

Understanding the drivers and prevalence of Electronic Sales Suppression

HMRC Report 601

May 2019



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1 Glossary of terms

Term	Definition
EPOS System	Electronic Point of Sale System - Computerised system for recording sales, taking payments, monitoring stock and generating reports.
ESS	Electronic Sales Suppression - Techniques or tools used to alter or delete sale information within an Electronic Cash Register (ECR) or Point of Sale (POS) system for the purpose of reducing the value of sales in order to reduce a business's apparent tax liabilities. This was a term that was interpreted in a variety of ways by businesses and EPOS industry stakeholders we spoke to.
Fiscalisation	Laws designed to avoid retailer fraud through providing electronic sales data directly to the relevant tax authority.
Phantomware	Software installed into existing EPOS systems to allow alterations of sales data or stock data.
Sales Journal	An accounting record within an EPOS system that records sales data within that EPOS system.
Sales Zapper	External devices connected to an EPOS system, such as a USB flash drive, that runs a software program allowing a business to alter sales data.
Z-Report	An end of day summary of sales and tax information, showing details of payment types and sale types. This will reset at the end of each day.

2 Executive Summary

Background and introduction

One of HMRC's strategic objectives is to maximise revenues due and bear down on tax evasion¹. Tax evasion is an illegal activity, where registered individuals or businesses deliberately omit, conceal or misrepresent information to reduce their tax liabilities².

Suppression of sales to evade tax has long been a risk to tax revenues. The use of more sophisticated Electronic Point of Sale (EPOS) systems by businesses means there are now more ways of suppressing sales through the manipulation of data within those systems. By artificially reducing the number or value of transactions/sales the business has undertaken, the business can declare a lower turnover and thus reduce the tax owed (primarily VAT) to HMRC. This can be achieved through Electronic Sales Suppression (ESS) tools or techniques, used to manipulate sales data held within EPOS systems.

All businesses are required to keep records of their transactions, including any records generated through EPOS systems and the term Electronic Sales Suppression is used to describe any tool or technique that can facilitate tax evasion by manipulating these records.

The research was commissioned by HMRC to explore:

- the attitudes towards the use, promotion and publication of ESS by EPOS providers;
- the motivations for and attitudes toward using ESS, and how these compare to the motivations for and attitudes towards general evasion;
- the means of suppressing sales, using Point of Sale (POS) systems available to small and medium businesses in the UK;
- the motivations for the use of ESS as a preferred means of suppressing sales; and
- the availability and methods of access to ESS by UK businesses.

This report is based on the evidence from:

- 303 quantitative telephone interviews with businesses that were independently owned and used an EPOS;
- 16 in-depth follow-up interviews with businesses that were independently owned and used an EPOS;
- 15 in-depth interviews with EPOS industry stakeholders; and
- 19 in-depth interviews with previously non-compliant businesses (of which 4 had specifically been investigated in relation to suppressing sales data through an EPOS).³

¹ <https://www.gov.uk/government/publications/hmrc-strategy/our-strategy>

² https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/715742/HMRC-measuring-tax-gaps-2018.pdf

³ HMRC provided a sample of businesses that had been investigated because they were suspected of sales suppression. Four of these businesses reported that they had been investigated for incorrect recording through an Electronic Cash Register (ECR) or EPOS system or that sales had been under declared because of manipulation of transactions through an ECR or EPOS system.

Attitudes towards the use, promotion and publication of ESS

The term *Electronic Sales Suppression* was not widely recognised among businesses and EPOS industry stakeholders. There was no catch-all phrase consistently used by businesses or EPOS industry stakeholders to describe ESS tools and techniques, instead they were often discussed in isolation and when grouped together they were typically referred to in basic terms like *'methods of deleting sales data'* and *'ways of hiding sales data'*.

EPOS industry stakeholders had a relatively good working knowledge of the different types of ESS which could be undertaken, including:

- Abusing built-in features contained within the system (such as training mode or using the void sales function);
- Turning off the journal to ensure sales and other activities (such as refunds) are not recorded; and
- Techniques to ensure sales data can be deleted, fabricated or manipulated at the point of sale.

The broad view among EPOS industry stakeholders was that while abusing built-in functions and turning off journals were relatively easy to do, as a means to evade tax they would be ineffective because of safeguards in place within the EPOS software. Several stakeholders said that if a user tried to access the journal to delete sales data or attempted to tamper with the system through script modifications or software add-ons it would cause the EPOS system to crash.

In terms of manipulating data at the point of sale, the view of EPOS industry stakeholders was that businesses would need to use EPOS systems specifically designed to facilitate ESS or enlist the services of rogue actors in the EPOS industry to delete and fabricate sales data on their behalf.

Businesses themselves were typically only aware of built-in EPOS features that can be used to edit or delete sales data for legitimate purposes. For example, voiding sales, refunding sales and altering stock figures. This was consistent across all business audiences, including those that had been investigated by HMRC for using ESS tools and techniques to evade tax. Most businesses expressed confusion about how the safeguards in their EPOS system could be bypassed to enable them to misuse built-in functions to evade tax (echoing the views of stakeholders). They felt that technical knowledge and skills beyond their comprehension would be required to achieve this.

There was a consensus that ESS is unacceptable behaviour, and it was recognised as a method of tax evasion and therefore known to be illegal, but primarily viewed to be unacceptable because it was considered to be immoral and unfair.

Means of suppressing sales, using EPOS systems available to small and medium businesses in the UK

ESS techniques can therefore be broadly categorised into two categories:

- Abuse of existing built-in features (as described above, awareness of the capacity to do this is relatively high, but they are perceived to be very unsophisticated with many businesses and EPOS stakeholders questioning the effectiveness of such techniques); and
- Manipulation of the sales data through bespoke EPOS systems and bespoke services. Awareness of such services and products was very low among businesses participating in the research.

Availability and methods of access to ESS by UK businesses

There is tangible evidence from the research that ESS is happening, but EPOS industry stakeholders are unable to say exactly on what scale.

Nearly all ESS stakeholders had direct experiences of being asked to provide more sophisticated techniques and services to enable ESS. The frequency to which stakeholders said they were approached by businesses about ESS varied, with some saying it happened ‘*every now and then*’ and others saying that it happened ‘*all the time*’. These encounters with businesses typically took place in person, for example at trade events or when talking to sales representatives. Stakeholders explained that businesses that enquired about ESS usually did so in general terms, asking if there are ways to delete sales data from the system rather than asking for specific tools and techniques outright.

