Summary: Intervention & Options

Department /Agency:	Title:	
HM Revenue and Customs (HMRC)	**Impact Assessment of the Introduction of Independent Business Reviews (IBRs)**	
Stage: Implementation	**Version:** 1.0	**Date: 15 March 2010**

Related Publications: Impact Assessment of the Introduction of Independent Business Reviews (IBRs)- Consultation (informal)

Available to view or download at:

hwww.hmrc.gov.uk

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

All viable businesses in temporary financial difficulty currently have access to a cost-free streamlined HMRC service for consideration of requests to pay their taxes to a timetable they can afford. For large cases this requires significant amounts of work by HMRC's limited operational accountancy resource. Over the last 12 months there has been an increase in the volume of large time to pay (TTP) requests, defined as £1million or more. In view of the amounts of tax involved and the risks to both businesses and the Exchequer, HMRC needs to ensure that decisions are given quickly, with a robust audit trail, in such a way that prevents advantage to those who seek government support over those who obtain commercial finance to meet their tax obligations by the due date.

What are the policy objectives and the intended effects?

To ensure that the necessary review of both the businesses ability to pay and longer term viability is conducted quickly but in sufficient detail to minimise the risk of decisions being made either to grant or withhold TTP inappropriately. To prevent those applying for TTP from securing an unfair advantage over other businesses who seek commercial finance in order to pay their tax liabilities on time. To deter unwarranted applications from businesses that can afford to pay, allowing HMRC to focus on genuine cases of temporary financial difficulty. This will deliver a process that ensures large TTP applications are dealt with swiftly, in depth and with a clear audit trail.

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

1. Leave the process as it is now
2. To require businesses seeking large TTP arrangements of £1 million or more to provide at their own expense an Independent Business Review (IBR) carried out by a qualified professional advisor in support of its request.

Option 2 will be implemented.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

A review will be conducted one year after implementation.

Ministerial Sign-off For Final 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:

Date: 15 March 2010

Summary: Analysis & Evidence

Policy Option: 2	Description: Require an IBR in the circumstances detailed.

COSTS

ANNUAL COSTS		
One-off (Transition)	Yrs	Description and scale of **key monetised costs** by 'main affected groups' The cost of an IBR will range from £10k for a simple review to £75k for the most complex. We expect approx 250 businesses annually will be affected but additional costs will be small in relation to the turnover of the business. HMRC will incur costs for providing IBR guidance as well as costs for setting up a Panel of IBR providers; but these are expected to be negligible.
£ Negligible		
Average Annual Cost (excluding one-off)		
£11m		**Total Cost** (PV) **£ 11m annual cost**

Other **key non-monetised costs** by 'main affected groups' Businesses and HMRC approved professional advisors will need to familiarise themselves with the requirement for producing an IBR. Extensive guidance will be available on the HMRC website.

BENEFITS

ANNUAL BENEFITS		
One-off	Yrs	Description and scale of **key monetised benefits** by 'main affected groups' This measure will help businesses by providing them with support when they are in genuine need of it, as well as minimising revenue losses to the Exchequer by better guarding against the extension of credit to businesses that are no longer viable. It should also deter unwarranted applications from businesses that are actually able to pay.
£ Not Quantifiable		
Average Annual Benefit (excluding one-off)		
£ Not Quantifiable		**Total Benefit** (PV) **£ Not Quantifiable**

Other **key non-monetised benefits** by 'main affected groups' The IBR will provide a sound base from which management, lenders and investors can move forward and very often provides insights and advice which will add value for the business itself. Also, greater cash flow certainty for HMRC and businesses.

Key Assumptions/Sensitivities/Risks IBRs will enable HMRC to decide on the most appropriate response to a request for TTP and advise how to address those businesses that are not viable. The requirement for an IBR may discourage TTP requests from businesses in genuine financial difficulties; these instances are expected to be minimal.

Price Base Year 2010	Time Period Years N/A	**Net Benefit Range** (NPV) **£ N/A**	**NET BENEFIT** (NPV Best estimate) **£ N/A**

What is the geographic coverage of the policy/option?			UK	
On what date will the policy be implemented?			6 April 2010	
Which organisation(s) will enforce the policy?			HMRC	
What is the total annual cost of enforcement for these organisations?			£ N/A	
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?			£ N/A	
What is the value of changes in greenhouse gas emissions?			£ N/A	
Will the proposal have a significant impact on competition?			No	
Annual cost (£-£) per organisation (excluding one-off)	Micro **Nil**	Small **Nil**	Medium **£10k to £75k**	Large **£10k to £75k**
Are any of these organisations exempt?	No	No	No	No

Impact on Admin Burdens Baseline (2005 Prices) (Increase - Decrease)

Increase of £ 0 Decrease of £ 0 **Net Impact** £ 0

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

Evidence Base (for summary sheets)

Policy proposal

Under the preferred option, (option 2), with effect from April 2010 a business applying for TTP a substantial debt of £1 million or more will need to engage, at their own expense, a suitably qualified professional advisor such as an insolvency practitioner, to carry out an IBR in support of its application.

