

Association of Accounting Technicians response to the HMRC consultation document “Tackling the hidden economy: Conditionality”

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1. Introduction

- 1.1. The Association of Accounting Technicians (AAT) is pleased to have the opportunity to respond to the HMRC consultation document “Tackling the hidden economy: Conditionality”, published on 26 August 2016 (conduc).
- 1.2. AAT is submitting this response on behalf of our membership and for the wider public benefit of achieving sound and effective administration of taxes.
- 1.3. AAT has added comment in order to add value or highlight aspects that need to be considered further.
- 1.4. AAT has focussed on the operational elements of the proposals and has provided opinion on the practicalities of implementing the measures outlined.
- 1.5. Furthermore, the comments reflect the potential impact that the proposed changes would have on SMEs and micro-entities, many of which employ AAT members or would be represented by AAT’s 4,200 licensed accountants.

2. Executive summary

- 2.1. Tackling the hidden economy through “conditionality” means making access to services or support for businesses conditional on proving tax registration.
- 2.2. This consultation invites views on the principle of conditionality, the best approach to its introduction and the sectors in which it could be an effective compliance tool.
- 2.3. This is one of three consultations on hidden economy measures issued concurrently. The others, to which AAT is also responding, are:
 - Access to data held by Money Service Businesses (MSBs) – new powers to gather customer data held by MSBs for tax compliance purposes, ahead of potential legislation in Finance Bill 2017
 - Hidden economy sanctions – exploring the potential for new penalties and sanctions to tackle hidden economy participants including those who have already been penalised for deliberate non-compliance, but have not changed their behaviour.
- 2.4. AAT considers that conditionality would be a significant bureaucratic change in business and commercial conduct (3.10, below) but agrees that a requirement to show tax registration as a condition of access to some services or licences could make it more difficult for businesses to continue trading in the hidden economy (3.3, below).
- 2.5. AAT agrees that in some sectors conditionality would not place extra burdens on businesses (3.16, below) but would be burdensome in other sectors. (3.24, below)

3. **AAT response to the HMRC consultation document “Tackling the hidden economy: Conditionality”**

Question 1: Do the examples set out at paragraph 1.15 provide a good starting point to define ‘tax registration’ when thinking about conditionality? Are there any other requirements which should be included in this definition?

- 3.1. The examples set out at paragraph 1.15 (condoc) provide a good starting point to define ‘tax registration’.
- 3.2. CIS registration might be another area to be considered.

Question 2: What is your view on HMRC’s assessment of how conditionality could tackle the hidden economy?

- 3.3. While conditionality could be an effective way to tackle hidden economy activity, there remains the risk that it might encourage some traders, such as cash and online businesses, into the hidden economy (see also 3.8 & 3.11, below).
- 3.4. A requirement to show tax registration as a condition of access to some essential business services or licences could help to normalise tax registration and make it more difficult for businesses to continue trading in the hidden economy.
- 3.5. In addition, computerised cross checks would assist to tackle the hidden economy, for example between suppliers and VAT customers, between Companies House and HMRC and between Town Hall licensees and HMRC.

Question 3: Do you agree that there could be behavioural benefits to conditionality through promoting tax registration as normal behaviour for businesses?

- 3.6. There could be behavioural benefits to be derived from the adoption of conditionality through promoting tax registration as normal behaviour for businesses. However, as previously observed (3.3, above) there is a risk that it will divert some cash and online businesses into the hidden economy.
- 3.7. Assuming conditionality is adopted over time it would become an accepted normal requirement, in much the same way as a current MOT certificate and motor insurance is required in order for an owner to tax a motor vehicle.
- 3.8. Mindful of the warning given in 3.3, 3.6 (above) and 3.11 (below) it is still considered that conditionality could not only stem the flow of new entrants to the hidden economy, it could also encourage others already operating within it to legitimise their activities

Question 4: Do you agree with the principles set out at paragraph 3.2? Are there any additional or alternative principles which should apply?

- 3.9. It is agreed that HMRC’s approach to applying conditionality to licences or services should be guided by the general principles¹ set out at paragraph 3.1, the list of which seems comprehensive.