In terms of supply, some EPOS industry stakeholders were aware of EPOS systems available on the market that facilitate ESS. EPOS industry stakeholders suggested that rogue actors in the EPOS industry were responsible for the supply of these EPOS systems and the supply of ESS as a service. They believed that only people within the industry would have the skillset necessary to develop and deliver such tools and techniques. It was said that smaller actors in the EPOS industry were the most likely source of ESS.

The previously non-compliant businesses that had been investigated by HMRC for using ESS tools and techniques to evade tax had either been alleged to have misused built-in functions or alleged to have not recorded sales in their EPOS system. In combination with the anecdotal accounts of other businesses, this suggests that more straightforward ESS tools and techniques (i.e. those that do not involve manipulating sales data after the point of collection) are more prevalent.

Motivations for and attitudes toward using ESS

EPOS industry stakeholders suspected that businesses primarily undertake ESS to reduce their tax liability in terms of VAT. Based on their anecdotal experiences of being asked to provide ESS products and services they felt that small independent businesses were the most likely to undertake ESS. These were typically thought to be takeaways and convenience stores, sometimes franchises.

Of the previously non-compliant businesses participating in the research investigated directly for ESS, all explained they had been conducting it unintentionally and were previously not aware of ESS or that their actions could be construed as illegal. They were all using ‘unsophisticated’ methods of ESS and all had attempted to rectify their mistakes since the investigation.

What does this mean for HMRC?

Based on this evidence from the research HMRC could:

- Ensure communications launched across the industry (whether with businesses or wider stakeholders) do not reference the term *Electronic Sales Suppression* without an explanation / definition. Simpler terms such as ‘*hiding sales data*’ will resonate more across the sector.
- Segment ESS evasion cases into those which simply abuse/misuse in-built functions (such as void/training mode) and those which use systems that have been designed to facilitate tax evasion (more sophisticated techniques which are likely to be supplied and serviced by rogue providers within the sector).

- Increase awareness among smaller businesses of how they could be inadvertently facilitating evasion through accidental misuse of their EPOS systems. Such a campaign could use case studies of real errors in specific sectors (e.g. retail/catering) and the consequences of the mistake.

3 Introduction and Methodology

Background and objectives

One of HMRC's strategic objectives is to maximise revenues due and bear down on tax evasion⁴. Tax evasion is an illegal activity, where registered individuals or businesses deliberately omit, conceal or misrepresent information to reduce their tax liabilities⁵.

Suppression of sales to evade tax has long been a risk to tax revenues. The use of more sophisticated Electronic Point of Sale (EPOS) systems by businesses means there are now more ways of suppressing sales through the manipulation of data within those systems. By artificially reducing the number or value of sales the business has undertaken, the business can declare a lower turnover and thus reduce the tax owed (primarily VAT) to HMRC.

This can be achieved through Electronic Sales Suppression (ESS), the term used to describe the tools or techniques that are used to manipulate sales data held within EPOS systems in order to facilitate this type of tax evasion.

The research was commissioned by HMRC to explore:

- the attitudes towards the use, promotion and publication of ESS by EPOS providers;
- the motivations for and attitudes toward using ESS, and how these compare to the motivations for and attitudes towards general evasion;
- the means of suppressing sales, using Point of Sale (POS) systems available to small and medium businesses in the UK;
- the motivations for the use of ESS as a preferred means of suppressing sales; and
- the availability and methods of access to ESS by UK businesses.

Methodology

A mixed method approach was employed for this research, consisting of a quantitative survey of businesses and in-depth qualitative interviews with businesses and EPOS stakeholders.

Quantitative survey

A quantitative survey was conducted with 303 privately owned businesses that operated from a 'bricks and mortar' premises and used an EPOS system. The survey was carried out through an omnibus. Table 3.1 presents the profile of businesses that participated in the quantitative survey in terms of size and sector.

⁴ <https://www.gov.uk/government/publications/hmrc-strategy/our-strategy>

⁵ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/715742/HMRC-measuring-tax-gaps-2018.pdf

Table 3.1 The profile of businesses that participated in the quantitative survey

Size	Number of interviews
Sole trader	30
Micro (1-9 employees)	74
Small (10-49 employees)	104
Medium (50-249 employees)	50
Large (250+ employees)	45
Sector	Number of interviews
Retail	130
Services (inc. hospitality)	115
Manufacturing/construction	58

Qualitative interviews

In total, 50 in-depth qualitative interviews were conducted. This consisted of 35 interviews with businesses and 15 interviews with EPOS industry stakeholders.

A qualitative approach was adopted because it is an effective way of capturing the experiences and views of businesses and EPOS industry stakeholders in rich detail. Qualitative interviews allow for nuances, complexities, potential contradictions and subtle signals to be captured and unpicked.

Please note that the findings of in-depth qualitative interviews should not be considered representative of the views or behaviours of the UK population of businesses and EPOS industry stakeholders. Given the sensitive nature of the research topic there is a risk that participating businesses and stakeholders have not provided candid accounts.

Of the 35 in-depth qualitative interviews conducted with businesses, 16 interviews were conducted with businesses that took part in the quantitative survey and 19 were conducted with previously non-compliant businesses. Previously non-compliant businesses were recruited from a sample of businesses that had been investigated by HMRC for suppressing their sales revenue. Of these 19 in-depth interviews, 14 were conducted with business owners and five were conducted with managers. All were involved in the procurement, maintenance and management of their EPOS system. Four of the previously non-compliant businesses were found to have been non-compliant in terms of ESS.⁶

The 15 EPOS industry stakeholders that took part in in-depth qualitative interviews performed a variety of different roles within the EPOS industry, with many performing more than one role. For example, some EPOS industry stakeholders both developed and retailed EPOS systems, while others developed EPOS systems and provided consultancy services. The different roles and the

⁶ I.e. HMRC had investigated these businesses because they suspected sales had been under declared because of incorrect recording through an Electronic Cash Register (ECR) or EPOS system or that sales had been under declared because of manipulation of transactions through an Electronic Cash Register (ECR) or EPOS system.

number of interviews completed with stakeholders that performed each role are presented in Table 3.2.

