HM Revenue & Customs

Electronic sales suppression

Summary of Responses

June 2020

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1. Introduction

Background to the call for evidence

1.1   Electronic sales suppression (ESS) is where businesses manipulate electronic sales records, either during or after the point of sale, in order to hide or reduce the value of individual transactions. This is undertaken to reduce the recorded turnover of the business, and corresponding tax liabilities, whilst providing what appears to be a credible and compliant audit trail.

1.2   HMRC's operational experience suggests that ESS is a growing area of tax evasion, although precise estimates of the scale of evasion are difficult to calculate given the concealed nature of this activity. With the increasing use of sophisticated electronic point of sale (EPOS) systems, the government is keen to improve its understanding of these issues and tailor its response accordingly.

1.3   At Budget 2018, the government announced a commitment to hold a call for evidence on ESS, which was open from 19 December 2018 to 20 March 2019. This document summarises the responses received.

1.4   The government wishes to thank those who took the time to send in written responses. These contributions have been very valuable in helping to improve the government's understanding of the nature and scale of ESS.

2. Responses

Overview

2.1   The government invited stakeholders to describe how modern technology is being exploited for the purposes of ESS; what the potential scale of tax evasion is in this area; and how the electronic point of sale (EPOS) industry could help prevent this non-compliant activity.

2.2   There were 11 responses in total, from software sellers, EPOS system manufacturers, consultants and professional representative bodies. A list of stakeholders who submitted written responses is included at Annex A.

Summary

2.3   In general, respondents said that they believe ESS to be a fairly prevalent form of tax evasion, with the main themes from the responses being that:

- some sectors appear to be higher risk than others, with respondents stating that ESS is particularly evident in small independent retailers, takeaways, and the hospitality sector;

- some businesses have explicitly asked EPOS providers, and software developers, to include ESS functionality in their till systems;

- there is a range of potential options the government could consider to tackle ESS, including mandatory HMRC-approved software and/or EPOS systems; cloud-based software to prevent local alteration of sales data; and mandatory fiscal tills (which, in this context, were described as systems that provide transaction-level data direct to HMRC). There were, however, concerns over the effectiveness of any purely technological solution, and suggestions that HMRC should address the behaviour that leads to ESS;

- there could be significant costs to businesses if they were required to adopt new software or tills, and the government should be mindful of this when considering options to tackle ESS. Some respondents also made reference to the potential interaction between measures designed to tackle ESS and new digital requirements placed on businesses as part of Making Tax Digital.

Specific questions

2.4   A summary of the responses to the 13 specific questions in the call for evidence is as follows.

Question 1: Are you aware of ESS being used to evade taxes in the UK?

2.5   Those respondents with first-hand involvement in the software development, supplying and re-selling industries consistently reported having come across examples of ESS,

particularly in small businesses. Takeaway food outlets, hospitality and retail were seen as particularly high-risk sectors.

2.6 One respondent highlighted that ESS was a significant problem in other developed countries with economies similar to the UK's. The same respondent noted that ESS is not limited to cash transactions, and that any solution must also consider electronic payments.

Question 2: Are you able to make any estimates of the scale of ESS within your business sector or more generally? For example, are you able to estimate the proportion of businesses you believe may be participating in ESS or the value of sales not properly recorded?

2.7 Respondents were unable to provide robust estimates of the overall scale of ESS in the UK, but did offer some insight into particularly high-risk sectors; namely the takeaway food, retail and hospitality industries.

2.8 Respondents said that one of the main drivers of ESS was to keep the business's turnover below the VAT registration threshold, so that the business did not have to register for, or charge, VAT.

2.9 Some respondents referred to the high tax yield lost through ESS in other countries as an indicator of the likely level of this activity in the UK.

Question 3: Can you suggest any specific measures the government could consider to address ESS?

2.10 There was a range of specific suggestions, covering operational, social, technical, and legislative approaches.

2.11 Operational and social measures included greater training for investigators to identify ESS and requiring EPOS users to be made aware of the implications of misuse.

