EXPLANATORY MEMORANDUM TO

THE STAMP DUTY LAND TAX AVOIDANCE SCHEMES (PRESCRIBED DESCRIPTIONS OF ARRANGEMENTS) (AMENDMENT) REGULATIONS 2010

2010 No. 407

1. This explanatory memorandum has been prepared by HM Revenue and Customs (HMRC) and is laid before the House of Commons by Command of Her Majesty.

This memorandum contains information for the Select Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 These regulations ("the amendment regulations") amend the Stamp Duty Land Tax Avoidance Schemes (Prescribed Descriptions of Arrangements) Regulations 2005 (S.I. 2005/1868) ("the principal regulations"), to extend the descriptions to schemes that concern residential property.

2.2 The amendment regulations will come into force on 1 April 2010.

3. Matters of special interest to the Select Committee on Statutory Instruments

None

4. Legislative Context

4.1 Part 7 of the Finance Act 2004 (sections 306-319) ("Part 7") introduced a "disclosure" regime which requires the notification to HMRC of arrangements and proposals for arrangements ("schemes") that concern certain taxes listed in section 318. Those taxes include Stamp Duty Land Tax (SDLT).

4.2 Disclosure requires certain persons, usually the promoter, to disclose information about schemes falling within certain descriptions normally within 5 days of the scheme's being made available or implemented.

4.3 Part 7 provides for the descriptions of schemes required to be disclosed to be prescribed in regulations. The descriptions of schemes that concern SDLT are prescribed in the principal regulations, which came into force on 1 August 2005. At present, the SDLT schemes to be disclosed are those that concern non-residential property with a value of at least £5 million.

5. Territorial Extent and Application

This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- ***What is being done and why***

7.1 Tackling avoidance is a key element of the Government's tax policy strategy, which is aimed at making it easier for businesses to comply with their tax obligations whilst tackling those who abuse the system.

7.2 HMRC's anti-avoidance strategy has four main elements:

- To discourage taxpayers from using schemes. This includes a critical appraisal of all new legislation to reduce the potential for tax avoidance as well as publicising successes in closing down avoidance schemes.
- To identify as early as possible schemes that are being used.
- To challenge avoidance schemes by contesting returns and, where necessary, pursuing the matter through the courts.
- To produce legislative changes that will close down avoidance schemes where litigation is not appropriate or where the amount of tax at stake is particularly large.

7.3 Part 7 and instruments made under it are intended to achieve early identification of avoidance schemes and identify who is using them.

7.4 The purpose of the amendment is to require disclosure of tax avoidance schemes that seek to avoid Stamp Duty Land Tax in relation to residential property with a value of at least £1 million.

- ***Consolidation***

7.5 It is not intended to consolidate the regulations at this time.

8. Consultation outcome

In 2007 HM Treasury consulted on a proposal to extend the disclosure regime to SDLT schemes that concern high value residential property. Draft regulations were exposed for consultation on 22 April 2009 and responses to that consultation have been taken into account in the final amendment regulations.

9. Guidance

A copy of the revised guidance issued by HMRC concerning the disclosure of tax avoidance schemes has been placed in the library of the House of Commons.

10. Impact

10.1 The impact on business, charities or voluntary bodies is limited to those which engage in tax avoidance schemes.

10.2 The impact on the public sector is nil.

10.3 A full Impact Assessment has been prepared for this measure and is available at www.hmrc.gov.uk/better-regulation/ia.htm

11. Regulating small business

11.1 The legislation applies to small business.

11.2 The purpose of the legislation is to identify the detail of schemes seeking to avoid SDLT and to identify those who use such schemes.

11.3 The reasons for not exempting small businesses from obligations in relation to the disclosure of tax avoidance schemes are:

- Revenue protection. Small businesses may promote or use avoidance schemes where the tax at risk is significant and disproportionate to the size of the business;
- Fairness. Avoidance puts compliant businesses, large and small, at a disadvantage and distorts competition.

12. Monitoring & review

Review of the effects of the measure is expected 3 years from implementation on 1 April 2010

13. Contact

David Easton at HM Revenue and Customs Tel: 020 7147 2418 or email: David.Easton@hmrc.gsi.gov.uk can answer any queries regarding the instrument.