¹ The headings of the principles set out in condoc 3.2 are to prioritise high-risk sectors, minimise new requirements on customers and service providers, target conditionality on gatekeepers, reach large numbers of businesses in the hidden economy and to identify ways in which conditionality could have wider benefits for businesses or third parties.

Question 5: What are your views of the merits or drawbacks of applying tax registration conditions to public sector licences, such as those described in this chapter?

- 3.10. While the introduction of tax registration as a condition of access to essential business services or licences will lead to a small increase in administration for the businesses concerned, it would not be to the extent that it would outweigh the benefits to the UK economy through the potential to shrink the black economy (close the tax gap).
- 3.11. Apart from a relatively small increase in administration (3.9, above) the main drawback that can be envisaged is an increased risk of driving more businesses into the hidden economy and away from the regulation and protection of a licensing regime.

Question 6: Which public sector licences should HMRC consider in developing policy proposals for conditionality?

- 3.12. It is hard to say if the list of public sector licences (3.4, condoc) is exhaustive, however, it would seem to cover the main areas that HMRC should be considering when developing its policy.

Question 7: Can you describe how applying conditionality to public sector licences might impact upon compliant business, and how might HMRC avoid placing burdens upon those businesses? Please provide details of both the one-off and ongoing costs.

- 3.13. The potential impact upon compliant businesses will depend on the scope of proposed requirements. Applications for some licences currently require a number of documents and one more would make little difference. An example is a taxi or private hire vehicle which requires a driving licence, insurance and evidence of mileage.
- 3.14. While applying for any public sector licence often requires evidence of certain documentation already, the exact impact of any additional requirements would depend on the nature of what might be required. Care should be taken to ensure that compliant businesses in some sectors such as CIS who already face a high compliance burden do not get overburdened.
- 3.15. AAT agrees that any additional compliance burden imposed could be reduced through the application of targeted conditionality as is set out in 3.5 (condoc).
- 3.16. If adopted, such an approach would allow HMRC to concentrate its efforts on industry sectors or areas of business which are known to have a greater propensity to operate in the hidden economy.

Question 8: What are your views of the merits or drawbacks of applying conditionality to business services?

- 3.17. The benefit of applying conditionality is that it may assure tax-compliant businesses that their competitors are registered and also tax compliant i.e. helping to deliver a level playing field. It could also reassure companies in their dealings with suppliers. It would also offer some assurance to all those involved at the different parts of it that their supply chain has a greater level of integrity.
- 3.18. As stated at 3.10 (above), while the introduction of tax registration as a condition of access to essential business services will lead to a small increase in administration for the businesses concerned, it would not be to the extent that it would outweigh the benefits to the UK economy through the potential to shrink the black economy (tax gap).

Question 9: Which services or sectors should HMRC consider in developing policy proposals for business services conditionality?

3.19. The response to this question is set against the background of what HMRC wishes to achieve, which may be summarised in the following two objectives:

- The aim (of conditionality) “is to build tax compliance into the processes of doing business” (1.13, condoc)
- To develop this in a way which minimises potential burdens on compliant customers as far as possible” (2.6, condoc).

3.20. HMRC should consider services or sectors which HMRC identifies as carrying a high hidden economy risk in developing policy proposals for business services conditionality.

3.21. AAT notes that the case study states that “the Home Office has assessed that a high proportion of drivers of taxis and private hire vehicles are self-employed and, therefore, not subject to existing right to work checks undertaken by employers. This leaves scope for this sector to be exploited by those who intend to work illegally” (condoc, page 10).

3.22. AAT recommends that in developing policy proposals for business services conditionality HMRC should consider services or sectors which operate mainly in cash.

Question 10: Can you describe how applying conditionality to business services might impact upon compliant business, and how might we avoid placing burdens upon those businesses? Please provide details of the expected one-off and ongoing costs.

3.23. Certain services already have registration documentary requirements. The case study (page 10, condoc) refers to taxi services as being a high risk area. Taxis must apply annually to the local authority to renew their licence and must produce a range of documentation such as insurance, roadworthy evidence and annual mileage. It is not considered that a requirement to produce evidence of tax registration would be a particularly onerous additional condition.