2.12 Technical solutions included adoption of certain hardware and till systems, accredited software and distributed ledger algorithms. Under distributed ledger algorithms, data is stored on multiple independent sites to prevent local alteration, for example, as with blockchain.

2.13 The suggested legislative solutions included mandatory HMRC-approved software; mandatory provision of fully itemised receipts; use of real-time cloud-based EPOS software to prevent local alteration; and the requirement that all training mode transactions are fully recorded in an encrypted and unalterable key-stroke database. A further suggestion was for government to set industry standards in software design.

2.14 One respondent encouraged HMRC to understand first their existing powers and focus on improving the quality and accuracy of their existing risk assessment, through evidence gathering powers and detection techniques.

2.15 Another respondent said that ESS was only one part of a bigger picture on sales suppression and encouraged the government to deal with all forms of sales suppression.

Question 4: What do you see as the advantages of mandatory software or hardware which conform to technical requirements that reduce the opportunity for ESS?

2.16 The majority of responses identified a number of advantages. These ranged from a levelling of the playing field for business, to HMRC having better oversight of a business's tax affairs (as it would be clear if the equipment is not being used). Respondents viewed the outcome of these measures as an increase in tax revenue.

2.17 One respondent, however, saw no advantages of this approach, whilst other responses warned of the complexity of ESS and the risk to the competitiveness of UK industry if this approach was misapplied.

2.18 One respondent encouraged HMRC to use a software-centric solution and not a hardware-centric solution. They believed that a software solution would allow for ease of evolution with a quick introduction of new features.

Question 5: What do you see as the disadvantages of mandatory software or hardware which conform to technical requirements that reduce the opportunity for ESS?

2.19 Respondents highlighted the initial cost to business, with one calling on the government to subsidise this change.

2.20 One respondent said that all technological measures are potentially liable to be undermined by human abuse of the system. To counter this, it would be necessary to ensure that each stakeholder in the chain was aware of their legal responsibilities. The respondent viewed it as important to take an end-to-end view on the operation and design of technological solutions in order to avoid potential problems.

2.21 Another respondent saw a range of potential difficulties, questioning whether HMRC would have the capacity to oversee the design and sign-off of technical requirements and appropriately manage the process of software updates. The respondent claimed that mandatory HMRC reviews of software could delay the installation of changes to correct bugs or improve security when viruses and other risks are detected. The respondent viewed such mandatory requirements as a barrier to innovation and an obstacle to simple business efficiency.

2.22 A concern was raised about the environmental impact of disposing of existing equipment if it became obsolete as a result of new requirements.

2.23 It was also suggested that making hardware or software mandatory could drive some businesses into the hidden economy.

Question 6: What do you see as the advantages of an encrypted, unalterable and complete transaction log containing details of every transaction and adjustment?

2.24 There was strong support for this approach, although it was noted that there should be sufficient resources to assess the data, and adaptability for different businesses. The main advantage identified was the provision of information and evidence to HMRC which ensures businesses are paying the correct tax, leading to a significant increase in VAT collected and a lower cost of tax inspections. For some, it was clearly the best solution, allowing for a complete record of every transaction at the point of entry, with any subsequent alterations or deletions recorded as such.

2.25 Further benefits were identified in responses to Q8.

Question 7: What do you see as the disadvantages of an encrypted, unalterable and complete transaction log containing details of every transaction and adjustment?

2.26 Several technical and practical difficulties were discussed across the overall response. One main concern was about writing off previously viable hardware. This was seen as feeding into a wider issue of making things more difficult for business, especially small businesses, which were viewed as already tending to struggle with accounting software. Some respondents believed there was the possibility of continued fraudulent action. This could be undertaken through building a fake transaction log from scratch at day's end or through activity prior to the entry of a transaction into the log.

Question 8: Would an unalterable transaction log be useful for wider business activities?

2.27 An unalterable transaction log was seen as a benefit to the analysis of sales and stock control, as well as tackling shoplifting (including by staff). Furthermore, a log would provide a wider standard for the exchange of data in a secure fashion with other organisations across the supply chain. It could also help companies with comparing performance across their organisation.

Question 9: What other technological solutions could help tackle ESS?