Summary: Intervention & Options

Department /Agency:	Title:	
HM Revenue & Customs	**Impact Assessment of Disclosure of Tax Avoidance Schemes (DOTAS): Stamp Duty Land Tax**	
Stage: Implementation/Final	**Version:** 1.0	**Date: 29 January 2010**

Related Publications: The 22 April 2009 consultation document "Disclosure of Tax Avoidance Schemes: Stamp Duty Land Tax" and the 9 December 2009 response document.

Available to view or download at:

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

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

Throughout 2007 HM Treasury and HM Revenue & Customs (HMRC) became concerned by evidence of tax avoidance schemes being used for high value residential property. HMRC also found that users of Stamp Duty Land Tax (SDLT) schemes often went undetected inhibiting its ability to protect Government revenues by successfully challenging these schemes. Consequently the Government announced at the 2009 Pre Budget Report that regulations would be introduced, to come into effect by 1 April 2010, to require the disclosure of certain SDLT avoidance schemes concerning residential property with a value of at least £1m and that users of all disclosed SDLT avoidance schemes (commercial and residential) would be required to report the use of the scheme back to HMRC.

What are the policy objectives and the intended effects?

The Government needs to ensure that SDLT is not avoided on the purchase of UK property. This helps to maintain a tax system that is fair and transparent and protects the Exchequer against lost tax revenue which undermines the Government's investment in UK public services. Identifying high risk SDLT avoidance schemes earlier will help HMRC target its compliance resources more efficiently and protect against lost tax revenues.

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

Identify schemes which seek to avoid SDLT on residential property: Option 1A: Do Nothing; Option 2A: Extend the Disclosure of Tax Avoidance Schemes (DOTAS) regime (option adopted). Identify users of all disclosed SDLT Avoidance Schemes: Option 1B: Do not identify users of SDLT avoidance schemes; Option 2B: Identify users of SDLT avoidance schemes by HMRC issuing a Scheme Reference Number (SRN) to the scheme promoter, who passes the SRN on to clients, who in turn report it to HMRC. This system is already used successfully for income tax and corporation tax schemes. This option is preferred as being tried and tested; Option 3B: require the user of a SDLT avoidance scheme to identify themselves without receiving a SRN from the promoter.

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

Expected three years from the date the regulations are introduced (1st April 2010).

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:

Date: 2 / 2 / 2010



Summary: Analysis & Evidence

Policy Options: 2A and 2B	Description: Extending the Disclosure of Tax Avoidance Scheme Regime for Stamp Duty Land Tax

COSTS

ANNUAL COSTS	
One-off (Transition) **Yrs**	Description and scale of **key monetised costs** by 'main affected groups' The expected impact of this option is small, as it affects only a limited number of specialist firms (40-60) and their clients (around 300 per year) who are involved with the new and innovative schemes. There will be some initial costs as advisers learn the new systems and some on-going costs in the disclosure of schemes and the reporting of Scheme Reference Numbers.
£ Negligible	
Average Annual Cost (excluding one-off)	**Total Cost** (PV) **£ Negligible**
£ Negligible	

Other **key non-monetised costs** by 'main affected groups' The learning costs are negligible in the small number of firms who already make disclosures and slightly higher in the even smaller number of firms who market exclusively residential property schemes.

BENEFITS

ANNUAL BENEFITS	
One-off **Yrs**	Description and scale of **key monetised benefits** by 'main affected groups' Primarily fairness in the property market as certain schemes are closed down, and the full value of the SDLT is secured in the areas of abuse for the Exchequer
£ Not quantifiable	
Average Annual Benefit (excluding one-off)	**Total Benefit** (PV) **£ Not quantifiable**
£ Not quantifiable	

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

Key Assumptions/Sensitivities/Risks The exchequer effect is dependent on a number of factors e.g. market conditions, the 'grandfathering' rule and the rate at which new and innovative schemes are developed. This option is expected to have a limited impact within the first two years of implementation and an exchequer effect of approx £6m in 2012/13.