3.24. Whereas, if a corner-shop were to be expected to produce evidence of tax registration every time they purchased an item from a new supplier, then this would be more onerous and an example of an unacceptably burdensome on-going additional cost.

3.25. A large wholesale supplier required to undertake a conditionality check in respect of new customers is likely to find it a little more burdensome, but not excessively so. A supplier of such a size is likely to be used to obtaining background information from a would-be customer in order to ensure that the applicant is credit worthy. It is likely to have an administration infrastructure that could deal with satisfying the conditionality requirement without too much trouble.

3.26. On the other hand someone, such as a small wholesale greengrocer with little in the way of back-office staff, who is very much involved in the day-to-day operation of their business, is likely to find the requirement to keep additional new customer records disproportionately onerous and costly on an ongoing basis.

Question 11: Do you agree that these principles should underpin any method for demonstrating tax registration? Are there any additional or alternative principles which should apply?

3.27. An additional principle that should be included in the list is that of the prevention of an administrative burden on small suppliers.

Question 12: Do these case studies highlight any relevant lessons for HMRC in developing a method for demonstrating tax compliance? Are there any particular risks or pitfalls to be avoided?

- 3.28. AAT agrees that the case studies (4.6, condoc) highlight relevant lessons for HMRC in developing a method for demonstrating tax compliance.
- 3.29. The relevant lessons are examples of conditionality currently in place, apart from taxation, which could provide models for HMRC.
- 3.30. Of course there will be many small cash businesses, to which the examples in paragraph 3.28 (above) do not apply, particularly in the hidden economy.

Question 13: How should HMRC or those who grant access to licences or services deal with cases in which tax registration is not yet available (for example those who are applying for a licence in advance of setting up their business)?

- 3.31. One way of dealing with the granting of a licence or access to services during the tax registration application process would be through the introduction of 'grace periods' (5.4, condoc) by which some businesses can access licences or services before tax registration requirements are introduced.
- 3.32. Before the current CIS registration scheme was introduced HMRC used to have an interim scheme for new self-employed entrants to the construction industry. It would seem reasonable that such an approach be adopted for those who apply in instances where tax registration is not yet available.

Question 14: Are there any specific impacts on small and micro businesses to be considered? If so, please provide details of the anticipated one-off and ongoing costs and burdens. How might any negative impacts be mitigated?

- 3.33. Please refer to the examples of the impacts specific to the small wholesale greengrocer mentioned in paragraphs 3.26 (above) as examples to be considered in small and micro businesses.
- 3.34. The burdens imposed by confidentiality mentioned in 3.25 and 3.26, (above) are examples of possible one-off and ongoing costs and burdens that will apply to a range of small and micro businesses.
- 3.35. AAT considers that for monitoring conditionality a 'de minimis' level for the size of businesses (e.g. linked to the VAT registration threshold) is required in order to mitigate the negative impacts of one-off and ongoing costs.

Question 15: Unless already covered in your responses to other questions within this document, please tell us about how your business would be impacted by this proposal, including additional administrative burdens and costs?

- 3.36. AAT is a professional accountancy body with over 4,200 licensed accountants who provide accountancy and taxation services. As indicated in condoc 1.14 the concept of conditionality is at the 'early thinking stage' and although conditionality would be expected to affect members' clients no survey or consultation has been undertaken.

4. About AAT

- 4.1. AAT is a professional accountancy body with approximately 50,000 full and fellow members and 80,000 student and affiliate members worldwide. Of the full and fellow members, there are over 4,200 licensed accountants who provide accountancy and taxation services to individuals, not-for-profit organisations and the full range of business types.
- 4.2. AAT is a registered charity whose objectives are to advance public education and promote the study of the practice, theory and techniques of accountancy and the prevention of crime and promotion of the sound administration of the law.

5. Further information

If you have any questions or would like to discuss any of the points in more detail then please contact Aleem Islan, AAT Technical Consultation Manager, at:

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