Table 3.2 The profile of EPOS industry stakeholders

EPOS industry roles	Number of interviews
Retailers of EPOS systems	13
Providers of support services	9
Development of EPOS systems	7
EPOS system consultants	4
TOTAL	15

4 Awareness of ESS

Awareness of ESS terminology

Awareness of the term *Electronic Sales Suppression (ESS)* was very low amongst all businesses and EPOS industry stakeholders. Even businesses/stakeholders that fully understood the concept and the types of tools and techniques that can be used to edit or delete sales data were unfamiliar with the term itself.

There was no catch-all phrase consistently used by businesses or EPOS industry stakeholders to describe ESS tools and techniques, instead they were often discussed in isolation and when grouped together they were typically referred to in basic terms like *'methods of deleting sales data'* and *'ways of hiding sales data'*.

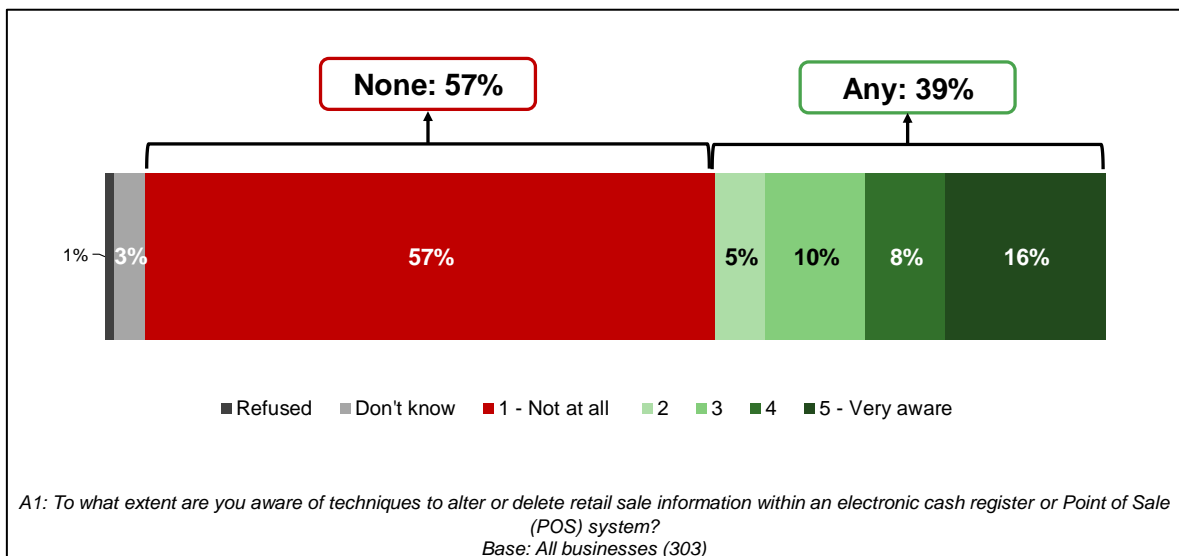
Further, awareness of associated terms like *Sales Zappers* and *Phantomware* was very low. A couple of businesses and EPOS industry stakeholders had heard of these terms before, primarily through word of mouth or when reading about the topic of ESS but did not have a good understanding of what they entailed.

Awareness of ESS tools and techniques

Businesses

More specifically, businesses were asked to what extent they were aware of techniques that can be used to alter or delete retail sale information within a cash register or Point of Sale system. As presented in Figure 4.1, over half (57%) of all businesses had no awareness of such techniques. Two-fifths (39%) had some awareness, with one-sixth (16%) being very aware.

Figure 4.1 Businesses awareness of techniques that can be used to alter or delete retail sale information



As well as being asked about whether they were aware of techniques to alter or delete sales data, businesses were also asked whether they were aware of other businesses that used these techniques. Only eight businesses said that they were, which equates to 3% of all businesses that participated in the survey. This finding should be treated with some caution however as it is unknown whether these techniques were being used to evade tax or for legitimate purposes.

Indeed, the follow-up interviews with businesses highlighted that they were typically only aware of built-in EPOS features that can be used to edit or delete sales data for legitimate purposes. For example, voiding sales, refunding sales and altering stock figures. This was consistent across all business audiences, including those that had been investigated by HMRC for using ESS tools and techniques to evade tax. These features were widely considered to be fundamental to the functionality of EPOS systems, enabling businesses to rectify mistakes and to provide a bespoke service (e.g. providing customers with complementary goods).

"I know I have the authorisation to alter sales and figures and stock within the EPOS system, it's part of the fundamental operation of the system."

General business, Retail, Micro

Although most businesses were familiar with built-in features that could be used to edit or delete sales data, many did not understand how these features could be misused to evade tax. They explained there are safeguards in place in their EPOS system - and in some cases their workplace - that would prohibit the misuse of built-in functions for this purpose. For example, some explained that sequentially numbered transactions would make it impossible for them to delete sales data without it being obvious, others explained that the use of the void function is logged in the system and so a record of attempts to suppress sales data would exist and a few mentioned that management conduct regular stock checks and checks of sales data.

"I could quite easily go into that system and refund everything we've sold this lunch time, but it would record it, and the stock take would be off."

Previously non-compliant business, Hospitality, Micro

Most businesses expressed confusion about how the safeguards in their EPOS system could be bypassed to enable them to misuse built-in functions to evade tax. They felt that technical knowledge and skills beyond their comprehension would be required to achieve this. Some said that an understanding of computer code would be needed, and therefore thought that ESS would only be possible if you were a 'computer whizz'.

"The chances of someone using the EPOS system to defraud the tax office is beyond comprehension...It's all very well thinking everyone's up to speed on all this stuff but there are lots of people that can't even remember their own password."

General business, Retail, Micro

Although many businesses did not understand how built-in features could be misused to evade tax, a few did, including some of the previously non-compliant businesses. When discussing the possibility of this approach to ESS, these businesses were less concerned about sales data being analysed for discrepancies and patterns and so were more understanding of how this could be utilised to evade tax.

“There’s potential for voiding items off the till, refunding items. We’re quite familiar with what can happen to alter the information that comes out of these tills.”