Price Base Year 2010	Time Period Years 5	**Net Benefit Range** (NPV) **£ Not quantifiable**	**NET BENEFIT** (NPV Best estimate) **£ Not quantifiable**

What is the geographic coverage of the policy/option?			UK	
On what date will the policy be implemented?			1 April 2010	
Which organisation(s) will enforce the policy?			HMRC	
What is the total annual cost of enforcement for these organisations?			£ Negligible	
Does enforcement comply with Hampton principles?			Yes	
Will implementation go beyond minimum EU requirements?			No	
What is the value of the proposed offsetting measure per year?			£ 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	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 £ Negligible Decrease of £ Nil **Net Impact** **£** Negligible

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

Introduction

This Impact Assessment updates the Consultation Stage Impact Assessment published by HMRC on 22 April 2009 and HM Treasury's Partial Impact Assessment published alongside their December 2007 consultation document "Stamp Duty Land Tax – Ensuring Fairness for All".

It examines the costs and benefits of extending the Disclosure of Tax Avoidance Schemes (DOTAS) regime to require the disclosure of certain stamp duty land tax (SDLT) avoidance schemes relating to residential property with a value of at least £1m and identifying users of disclosed residential and commercial property schemes.

Policy Objectives and intended effects

The policy objectives of DOTAS are to counter avoidance by obtaining:

1. early information about avoidance schemes and how they work – informing loophole blocking; and
2. information about who has used a scheme – informing HMRC's compliance activities.

The intended effects are:

1. for HMRC to obtain early disclosure of new and innovative SDLT avoidance schemes concerning high value residential property;
2. for HMRC to obtain notification from persons who have used a disclosed SDLT scheme (commercial or residential) shortly after they implement the scheme.

Background

SDLT is a transaction tax, payable by the buyer, on the purchase of land or property, or any consideration for the acquisition of an interest in land or property. It is one of three property related taxes; the other two are council tax and business rates. SDLT is administered and collected by the Business Tax stream within HM Revenue & Customs.

As part of a major modernisation in Finance Act 2003, stamp duty (on documents) was replaced by SDLT (on the transaction itself) with effect from 1 December 2003. SDLT is also charged on grants of new leases of land and buildings both on the premium (capital sum paid by the purchaser) and on the rental income.

Current SDLT rates and thresholds applicable to residential and commercial property are:

Rate (%)	Threshold (£)
0	0-125,000*
1	125,001-250,000
3	250,001-500,000
4	Over 500,000
* Between 03/09/08 to 31/12/09 the starting threshold was increased to £175,000. This was reduced back to £125,000 with effect from 01/01/10.	

DOTAS was introduced in 2004 in relation to income tax, corporation tax and capital gains tax ('the main regime'). It requires certain persons, normally the promoter of the avoidance scheme, to provide HMRC with information about how the scheme is intended to work, normally within 5 days of the promoter making the scheme available. Promoters include accountants, solicitors, banks and financial institutions, and specialist scheme providers.

For the main regime a Scheme Reference Number (SRN) is normally allocated by HMRC to each disclosed scheme. This number is passed to the promoter and onwards to the scheme user, who in turn must notify their use of the scheme by passing the number back to HMRC.

In 2005, DOTAS was extended to include schemes that reduce SDLT on commercial property with a value of at least £5m. The descriptions of schemes required to be disclosed were drawn deliberately wide in order to flush out the extent of planning and avoidance in what was a new tax. There was no disclosure requirement for residential property schemes. After an initial surge of commercial property disclosures in 2005 the number has now reached a steady stage of around 40-50 disclosures a year. The SRN system was not adopted for SDLT. This was partly for technical reasons, but also in order to reduce burdens on those who were not engaged in avoidance.

In December 2007 HM Treasury consulted on extending DOTAS to capture certain SDLT schemes concerning residential property. This was in response to evidence that specialist promoters were marketing schemes aimed at buyers of high value residential property.

The Government responded in April 2008 by announcing that DOTAS would be extended to include residential property of £1m and above, whilst noting concerns that the scheme descriptions required to be disclosed should narrowly target tax avoidance. It went on to announce that it would also introduce a means to identify users of all disclosed SDLT schemes.

Following a further consultation in April 2009 on the descriptions of schemes required to be disclosed and the methodology for identifying users of all disclosed SDLT avoidance schemes, the Government announced at the 2009 Pre Budget Report that regulations would be introduced extending DOTAS to capture schemes that wholly concern either:

- non-residential property with an aggregate value of at least £5 million; or
- residential property with an aggregate value of at least £1 million.

It would also apply to schemes that concern mixed non-residential and residential property where either:

- the value of the residential property is at least £1 million; or
- the value of all the property is at least £5 million.