2.28 Suggestions for forcing the accurate recording of sales data included fiscal till devices, mandatory customer display units and web-based databases connected directly to HMRC.

2.29 There was disagreement on the use of mandatory receipts. One respondent pointed out the social difficulty in overcoming customers' tendency to ignore receipts. Another called on HMRC to engage with the public on the importance of accepting receipts in helping to reduce tax evasion.

Question 10: What challenges should the government take into account in changing its approach to ESS?

2.30 The cost and burden to business, a reluctance from suppliers and developers to embrace change, and the continued scope for fraudulent activity even once HMRC have taken action were all identified as key challenges.

2.31 Some respondents were critical of HMRC. One felt the paper reflected a poor understanding of the issue and noted the likelihood of a low response rate and an inability for respondents to quantify the scale of ESS accurately. A second respondent questioned the government's ability to develop approaches that combine understanding of software and technology with an appreciation of how they will then be used. This was supported by another respondent's comments on challenges that could prevent a successful HMRC intervention, from finalising legal changes to implementing and policing the response effectively.

2.32 Another respondent raised the question of how any further software burdens on business would be received, when considered alongside the transition to Making Tax Digital.

Question 11: Is there a role for the public in tackling ESS? If so, what could this role be?

2.33 Responses were clear that public awareness would help to tackle ESS and largely focused on the provision (mandatory or through customer education) of a fully-itemised receipt from the EPOS software. This step forces the transaction through the software, recording it electronically, proving it took place and therefore preventing evasion. However, the usefulness of receipts was queried in the response to Q9.

2.34 One respondent raised the issue of ensuring that customers, once aware of ESS, knew how to contact HMRC with a guarantee of confidentiality.

2.35 Another respondent suggested a public recognition system, such as awards for honest retailers.

Question 12: How could HMRC and the EPOS industry work together to support businesses and reduce opportunities for tax evasion?

2.36 Respondents focused on three key areas here: legislation; co-operation; and key HMRC activities to improve this working relationship.

2.37 In terms of cooperation, it was suggested that HMRC could invite EPOS companies to attend workshops to increase awareness of the issue and advise them of their legal responsibilities. This would be supported by specific HMRC actions, such as developing technologies and infrastructures that support the development of a healthy community of sellers and developers, promoting good practice and publicising instances of ESS fraud and its consequences.

2.38 One respondent outlined reasons why the technological solution to ESS should not be developed by the EPOS industry. The reasons included the EPOS industry not having sufficient expertise in all areas to combat tax evasion; and the EPOS industry being highly fragmented and specialised in submarkets and specific business sectors.

Question 13: Please feel free to submit, alongside your return, any additional information that you feel would be useful to HMRC.

2.39 Respondents were largely in agreement about the significance and potential scale of this problem.

2.40 Respondents were generally keen to offer further assistance to HMRC in tackling ESS, whether through teach-ins, further conversation or working partnerships.

3. Next steps

3.1   The government is grateful to all those who contributed their views to the call for evidence.

3.2   The government is committed to ensuring that everyone pays the correct amount of tax. ESS results in a loss of money for public services and has the potential to give non-compliant businesses an unfair market advantage over their competitors.

3.3   The responses received have enhanced the government's understanding of potential policy options to tackle ESS. The government has assessed the responses to the call for evidence along with additional evidence obtained on ESS. This includes external research, Organisation for Economic Co-operation and Development reports, discussions with stakeholders and evidence uncovered from ongoing investigations.

3.4   The government is using this evidence base to explore the issue further and develop more effective policy options for tackling ESS, in conjunction with other measures to tackle non-compliant activity.

Annex A: List of stakeholders consulted

We are grateful to all those who took time to send written responses to the consultation, each of which has been carefully considered. Those who submitted written responses are as follows.

Casio Electronics Co. Ltd

CGI IT UK Ltd and Allagma Technologies

Chartered Institute of Taxation

Data Tech International

Go Epos Ltd

ICRTouch

Institute of Chartered Accountants in England and Wales

Real Business Applications Ltd

Sentinel Epos and Solutions

UK Computing Research Committee

and one individual.