HMRC has engaged with external stakeholders by way of informal consultations on the best way to implement this measure. The use of qualified insolvency practitioners to review the solvency and ongoing liquidity of firms is common practice among institutional lenders before finalising a lending or investment decision. This provides a sound base from which management, lenders and investors can move forward and very often provides insights and advice which add value for the business itself. Reviews are carried out by some large accountancy firms as well as insolvency specialists.

Typically an IBR would include a review of all or part of the following

- Cash flow
- Letter from the bank detailing current and future banking facilities and financing plans
- Annual accounts
- Management accounts
- Forecast profit and loss account and balance sheet Description of current business model and proposed changes
- Strengths, Weaknesses, Opportunities, and Threats (SWOT) Analysis
- Benchmarking report
- Director profiles
- Details of all related businesses
- Detailed fixed assets register with current valuations
- Full analysis of current assets including realistic recovery details
- Aged debtor list
- Details of bad debt provision
- Customer base details identifying top ten customers by sales value
- Aged creditor list
- Future trading plans and projections
- Supplier base details identifying top ten suppliers
- Description of any restructuring plans with evidence of progress
- Detailed explanation of causes of failure

Under the Commissioners' powers of Collection and Management, HMRC may agree an opportunity for the business to spread their HMRC total tax debt over a timetable they can afford by instalments where doing so is likely to secure the best return for the Exchequer.

Over the last 14 months, HMRC has been supporting viable businesses in difficulty, notably through our Business Payment Support Service (BPSS). However, this facility is intended for small to medium-sized businesses and individuals. The largest cases have often come to Debt Management and Banking (DMB) directly, or have been referred from HMRCs Large Business Service.

These large cases are quickly transferred on to our Senior Managers and Operational Accountants for review but HMRC believes that there should be greater onus on large business to provide more detailed information that would be included in an IBR giving a more equitable distribution of support for the business.

The IBR will enable HMRC to decide on the most appropriate method of payment and how best to address those businesses that are unlikely to survive even with the help of a TTP arrangement. The information will also be used to ensure that our actions do not distort competition within the marketplace, which is what would happen if we agreed TTP in a case where the business was in fact able to pay us in full.

The IBR is not about denying TTP, rather improving our decision making to help those viable businesses that need our help and working with other stakeholders to provide the business with the best chance of ongoing viability.

Costs

The cost of an IBR will range from £10k for a simple review to £75k for the most complex. These costs are based on the current amounts being charged for an IBR.

We expect approx 250 businesses annually to be affected but additional costs will be small in relation to the turnover of the business. This is based on the current volume of requests for TTP in excess of £1m.

A lower end estimate of the costs will be to assume all 250 will cost £10,000 and an upper end estimate of the costs will be to assume all 250 will cost £75,000. In reality, it is unlikely that the cost will lie at the extremes of these ranges. To arrive at a more realistic estimate of the costs we have assumed that the average cost will within the range and be £42,500 per IBR. This will provide an estimate of total annual costs of 250 x £42,500 which is £11m.

HMRC will incur costs for providing IBR guidance as well as costs for setting up a panel of IBR providers, but these are expected to be negligible. Businesses and HMRC approved IBR providers will need to familiarise themselves with the requirements and associated HMRC guidance which will be available on the HMRC website.

Benefits

It is very difficult to come up with firm quantifiable benefits. The main areas we have considered are:

- Businesses will receive an informed and accurate decision from HMRC regarding their TTP request, based on independently gathered facts.

- It will allow HMRC to re-deploy staff, thus providing a more comprehensive service to businesses requesting large TTPs

The IBR will also provide a sound base from which management, lenders and investors can move forward and very often provides insights and advice which will add value for the business itself. It is likely that the information gathered as part of the IBR can be used to apply for further financing or to come up with a revised business plan.

Key Assumptions/Sensitivities/Risks

An IBR will enable HMRC to decide on the most appropriate response to a request for TTP and advise how to address those businesses that are not viable. This will help protect the Exchequer by not providing TTP where it is not appropriate (i.e. where the business can pay) or where the business is not viable. The provision of a properly assessed TTP can help businesses overcome short term cash flow difficulties and ensure their long term survival, thus ensuring a long term gain to the Exchequer.

The requirement for an IBR may discourage TTP requests from businesses in genuine financial difficulties; however this is expected to be minimal. Nearly all businesses who will be asked to provide an IBR will have experienced the same process when applying for loans or other forms of investment.