In order to restrict disclosures to schemes that are new and innovative the regulations contain a “grandfathering” rule to remove the need to disclose schemes which are already in the market place and which HMRC knows about and understands. Disclosure will not be required for arrangements which are the same, or substantially the same, as arrangements first made available for implementation before the new regulations come into force on 1 April 2010.

The Government also announced at the 2009 Pre Budget Report that regulations would be introduced to extend the SRN system to SDLT so that users of all SDLT schemes disclosed on or after 1 April 2010 (both commercial and residential property schemes) will be required to report the use of the scheme back to HMRC.

Evidence

The purpose of disclosure is to close information gaps and increase transparency about the marketing and use of avoidance schemes. Consequently it follows that HMRC will not already have perfect information about the number and types of schemes, and the users of those schemes, that disclosure seeks to obtain. However, HMRC does have evidence about the marketing of avoidance schemes aimed at high value residential property. That evidence is supported by the information that has been provided by a number of external stakeholders.

Consultation

At Budget 2009 HMRC published a formal consultation document "The Tax Avoidance Disclosure Regime: Stamp Duty Land Tax". The consultation exposed draft regulations and invited comments on two issues:

- the descriptions of schemes required to be disclosed; and
- the methodology for identifying users of disclosed SDLT avoidance schemes, the information required and the time limits for reporting.

There was generally a positive response to the proposals and the lead options were seen as sensible enhancements to the existing regime.

The consultation did bring out some useful comments and HMRC have made changes to the legislation and guidance as a result of the response received. Briefly these included:

- retaining the list of schemes exempted from disclosure;
- clarification of the information required from users of disclosed SDLT avoidance schemes.

The Options Considered

Identifying schemes which seek to avoid SDLT on High Value Residential Property

Option 1A: Do nothing

Doing nothing would mean that high value/high risk residential property schemes would go undetected creating unfairness in the tax system and resulting in a loss of revenue. This option is not acceptable.

Option 2A: extend DOTAS to bring in Residential Property (option adopted)

The disclosure rules were specifically designed to provide information about potential avoidance schemes. Legislation already exists to find out about commercial property schemes and is capable of being extended and adapted to identify other high risk areas. The success of the existing rules demonstrates that disclosure is a practical solution to improve our information on avoidance. This was therefore seen as the most sensible and proportionate solution to the problem and was the option adopted. Respondents to the consultation exercise broadly agreed with this approach.

Identifying Users of SDLT Avoidance Schemes

Option 1B: Do not identify scheme users (Do nothing)

This is considered unacceptable for two reasons.

Firstly, HMRC is aware of a number of SDLT avoidance schemes which it considers do not work under existing law, but experiences difficulty in identifying who has used the scheme. A number of avoidance schemes are designed so that the user does not submit a Land Transaction Return. This inhibits HMRC from opening an enquiry and is unfair to the compliant majority of taxpayers who do not take part in avoidance.

Secondly, it is not desirable to inform legislative change solely through disclosures of how a scheme is intended to work. SDLT schemes are increasingly complex and close examination of the detailed arrangements is required to provide evidence and support for future proposals for change. It is also desirable to have an indication of the extent of use of a scheme in order to prioritise legislation on schemes carrying the highest risks to the Exchequer.

Option 2B: Identify scheme users using the Scheme Reference Number (SRN) system (option adopted)

The SRN system is already used successfully for income tax, corporation tax and capital gains tax schemes and this option was therefore seen as the most sensible and proportionate way of identifying users of SDLT schemes. Respondents to the consultation exercise supported this view.

Once the measure is implemented a person who discloses a SDLT scheme to HMRC (whether it concerns commercial or residential property) will normally be issued with a SRN by HMRC within 30 days of HMRC receiving the disclosure. A scheme promoter who is issued with a SRN will then be required to pass the SRN on to a client within 30 days of becoming aware that the client had implemented the scheme. If the client is not the end user of the scheme (i.e. the person expecting to obtain a SDLT reduction) or not the only end user, they would have to pass the SRN on to the end user(s), if they know who they are.

A promoter or an intermediary (a client who is not the end user, or the only end user, of the scheme) will be required to pass on the SRN using form AAG6 telling the end user what to do with the SRN.