Previously non-compliant business, Hospitality, Small

In addition to the misuse of built-in functions, a few businesses were aware of other ways of suppressing sales data. The most commonly mentioned technique was simply not recording transactions in an EPOS system, and therefore avoiding the creation of sales data in the first place. One business described this as *‘trading with the till open’*.

A couple of businesses discussed how sales could be suppressed by misrepresenting transactions at the point of sale. For example, it was explained how VAT-rated goods can be sold but recorded as zero-rated goods in an EPOS system. Only one business was aware of techniques that could be employed to delete sales data after the point of collection. This business mentioned that they had heard of sales zappers and the possibility of modifying the script of EPOS systems to facilitate ESS.

“You can set something up to be the same price as something else, but a non-VAT item. For example, say I was selling 20 eggs, but I was actually selling a double scotch. Very simple things like that.”

Previously non-compliant business, Hospitality, Micro

EPOS Industry Stakeholders

In contrast to businesses, most EPOS industry stakeholders were aware of a variety of tools and techniques that can be used to suppress sales data; ranging from the straightforward misuse of built-in EPOS features to more sophisticated methods of manipulating sales data. As noted above, few if any businesses were aware of more sophisticated means of manipulating data. There were however a few EPOS industry stakeholders that were unaware of such tools and techniques, and so were surprised by the concept of ESS.

“I’ve been in the business 35 years and never knew there were tools to do this kind of thing.”

Stakeholder, Consultant

Many EPOS industry stakeholders explained how built-in features can be misused by businesses. For instance, using the void sales function and training mode. However, it was generally felt that this would be an ineffective method of evasion because such activity would be logged within the journal of an EPOS system and/or in the cloud. There would therefore be a record of attempts to suppress sales data.

“If the order is rung up on the till you can’t get rid of it...because the system has two levels. If you ring it as refund that is what it will show; if you ring it as a void then that is what it will show; there is no way round it.”

Stakeholder, Developer/Retailer/Consultant

Some EPOS industry stakeholders explained how businesses can undertake ESS by turning off the journal of their EPOS system. This technique means that sales, and any other activity on the EPOS system (e.g. refunds), are not recorded.

“Although the electronic journal can be hidden it’s there and it’s sat in Windows software so if you know where to look for it there’s nothing stopping you from accessing it. It’s quite easy to go in and manipulate the data if you know where to look or are so inclined”

Stakeholder, Distributor/Reseller

At the more sophisticated end of the spectrum, many EPOS industry stakeholders were aware of ways in which sales data can be deleted and fabricated. These techniques differ from others mentioned because they involve manipulating sales data after the point of sale, rather than during it. For example, one stakeholder spoke of an EPOS system where transactions can be deleted without trace because the sequential numbering is automatically updated, while another stakeholder mentioned an EPOS system that can build a fake sales journal to present the income a business wants to report.

“Some EPOS software has got some really atrocious features in it... you can basically tell it to reduce your sales by 20%, which it will do, others will go as far as rebuilding the whole journals, so you get a complete set of journals that show what you’ve done today but balance up against the figure you want.”

Stakeholder, Developer/Consultant

It was widely felt that the deletion and fabrication of sales data would not be possible in generic EPOS systems. This is because of safeguards in place within the software (a finding which is further evidenced by the views of businesses themselves). Several stakeholders said that if a user tried to access the journal to delete sales data or attempted to tamper with the system through script modifications or software add-ons it would cause the EPOS system to crash. Therefore, it was widely thought that businesses would need to use EPOS systems specifically designed to facilitate ESS or enlist the services of rogue actors in the EPOS industry to delete and fabricate sales data on their behalf.

“I would be absolutely shocked if [ESS tools/techniques] were created by anyone other than those that created the till system.”