As the measure will only seek an IBR from a business requesting TTP of more than £1m, we expect the impact of the IBR will only apply to medium and large sized businesses, as it is extremely unlikely that any small or micro-sized businesses will have incurred a tax liability in excess of £1m.

Implementation

With effect from 6 April 2010, a business applying for TTP for a substantial debt of £1million or more may need to engage, at their own expense a suitably qualified professional advisor such as an insolvency practitioner, to carry out an IBR in support of its application.

HMRC engaged with external stakeholders by way of informal consultation workshops on the 19, 20, 26 and 27 January 2010 to discuss the implementation of IBRs into its TTP process.
The general response to the IBR measure was very positive and it was agreed that the information provided as a result of these reviews will help HMRC when considering future TTP requests.

Further comments made were as follows-

“It is clear that there are benefits for the debtor, the banks and HMRC”.

“The request for an IBR is a reasonable expectation of HMRC’s and that it is long overdue”.

“It is one way in which HMRC can become a genuine stakeholder as too often they are a disenfranchised, involuntary and ultimately, unsecured creditor and this initiative provides a real opportunity to take a seat at the table with other stakeholders”.

“It is a logical step and supportive of business”.

The general experience of the attendees indicated that TTP had reduced the number of corporate failures; “it is good at saving businesses and the introduction of IBRs will support and strengthen the decision making process”.

Issues Considered

The attendees had a wide range of experience in preparing IBRs through their handling of work commissioned by the banks. This meant they were able to describe in detail relevant matters that HMRC are likely to need to consider during the implementation phase of this work.
As a result of these discussions we were able to identify a couple of issues that needed our immediate attention, these issues were:

List of Panel Specialists to undertake IBR work

The workshop attendees recommended having an HMRC agreed Panel of IBR operatives to take forward the IBR process in line with the way Banks and other commissioning clients for IBRs operate. Our issue about having a Panel centred on impartiality as we cannot be seen to be favouring one provider over another.

Engagement Letters

Engagement letters are the legally binding contractual arrangement between the IBR provider and the customer. A question arising from the workshops was who should be the customer; HMRC or the business?

The workshop attendees provided detailed background about engagement letters and raised a number of points on such matters surrounding ‘duty of care’, ‘standard conditions’, and more generally about and how these requirements should be used by HMRC. It was agreed that it was important to decide how the IBR provider should be engaged to do the work to ensure the smooth running of the process.

Outcome

HMRC referred the issues about the panel and engagement letters matters to their departmental Solicitors for advice. They have subsequently responded positively on both counts.
They clarified that there is no legal reason to prevent the establishment of a Panel and that the proposal was both relevant and justifiable. They also stated that there must be a fair and transparent process for suspension or removal of panel members.

On engagement letters they confirmed that the engagement letter would be signed by the user of the IBR, i.e. HMRC and that a separate engagement letter is recommended for each IBR.
An IBR providers own engagement letter could be used provided that the content has been approved and HMRC are happy with the terms it contains regarding scope of the work and duty of care to HMRC in particular.

Next Steps

HMRC have recently published via their website, extensive feedback from the informal consultation process.

Going forward, we will continue with the implementation of IBRs on the following timeline:

By mid to late March we will

- Engage and complete the process to identify, through expressions of interest, those IBR providers that meet the criteria for inclusion on to the panel.

- Publish external guidance on the Internet about the IBR process we expect our external customers to follow.

- Publish internal guidance to make HMRC colleagues aware of the new £1 million plus TTP requirements to include the procedures for liaising with Operational Accountants to identify when an IBR may be appropriate, how to commission one and how to use them to help us assess TTP requests and make decisions.

The go live date for the implementation of IBRs remains the 6 April 2010.

Impact tests

HMRC have considered all the specific impact tests and after extensive consultation has assessed that the majority of tests will not be affected by this reform. The exceptions are as follows:-

Competition assessment

This reform is specifically designed to ensure continued fairness of treatment in the consideration of large TTP applications. This will put some of the cost of establishing solvency and ongoing viability on the business itself so that those requesting a significant relaxation of their statutory payment obligations do not secure an advantage over those who seek commercial finance in order to pay their tax and other liabilities on time.

Small firms

Because there is a threshold for this reform it will only affect a very small minority of businesses seeking TTP on sums of £1 million or more. HMRC will continue to provide help and support for all other businesses on the same principles as before.

HMRC has carefully considered whether these proposals will have any impact on the following other specific impacts:

- Legal Aid
- Sustainable Development
- Carbon Assessment
- Other Environment
- Health
- Race Equality
- Disability
- Gender
- Human Rights, and
- Rural issues

And conclude that they do not impact.

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

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