The end user will be required to report the SRN and other information to HMRC. For a number of reasons it would not be viable for the end user to report this information back to HMRC using the Land Transaction Return (Form SDLT1).

Firstly, as reported above it is often the case that a SDLT avoidance scheme has the intended effect that a SDLT1 is not required to be submitted (e.g. because the scheme manipulates the transaction value threshold at which a return is required).

Secondly, the accumulation of the various time limits by which a SRN is required to be issued by HMRC and passed on by a promoter to clients (and potentially also by client who is an intermediary) would result in many cases in the end user not receiving the SRN until after the due date for filing form SDLT1 has passed.

Thirdly a number of amendments would also have to be made to form SDLT1 to capture the necessary information. This would impact on a much wider customer base than HMRC wishes to target, thereby creating an additional compliance burden for the compliant majority.

Consequently, the end user will have to report the SRN back to HMRC using a HMRC form AAG4 (SDLT)). This would capture the information needed about users of SDLT schemes, whether or not they are required to complete a form SDLT1, and enable HMRC to better target its compliance activities. Promoters will send the SRN to clients on form AAG6 which gives information about how and when to report it to HMRC on form AAG4.

Option 3B: Users of SDLT avoidance schemes to notify HMRC without receiving a SRN from the promoter

The alternative way of identifying users of SDLT avoidance schemes would be for the scheme users to provide information to HMRC if the arrangements they are using fall within certain descriptions in regulations. Something similar to this happens with Value Added Tax where the obligation to disclose a scheme falls upon users rather than promoters.

Such a system would have the advantage of removing promoters and intermediaries from the requirement to transmit SRNs. However, it would place an additional burden upon property buyers (not just those buying avoidance schemes) to familiarise themselves with the descriptions to check whether or not the arrangements were reportable. Moreover, it would be inherently difficult to describe the arrangements in such a way that users, who are generally not tax professionals, would know with certainty whether or not their arrangements were included. HMRC believes that there would be a significant risk of failure to report through error and lack of awareness, potentially rendering the user liable to penalty action. There would also be a risk that some property buyers would adopt a safety first approach and send in unnecessary reports.

One further problem is that, because of the shortness of the window following the land transaction in which HMRC can open SDLT enquiries, HMRC might have considerable practical difficulties in keeping the descriptions up to date by means of amendments to regulations.

This option would, like Option 2, require some method outside of the SDLT1 for the scheme user to report the information required because a number of avoidance schemes are intended not to result in a return. If a return were to be required, this would impact on a much wider

customer base than HMRC wishes to target, thereby creating an additional compliance burden for the compliant majority.

Overall this option was considered to be less effective and more onerous for users than Option 2.

Impacts

Commercial property

Some measure of the numbers affected in the commercial property sector can be judged by reference to the 46 commercial property schemes disclosed to HMRC in the year ended 30 September 2009. These come from a 'stock' of around 30-40 promoters. The number is expected to be reduced because of the 'grandfathering' rule in the new descriptions which limit disclosures to new and innovative schemes.

Following the changes a promoter will be required to issue a SRN to clients and the end user to report the SRN back to HMRC. Most commercial property schemes have a single user or a very small number of users, so we estimate about 50 users a year to be affected.

Residential property

HMRC believes that most avoidance schemes marketed exclusively to residential buyers originate from a small number of promoters. We think it likely that an additional 10 to 20 promoters, specialist advisory firms, will potentially be required to make disclosures and issue SRNs to clients. In 2008 there were just over 10,000 residential transactions in the UK involving property above £1m. The number of transactions for 2009 is estimated to be about 8,000 which is significantly lower due to the downturn in the housing market. Only a proportion of those transactions will involve an avoidance scheme. Overall this is highly uncertain, and subject to allowance for the effects of grandfathering we estimate that around 250 buyers who are clients of the specialist advisory firms are likely to be affected.

Impact on HMRC

The main impacts on HMRC will arise from:

- amendments to secondary legislation;
- updating guidance on how to comply with the new obligations;
- an increase in notification of SRNs;
- making enquiries into returns.

It is expected that the associated costs will be absorbed with existing budgets and resources.

The main uncertainty concerns the number of SRNs HMRC might receive and the consequences of opening enquiries into those cases. However, HMRC expects that the number of disclosures to be sufficiently small that it will be able to ensure that it does not issue a SRN to a scheme that is not avoidance. HMRC has the option to withdraw a SRN allocated to a disclosed scheme where it decides that information about that scheme is no longer required.