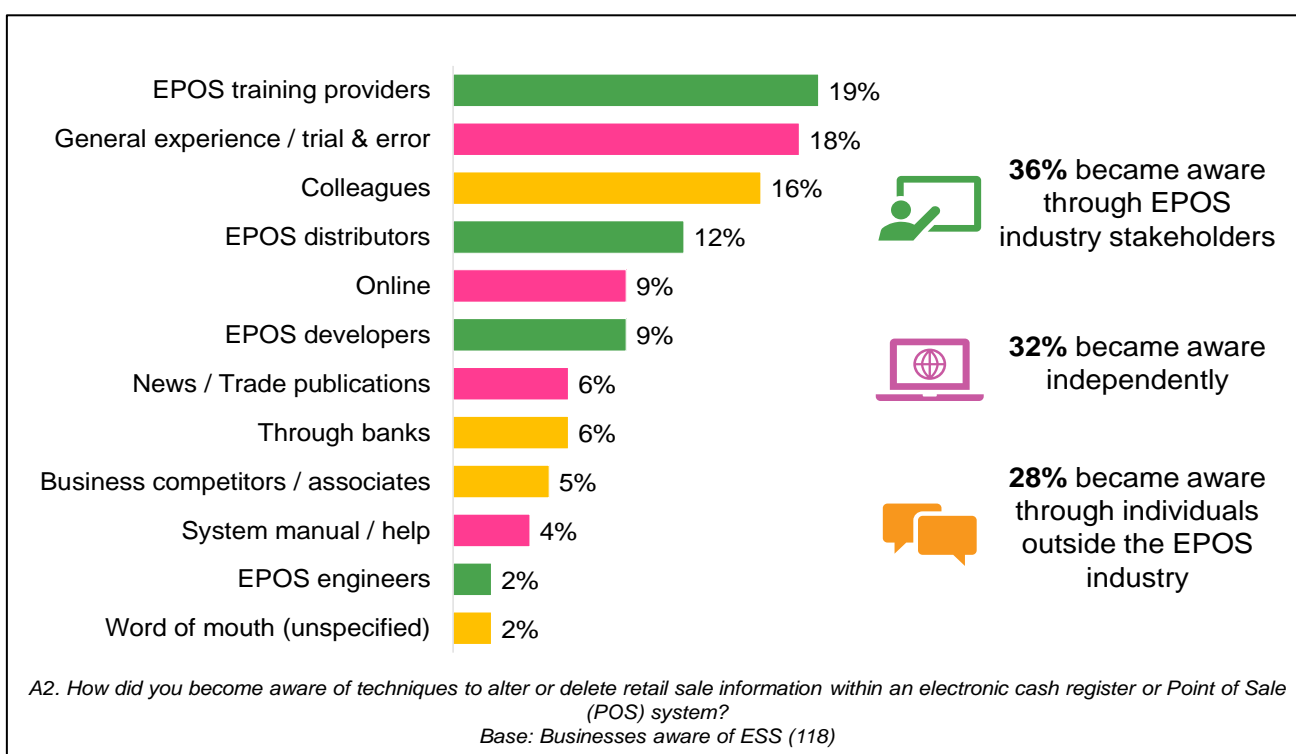
Stakeholder, Developer/Consultant

5 How do businesses become aware of ESS?

Businesses that were aware of techniques that can be used to alter or delete retail sale information within an EPOS system were asked how they became aware of them. As presented in Figure 5.1, the ways in which they were first made aware can be grouped into three categories: EPOS industry stakeholders, independent experience and research, and individuals outside of the EPOS industry.

The most common source of awareness were EPOS industry stakeholders, with more than a third (36%) of businesses identifying this as their source. Of the EPOS industry stakeholders mentioned, training providers were the most frequently mentioned (19%). The second most common source of awareness was independent experience or research (32%), with a fifth (18%) citing general experience of using EPOS systems. The least common source of awareness was individuals outside of the EPOS industry (28%). These individuals included colleagues (16%), banks (6%) and business competitors and associates (5%).

Figure 5.1 How businesses became aware of techniques that can be used to alter or delete retail sale information



During in-depth interviews with businesses and EPOS industry stakeholders, discussions about how businesses become aware of ESS techniques broadly aligned with this quantitative data.

Many discussed how businesses became aware of built-in EPOS features that can be used to edit or delete sales data (e.g. voiding or refunding sales) when trained on how to use EPOS systems by colleagues or an EPOS provider, and through general experience of using EPOS systems. Both businesses and stakeholders felt that the misuse of these features was a logical step for those inclined to evade tax.

“In your training on how to use EPOS systems, as a manager especially, you're trained how to take a refund and how to void and remove items from bills that are unnecessarily on there.”

General business, Hospitality, Micro

“With regards to stuff such as voiding and refunds, it's just knowledge from experience. I've been doing this job for 30 years.”

Previously non-compliant business, Hospitality, Small

In terms of more sophisticated ESS techniques (i.e. defined by industry stakeholders as ways of manipulating sales data after the point of collection), EPOS industry stakeholders suggested that awareness was typically spread by word of mouth. Many felt that knowledge of EPOS systems and stakeholders that can facilitate ESS was shared between businesses operating in the same areas or sectors, with networks of convenience stores and takeaways often cited as examples. Stakeholders felt that knowledge was shared in this way because providers that are involved in facilitating ESS will not actively promote this service or feature of their product.

The idea that knowledge of sophisticated ESS techniques is spread by word of mouth was supported by one of the previously non-compliant businesses that was aware of techniques that could be employed to delete sales data after the point of collection. This business mentioned that they had heard of sales zappers and the ability to modify the script of EPOS systems to facilitate ESS from other businesses operating in the same industry.

6 How prevalent is the use of ESS?

Most businesses did not think that ESS techniques were widely used by their peers. As covered in Chapter 4, this was because:

- Many businesses mentioned that safeguards were in place in their EPOS system - and in some cases their workplace - that would prohibit the misuse of built-in functions for this purpose; and
- Most said that they did not possess the technical knowledge and skills necessary to bypass these safeguards or engage in anything more sophisticated.

Although most businesses did not think the use of ESS techniques was commonplace, there were some who provided anecdotes of other businesses undertaking ESS. These anecdotes typically pertained to businesses misusing built-in functions. However, there were also a few accounts of businesses suppressing sales data by not recording transactions in their EPOS system and misrepresenting transactions at the point of sale.

“That is fairly common practice...running something you've sold that's a non-VAT item and not paying the tax on things.”

Previously non-compliant business, Hospitality, Micro

The previously non-compliant businesses that had been investigated by HMRC for using ESS tools and techniques to evade tax had either been alleged to have misused built-in functions or alleged to have not recorded sales in their EPOS system. In combination with the anecdotal accounts of other businesses, this suggests that more straightforward ESS tools and techniques (i.e. those that do not involve manipulating sales data after the point of collection) are more prevalent.

Even though EPOS industry stakeholders generally had a good understanding of different types of ESS tools and techniques that can be used to evade tax, very few were able to comment upon the prevalence of their use. This was because they had no involvement with businesses that undertake ESS or stakeholders that facilitate ESS. However, many EPOS stakeholders had anecdotal evidence of the demand for and the supply of ESS tools and techniques.

In terms of demand, many EPOS industry stakeholders had first-hand accounts of businesses approaching them about ESS tools and techniques. The frequency to which stakeholders said they were approached by businesses about ESS varied, with some saying it happened ‘*every now and then*’ and others saying that it happened ‘*all the time*’. These encounters with businesses typically took place in person, for example at trade events or when talking to sales representatives. Stakeholders explained that businesses that enquired about ESS usually did so in general terms, asking if there are ways to delete sales data from the system rather than asking for specific tools and techniques.

“They won't necessarily say I want to avoid tax but they will ask ‘how do I delete sales?’. It's the way they express it ... sometimes it's a very direct question; ‘can I delete my sales?’. Sometimes it's ‘is there a training mode?’ with a smile. Or it is a more generic question like ‘how can I make sure to not account for all cash transactions?’. I think that's how they bring up the question.”

Stakeholder, Consultant

In terms of supply, some EPOS industry stakeholders were aware of EPOS systems available on the market that facilitated ESS. For example, one stakeholder discussed systems where hidden buttons allow for sales to be deleted from the journal, while another stakeholder mentioned systems that would reduce sales by a predetermined rate (e.g. 20%). Furthermore, a few stakeholders voiced suspicion of ESS being provided as a service. For instance, firms deleting sales data from the back office on the behalf of businesses.

EPOS industry stakeholders suggested that rogue actors in the EPOS industry were responsible for the supply of EPOS systems that facilitate ESS and the supply of ESS as a service. This is because they believed that only people within the industry would have the skillset necessary to develop and deliver such tools and techniques. It was said that smaller actors in the EPOS industry were the most likely source of ESS and were thought to be motivated by the financial gain of supplying such products and services.

