK.

8.7 The changes covered by this Impact Assessment will be publicised through regular updates.

9. Impact tests

Small Firms Impact Test

9.1 The ‘Revised Partial Regulatory Impact Assessment’ on the draft ‘EU Services Directive’ commissioned by BERR in 2006 concluded that small businesses were less likely to engage in B2B cross border supplies of services.

9.2 However, HMRC considers that the wide ranging nature of the place of supply of services changes and the measures to tackle VAT fraud connected with intra-EC transactions mean that there is the potential for all businesses including those with 20 or fewer employees to be affected.

9.3 HMRC sent alerts to organisations representing small businesses to publicise the consultation with a view to obtaining feedback on implementing the changes with the minimum administrative burden for businesses.

9.4 A number of consultees asked whether there could be some form of threshold for taxable services subject to the mandatory reverse charge, under which completion of ESLs for services would not be required by HMRC. This suggestion appears to have most relevance to smaller businesses.

9.5 Other than the thresholds for intra-EC supplies of goods, the EC legislation does not allow Member States to provide for an annual ESL reporting period for any business that makes only limited intra-EC supplies of goods and services. The UK will continue to provide for this de-minimis threshold which is currently set at goods or services below a value of £25,500 per annum.

9.6 Given the threshold below which ESLs for goods can continue to be submitted quarterly and since HMRC thinks that small businesses are less likely to make cross border supplies of B2B general rule services, although it cannot be assumed that small businesses will not be affected, HMRC does not expect there to be a disproportionate impact on small businesses.

9.7 Consultees commented that while small businesses that are not registered for VAT would not be required to submit ESLs for intra-EC B2B taxable general rule supplies, this could increase the difficulty of identifying such supplies.

9.8 However, HMRC recognises that if some small businesses are affected by the ESL, reverse charge and time of supply requirements the one-off costs from changing systems and becoming familiar with the changes could be significant in context.

Competition

Place of supply of services changes

9.9 The various elements of the place of supply of services changes could affect all UK businesses making supplies of services in some way rather than a particular segment of the UK economy or group of businesses. This means that in one respect, no particular group is put at a disadvantage. Businesses involved in intra-EC trade are affected more than other businesses, but the aims of the changes are to achieve taxation in the place of consumption across the board as far as possible.

Anti-fraud measures

9.10 The measures only affect businesses involved in intra-EC trade. Although, therefore, no particular group is put at a disadvantage, the additional burdens placed on businesses engaged in such trade could, at the margin, affect the ability of some businesses undertaking intra-EC trade to compete with those who are not.

9.11 In essence, although small businesses are not likely to be affected to any great degree, the compliance costs of the changes as a whole may, at the margin, make it more difficult for some legitimate businesses to take part in intra-EC trade while trying to prevent fraudulent activity in the same arena.

Other Impacts

9.12 The various elements of the place of supply of services changes could apply to all UK businesses making supplies of services. The measures to tackle tax evasion connected with intra-EC transactions apply to all UK businesses involved in intra-EC trade. They will not be expected to significantly increase legal aid impacts. They will be in accordance with the principles of sustainable development and will have no significant impact on emissions of greenhouse gases or other environmental impacts. They are compatible with the Human Rights Act. They will not have a significantly different effect in rural areas.

Neither will they significantly impact on:

- health and well being;
- race equality;
- disability equality; or
- gender equality.

10. Caveats and risks

10.1 As part of its consultation HMRC welcomed representations from interested parties, particularly with a view to submissions of quantitative evidence.

10.2 Where data provided by respondents was representative it has been used to update the costs previously calculated in the consultation stage Impact Assessments and has been included in this Impact Assessment.

10.3 The key caveat is that a number of assumptions have been necessary to quantify many of the administrative burden and compliance cost estimates. The estimates are believed to be broadly indicative of expected impacts.

11. Monitoring and evaluation

11.1 Impact Assessment guidance on the BERR website recommends that the date for post-implementation review should tie in with the timetable of the Commission's own review of the legislation, in order that the UK can feed in its findings to the Commission. HMRC proposes to coordinate its evaluation of the resulting changes with the Commission's review.

11.2 The guidance also suggests that implementation practices should be compared with at least two other major Member States to draw lessons on methods of implementation and enforcement in line with Commission's review of the Directive.

11.3 For all policy changes, compliance costs are routinely reviewed one to three years after implementation.

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

The ‘Standard Cost Model’ (SCM) has been used to derive 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.

The SCM estimates the costs of using agents; the costs of undertaking work in-house; and the costs of actually transmitting the information. The SCM does not consider one-off costs or transitional costs. The SCM does not consider costs which a business would have incurred anyway had the relevant HMRC obligation not existed. It considers the costs which apply to a normally efficient business and the costs to businesses which comply. The SCM does not consider wider compliance cost issues, such as the costs of business uncertainty, cash flow costs, or the costs of deciding whether or not to do something.

The Impact Assessment template requires SCM figures to be presented in May 2005 prices, as admin burden reduction targets relate to a May 2005 baseline. The Impact Assessment also uplifts those figures to current day prices.