There is likely to be some offsetting reduction in the costs currently incurred in trying to identify users of schemes and target enquiries with insufficient information.

Impact on Promoter and Users

The main impacts we have identified are:

- Many promoters affected by these changes will already be familiar with the commercial property rules and will have systems in place to ensure compliance with those rules. Changes to the descriptions of schemes to be disclosed should result in fewer disclosures of commercial property schemes. Where a scheme is disclosed, the promoter will additionally have to notify the SRN to clients who implement the scheme, using the designated HMRC form. Clients who are intermediaries (e.g. vendors), must additionally

pass the SRN on to the end user (e.g. the buyer) using the designated HMRC form (Form AAG6).

- There may be some promoters, primarily lawyers, who specialise in residential property who are not already familiar with DOTAS. HMRC expects that the limitation to new and innovative schemes affecting residential property of at least £1 million will minimise the number of such promoters affected. In particular, it is neither intended nor expected that ordinary conveyancing solicitors will incur a disclosure obligation because they will not ordinarily be scheme promoters. Conveyancers who provide nothing more to clients than normal conveyancing services, which may include assisting them in complying with their disclosure obligations, are not promoters. Those promoters who are affected will have to introduce new systems and familiarise themselves and their staff more generally with the DOTAS rules.
- Users of disclosed SDLT schemes will be required to complete form AAG4 (SDLT) notifying HMRC of the SRN and certain other information within 30 days of either receiving the SRN, or entering the first land transaction forming part of the arrangements, whichever is the later.
- The measure will not create any new criminal or civil penalties. However the effect of increasing the scope of disclosure to residential property will increase the number of promoters liable to a civil penalty for failing to notify a scheme as disclosed within the time limits. The effect of adopting the SRN system for identifying users of disclosed schemes is twofold. Firstly promoters become liable to the existing penalties for failure to pass on a SRN within the time limits. Secondly, users become liable to the existing penalty for failure to report a SRN and associated information to HMRC within the time limits.

Administrative Burden

The admin 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 familiarisation.

Using the Standard Cost Model to asses the costs of extending DOTAS to residential SDLT schemes and issuing SRN’s for both commercial and residential schemes the admin burden has been estimated to be negligible.

Policy Benefits

We expect this change to lead to a series of benefits to HMRC and promoters including:

- Increased transparency about the SDLT avoidance market;
- More clarity about what schemes are disclosable, including a reduction in the number of commercial property schemes requiring disclosure;
- More effective use of HMRC’s resources through better information about the tax at risk in relation to schemes and users

Exchequer Effects

Based on future projections for the value of transactions in the residential property market above £1 million we estimate this impact will be £6m in year 2012/13. It is expected that there is unlikely to be an effect in the first two years of implementation because of the grandfathering right and the time taken to develop and sell new schemes. The estimated impact is dependent on the expected number of users which would inform the risk associated with residential SDLT avoidance schemes. It also factors in the potential number of schemes that could be closed by HMRC as a result of the increased transparency in the use of avoidance schemes through the use of SRNs. The effect of issuing SRN’s within the commercial market on it’s own however is likely to have a limited impact.

Specific Impact Tests

Competition Assessment

The aim of this change is to provide increased transparency about the marketing and use of SDLT avoidance schemes. Tax avoidance distorts competition by limiting the ability of those who do not engage in avoidance to compete fairly.

Smalls Firms Impact Test

Businesses of any size can buy and sell avoidance products and the objective of providing a level playing field between scheme promoters and fairness to taxpayers precludes exempting small businesses from this measure. However, HMRC does not expect the measure to have a significant effect upon small business either in absolute terms or proportionately.

Legal Aid

This change will not significantly increase legal aid impacts.

Other Impacts

It is not expected that the measure will have a disproportionate effect on rural areas. In 2006-07 nearly 75% of residential property transactions over £1 million took place in London and the South East of England.

The measure is in accordance with sustainable development principles and is compatible with the Human Rights Act. It will not significantly impact on:

Carbon costs

Environmental issues

Heath

Race Equality

Disability Equality

Gender Equality

Implementation Plan

Regulations will come into force on 1 April 2010.

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.