“There is a lot of money in it. I think if you wanted to create a dodgy piece of software that enable someone to churn out reports that are 50% of what you’ve actually taken then I see why you would take a 5-10% slice. I’m not aware of it, but I can certainly see it happening.”

Stakeholder, Developer/Consultant

7 Who are the users of ESS?

EPOS Industry Stakeholder Views on users of ESS

EPOS industry stakeholders were asked which types of businesses they expected to be using ESS tools and techniques, and what the reasons for their use was.

As discussed earlier, most EPOS stakeholders thought that small independent businesses were the most likely to undertake ESS. These were typically thought to be takeaways and convenience stores, sometimes franchises.

"It's smaller, more casually run businesses who are 'cash in hand'. Particularly owners at the point of sale where the lure of doing that has always been there. The bigger end don't do it, I'm sure of it, but little guys, you're a bit under the radar...they might not know exactly what, and that's why they ask us, they know that there's got to be ways of doing it."

Stakeholder, Retailer

The opinion that smaller, independent businesses are those that are carrying out ESS was reinforced by comments from EPOS stakeholders who stated that their larger customers often want their EPOS system to be secure so as to protect themselves from rogue staff or from damage to their reputation.

Businesses that were thought to be committing ESS were seen to be primarily motivated by the aim of reducing their tax exposure, especially VAT. It was specifically mentioned by two stakeholders that small businesses would carry out ESS in order to stay under the VAT threshold, while it was also mentioned by some stakeholders that it may be used to reduce the corporation tax they are paying.

"So there are two reasons for doing it; one is that they don't have to pay as much corporation tax, but I would say the biggest driver of it is so that they don't have to pay VAT."

Stakeholder, Developer/Consultant

There were also perceptions that some small businesses were driven to reduce the tax so as to remain competitive or even to stay afloat.

"We get approached reasonably often. It's never by bigger companies, it's always by a guy who's bought a bar and now needs a till... Little pubs struggle to make ends meet and this might be one of the ways to keep themselves above water."

Stakeholder, Developer/Retailer

Previously non-compliant businesses

As outlined in the introduction of this report, 19 previously non-compliant businesses participated in the research, of which four were non-compliant in relation to ESS⁷.

⁷ I.e. HMRC investigated these businesses because they suspected sales had been under declared because of incorrect recording through an Electronic Cash Register (ECR) or EPOS system or that sales had been under declared because of manipulation of transactions through an Electronic Cash Register (ECR) or EPOS system

Previously non-compliant businesses that did not use ESS

Of the 15 previously non-compliant businesses not directly investigated in relation to ESS techniques, they had most commonly been investigated by HMRC for under reporting revenue to reduce their exposure to VAT. These businesses attributed this to human error and bad practice – rather than an active decision to try and reduce the tax liability.

“It was a VAT investigation. They checked my books for a period of 3 years and presented me with a bill for unpaid VAT, which I paid up front.”

Previously non-compliant business, Retail, Micro

Previously non-compliant businesses that did use ESS

The four businesses that were investigated for ESS explained they were conducting it unintentionally and were previously not aware of ESS or that their actions could be construed as illegal. Using the description defined earlier in this report, they were all using ‘unsophisticated’ methods of ESS and all four reported that they had attempted to rectify their mistakes since the investigation.

Of interest is the fact the four previously non-compliant businesses generally fit the ‘profile’ of the types of businesses EPOS industry stakeholders expect are using ESS, i.e. they are:

- Hospitality / retail sector businesses (catering/pubs/convenience stores); and
- Small independent establishments (under 10 employees or fewer);

Case studies for each of the previously non-compliant businesses that did use ESS are provided below.

Case Study 1

Business Background

A small pub with 1-9 employees that has been established for around 60 years. The business considers the tax system to be fair for SMEs and has always seen it as a moral duty to pay tax. The business would like to pay less tax, but understands all businesses must comply with their obligations.

The respondent was unaware of any types of ESS tools or techniques or the sanctions in place for their use.

The respondent felt that HMRC were knowledgeable about the ESS tools and techniques.

ESS Method

The respondent was using the 'no sale' button too frequently in order to open the drawer to retrieve keys and get change to give to customers for the pool table and other games machines. The respondent thought that was how to open the cash drawer when not recording a sale and believes that the rest of the industry understand this to be common practice. They were unaware that their actions could be interpreted as attempted tax evasion.

"To be honest with you, I didn't know there was any problem with using the no-sale button, but we've sort of rectified that now...It was just bad practice by myself."

The business now keeps change in a separate box and doesn't put keys in the cash drawer to cut down on their use of the 'no sale' button and ensure they are using it in the correct situations.

"It's certainly clear to me now...they explain to you that you're only allowed to use the no sale button a certain amount of times."

Case Study 2

Business Background

A small, family-run convenience store, set up in the last few years as part of a larger franchise. The respondent feels the business would benefit from more help with their taxes, particularly more help to file them on time and guidance to allow them to do it themselves online as the business currently has to use an accountant.

The respondent was unaware of what ESS was and did not know that his business was committing any wrongdoing.

The respondent did not think that HMRC were knowledgeable about ESS. This is because he felt that HMRC do not carry out regular visits, and when they do they give the business warning. The respondent therefore felt that HMRC were probably “missing things”.

ESS Method

The business was not scanning every sale through the till when the customer had the correct amount of money, but put the money straight into the drawer using the ‘hot key’. The business was doing this to save time if there was a long queue and weren’t aware that this could be interpreted as tax evasion. They also were not keeping detailed stock records as it is only their family who work for the shop and therefore felt there wasn’t a need to.

“If there's a big queue we try and serve as quickly as possible without scanning everything and just put the cash through if they have the right amount so it was not showing up when HMRC were doing their checks.”

Now the business scans every product through the till to avoid this.

“I've told mum to scan everything now and you've got your paper proof. I know it's easy to take that £1 or if it's a scratch card £10 and not press the hot key.”

Case Study 3

Business Background

A small pub in which the two owners are responsible for the EPOS system. It has been operating for 35 years and is run by a brother and sister. They have actively looked for legal ways to reduce the tax they pay by changing the status of the business from a partnership to a limited company.

The respondent did not understand what ESS was and was therefore unaware that there was any wrongdoing in their actions.

The respondent felt that HMRC were probably knowledgeable about ESS due to their experience of interacting with HMRC staff on the topic of ESS in the past.

ESS Method

Sales had been under-declared by the business through using the 'void sale' button too frequently. Staff would use the button for a variety of different reasons: when customers complained and therefore the sale was cancelled; when customers moved table the sale would be voided and then put under the new table; or on 2-for-1 deals when they would put both orders through the till so as to send it to the kitchen and then void one. The respondent also noted that sales had been voided because staff made too many mistakes and used the button to attempt to correct them.

"If we do a two for one, for the kitchen's use, we'd put in the whole order to begin with and then once the kitchen have it and we have to provide the bill to the customer, we have to void off the other main course. HMRC didn't get that at the time."

They have a code for using the void sale button which only the owners have access to so now they are the only ones able to void sales. However, the respondent still isn't clear how their actions were a form of tax evasion and doesn't foresee many changes in how they operate their system as they don't know any other way to do so. However, they will conduct more staff training to cut down on their errors.

"I don't really see how we could change anything. The only thing we'd try and do is eliminate mistakes, because nobody wants mistakes in the business anyway."

Case Study 4

Business Background

The business is a small, family-run café that has been operating for 34 years. Its customer base is mostly a regular group of locals, and sales are often slow.

The respondent felt that the UK tax system is unfair on SMEs and that VAT is the biggest burden for their café.

The respondent felt that HMRC were probably knowledgeable about ESS due to their experience of interacting with HMRC staff on the topic of ESS in the past.

ESS Method

When checking their end of week reports, some receipts only had zeros on them and so they disposed of them, thinking they were useless. This caused discrepancies in the sequencing of the receipts when HMRC came to do a check. They claimed this was due to a temperamental EPOS system printing the blank receipts.

They were not aware that this was ESS, and felt they were just throwing away receipts that didn't serve a purpose.

8 Attitudes towards ESS and Tax

All previously non-compliant and general businesses were prompted with statements relating to tax objectives and asked which resonate most. Both audiences found the statement *I see it as a moral duty to pay tax* to resonate out of ten statements that were presented to them. Businesses felt this was their moral duty in order to fund the country's public services and *'keep the country running'*.

The other objective that commonly resonated with general businesses was *it's important that HMRC effectively deals with non-compliant behaviour*. This was linked with it being a moral duty to pay tax, as it was seen to be key in ensuring tax gets paid, and therefore that effective public services are provided.

"Everyone needs to pay their fair share so that public services can operate. Therefore, it is necessary for HMRC to find those not paying. If HMRC could do this more effectively it would make everyone's life easier because they would pay less and not have to make up for shortfalls elsewhere."

Previously non-compliant business, Hospitality, Micro

When asked how fairly the UK tax system treats SMEs, most businesses felt the system was fair. However, some businesses, mostly those that had previously been non-compliant, did have some grievances and felt that HMRC is more interested in cracking down on smaller businesses for smaller amounts of money while larger companies were moving their business overseas, and therefore depriving the country of large amounts of tax.

"I think we're treated very badly, especially in this climate where a lot of large businesses seem to pay little to no tax, there's no way of me getting around that...I can't set up my company in Switzerland."

Previously non-Compliant, Hospitality, Micro

"Large companies who incorporate in Liechtenstein. Whenever you buy anything, your money goes to Liechtenstein ... and they don't pay tax in this country. If that is legal, they get away from it, but I think personally it's slightly immoral."

General Business, Hospitality, Small

This was balanced out by a few businesses feeling that SMEs get allowances that larger companies are not granted. One business mentioned receiving tax relief on their rates while another felt that the First-Year Allowance they get on some equipment are very helpful.

These findings largely correlate with the responses from EPOS industry stakeholders and general businesses relating to how acceptable or unacceptable they felt ESS is. Both stakeholders and general businesses were unanimous in stating that ESS is unacceptable, with no respondents finding it to be acceptable.

ESS was recognised to be unacceptable partly due to the fact it is a form of tax evasion and therefore illegal. The most common reason given for why ESS is unacceptable was that it is immoral and unfair, reinforcing the views that businesses hold around tax being a moral duty. Many general businesses and EPOS stakeholders mentioned that the use of ESS was immoral as it was taking money from the country and therefore negatively affecting public services such as infrastructure repairs, or the NHS.

“I think it's everybody's moral obligation to pay tax. My main reasoning for that is that I have had a lot of use of the NHS and I know how much tax goes into funding the NHS, and how much funding the NHS requires.”

General business, Retail, Micro

General businesses and EPOS stakeholders described ESS as unfair due to the belief that tax was a collective effort and that any business evading tax through ESS negatively affects everyone else who is complying with the legal tax requirements.

“Completely unacceptable. It's just looking at ways to cheat the system. The average layman - who's generally hard working - pays his national insurance, pays his tax and pays his VAT.”

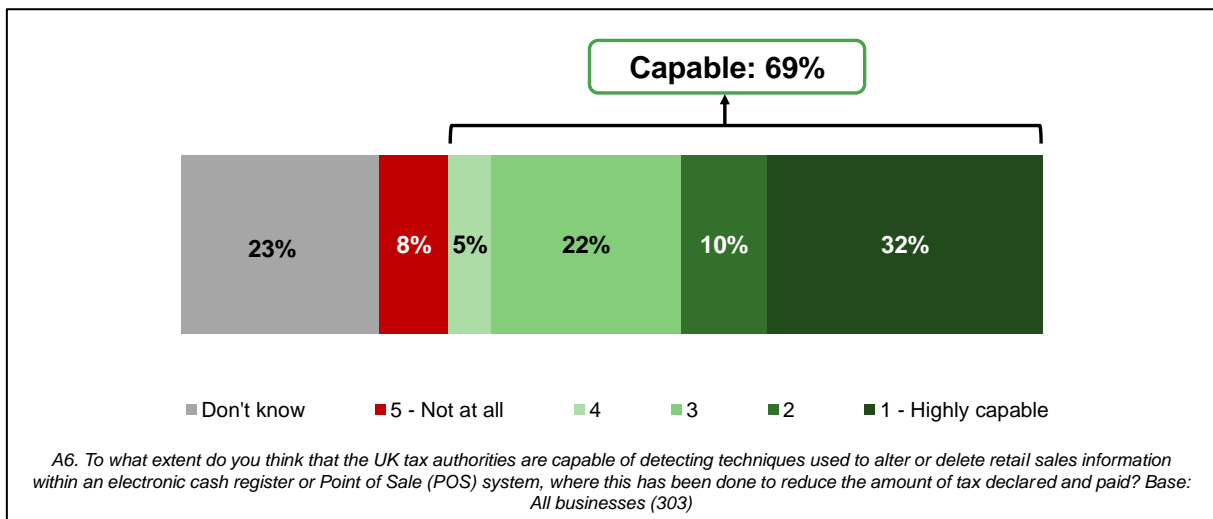
General business, Services, Micro

9 The Role of HMRC

Capability of HMRC

General businesses were asked to what extent they thought that the UK tax authorities are capable of detecting techniques used to alter or delete retail sales information within an electronic cash register or Point of Sale (POS) system to reduce the amount of tax declared and paid. As shown in Figure 9.1, seven in ten businesses (69%) felt that UK tax authorities were capable of detecting ESS, of which one-third (32%) felt that they were highly capable. Less than one in ten businesses (8%) considered UK tax authorities to not be capable.

Figure 9.1 The capability of HMRC to detect ESS



During follow up interviews, the main reason given for HMRC not being capable of detecting ESS was that it would be a resource-intensive task to find instances of ESS, and it was perceived that there was not enough resource within HMRC to fully tackle this. Some also felt that that the lack of resource would be due to HMRC having bigger priorities than ESS.

“I don't know if they have the expertise or not. At the moment feels they have other focuses like Brexit and Making Tax Digital so they have a lot of other priorities to achieve.”

General business, Hospitality, Large

It was stated by an EPOS industry stakeholder and a few businesses that, by its very nature, ESS would be difficult to trace, and for that reason HMRC would not be capable of detecting it.

“Whoever's doing it would conceal their tracks so you wouldn't have any audit reports to show you ... if they were changing the system it would be difficult to find out. Whether they can actually capture them, I don't know. What evidence they would need and whether that could be produced, I don't know.”

General business, Hospitality/Tourism, Small

Businesses that felt HMRC were capable of detecting ESS were generally confident of this due to their trust in the tax authorities to effectively enforce compliance. A previously non-compliant business felt that ESS was of high value to the authorities and, therefore, they would have all the necessary tools and knowledge to detect it.

"I'm sure they know every twist and turn. There are billions at stake. I would imagine they've got all the skills and technology."

Previously non-compliant business, Hospitality, Micro

Knowledge of HMRC

While most EPOS industry stakeholders and businesses thought HMRC are capable of detecting ESS, they also expected HMRC to be knowledgeable about it. However, some thought that HMRC were a step behind those undertaking ESS due to the pace of technological change.

"Their sole purpose is to collect taxes and to do so the best way they should know all the ways that people can avoid tax."

General business, Food Takeaway, Micro

"I'd like to think they're knowledgeable, but I suspect that the way technology develops very quickly they're probably not as knowledgeable as they should be."

General business, Business Services, Micro

What more could HMRC be doing?

All businesses and EPOS industry stakeholders were asked whether HMRC should be playing a role in raising awareness of ESS. Responses varied depending on the audience, with some EPOS stakeholders voicing their desire for fiscalisation⁸ to be introduced, as it is elsewhere in Europe, and businesses tending to suggest stronger sanctions and a campaign to raise awareness.

The desire from some EPOS stakeholders for fiscalisation was driven by a view that it would deter both developers from facilitating ESS, and EPOS users from carrying out ESS. It was also seen as a useful tool to detect when ESS does occur, as the authorities would be able to see transactions in real-time and monitor any irregularities.

Fiscalisation was presented in various forms by a few stakeholders and was understood to mean different things to different stakeholders, often dependent on their personal experience of it. It was mostly discussed as a form of real-time reporting of transactions to HMRC through either a 'fiscal box' or 'black box' which contains a protected electronic journal. There was one suggestion that this reporting could be facilitated by software, but generally it was suggested to be done through hardware.

"It is absolutely essential that sales data gets sent to the government in real time. Why we don't do it in this country I have no idea."

Stakeholder, Retailer

One stakeholder suggested a Fiscal Trust, instead of HMRC, for reporting sales to. This would be similar to Austria, where EPOS developers pay to be a member of a Fiscal Trust that records and keeps a record of all transactions that can then be presented to the authorities when necessary, as a form of independent verification.

⁸ Laws designed to avoid retailer fraud through providing electronic sales data directly to the relevant tax authority

It was felt by a few stakeholders that, if fiscal boxes were introduced, HMRC could have tools to monitor and flag any irregularities in real-time reporting, such as high frequencies of deletions or over-use of the 'void sale' function.

There was also one mention of businesses being legally required to have widgets in their printers to count transactions, and that businesses then have to print a receipt for each transaction. However, this was also seen to have a drawback of being of a higher cost to the business.

One stakeholder was, however, opposed to the introduction of any form of fiscalisation. This was informed by the impact that EPOS developers experienced in France when legal requirements were brought in for EPOS systems. This impacted the development of systems in France as developers had to focus on adapting their systems to fit the new rules, and thus could not improve their systems for a large period of time. The stakeholder also posited that even though these countries had more stringent regulations in place, evasion was still occurring, and at a higher frequency than in the UK.

Many businesses and EPOS stakeholders also stated that communication about ESS would be beneficial. The content and form of this communication varied, but it was most commonly felt that information about the sanctions for ESS would be a useful deterrent for businesses. In a similar vein, a few businesses thought naming and shaming those caught for ESS and detailing their punishment would be useful. Among both non-compliant and general businesses there was an appetite for communication from HMRC about the risks of operating their EPOS system, general guidance on how to spot ESS and what is classed as ESS.

However, this was contrasted by the views of a small number of businesses who thought that making people aware of ESS who were not already aware, could lead to a number of business then using this new knowledge to evade tax.

There were some businesses that felt that EPOS developers and retailers should be held liable for any instance of ESS on their machines, as a business owner should not be responsible for illegitimate functions of an EPOS system.

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