

The Spirits Duty Stamps Scheme:

Post Implementation Review including
Consultation on the Compliance Costs to the
Spirits Industry of Duty Stamps

December 2007

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SECTION 1: INTRODUCTION

Early indications of the impact of duty stamps

- 1.1 The spirits duty stamps scheme was introduced in 2006 following extensive consultation during which changes were made to the proposed scheme resulting in industry's estimated compliance costs being dramatically reduced. The scheme has been in place for a sufficient time now to review its implementation and to seek industry's views on the impact it is having. From a Government perspective, early indications of the impact of duty stamps on fraud are positive, in that they are proving effective as a means to detect illicit spirits, and the legislation is being used as an instrument to penalise those involved in spirits fraud.
- 1.2 Much of the spirits tax gap is attributed to abuse of the duty suspension regime, and HM Revenue & Customs (HMRC) are seeing that duty stamps are putting a significant hurdle in the way of fraudsters seeking to divert untaxed spirits onto the UK market, en-route between excise warehouses in the UK and other Member States. Spirits bearing duty stamps are clearly intended for consumption in the UK, are liable to UK excise duty, and therefore must not be exported. There have been a number of cases where HMRC have successfully intercepted and seized spirits purported to be for export but diverted onto the UK market - the presence of a duty stamp on the goods, and the circumstances surrounding the diversion, have facilitated immediate seizure of the goods involved. Similarly, the absence of a stamp is proving a powerful indicator that goods have been diverted or smuggled into the UK. This has enabled HMRC to detain and/or seize goods on the spot where it is apparent duty has not, and would not, be paid.
- 1.3 The absence of a stamp on spirits in the retail environment, except on spirits pre-dating the scheme, is taken to mean that those spirits are not UK duty paid. Now, only slow selling stock remains legitimately unstamped on retail shelves, and having allowed many months for old stocks of the quick selling (highest risk) spirits to be exhausted, HMRC are now stepping up their enforcement at retail and wholesale premises. A number of seizures of unstamped (and untaxed) spirits openly on sale have already been made, and the first criminal prosecution of a retailer for the sale of unstamped spirits is shortly due to be heard.
- 1.4 Duty stamps are also assisting HMRC to tackle the trade in counterfeit spirits. In early 2007, an individual was jailed for eight months for smuggling spirits bottle labels bearing counterfeit label stamps. Officers now routinely check the security features embedded in the duty stamp, at the frontier, in warehouses and storage facilities, and in retail outlets, and this has proven an effective means to distinguish genuine spirits from counterfeit in a number of recent cases.
- 1.5 Enforcement of the duty stamps scheme by HMRC continues, and we are working closely with other agencies such as Trading Standards to tackle existing and emerging threats in the spirits market.

Background to the development and introduction of the duty stamps scheme

- 1.6 Alongside pre-Budget Report (PBR) 2003, the Government published estimates of spirits revenue fraud in "Measuring and Tackling Indirect Tax Losses", which stated that spirits fraud had cost the Exchequer approximately £600 million in 2001-02 and was on an upward trend. Following consultation with industry - through the Joint Alcohol and Tobacco Consultation Group (JATCG) - on means to address this fraud, it was concluded by the Government that a duty stamps scheme would be the most effective counter-measure.
- 1.7 In April 2004, a Regulatory Impact Assessment (RIA) "Excise: Tackling Spirits Fraud" was published, based on the introduction of a traditional strip stamp scheme, and primary legislation was introduced in Finance Act 2004. Compliance costs were estimated at that time as £23m for first year capital costs, and £54m for ongoing costs each year. The Government committed to minimising these burdens as far as possible, through further consultation, and subsequently announced the provision of a £3m capital grant fund to assist smaller and medium-sized enterprises with set-up costs.
- 1.8 Later in 2004, estimates of spirits fraud were revised downwards and these were published in the 2004 edition of "Measuring and Tackling Indirect Tax Losses". Government considered fraud levels still to be unacceptable and reiterated its commitment to the introduction of a duty stamps scheme. Consultation between HMRC and industry to explore the detailed technical aspects of implementation continued.
- 1.9 At Budget 2005, the Government announced a duty stamps scheme would be introduced the following year, and outlined significant changes to the scheme originally proposed. The main changes from the original proposal, after listening to industry's concerns, were to reject the idea of an upfront payment for stamps equivalent to the duty payable on the product and make available label stamps and self adhesive stamps, rather than traditional strip stamps. Consultation with industry intensified over the following months, during design and planning for implementation. In summer 2005, the original RIA was revisited, and HMRC consulted on the draft secondary legislation for the scheme.
- 1.10 Industry (through the JATCG's July 2005 duty stamps survey) provided estimates of compliance costs for the revised scheme of approx £6m for first year capital costs, and £4m per year for ongoing costs. Early in 2006, these were published in an appendix to the original RIA of 2004 (see Annex A). The legislation for the scheme subsequently took effect in February 2006 - applicable to all spirits of 30% abv or more, in containers with a volume of 35 cl or above.
- 1.11 From 1 October 2006, all qualifying spirits were required to bear a duty stamp as they passed a UK duty point, and therefore, before their release for home use. On 1 January 2007, it became an offence to sell qualifying spirits without a duty stamp, unless it could be proven by the vendor that the spirits were duty paid prior to 1 October 2006, and therefore not required to bear a duty stamp.

Implementation of the scheme

- 1.12 HMRC accepted applications to register for the scheme from industry several months in advance of the legislation taking effect, and in February 2006, began registering those who had applied, in order to allow access to duty stamps at the earliest possible opportunity. The first duty stamps were ordered that month, and the first duty stamped spirits reached retail shelves in March 2006. Extensive consultation with the spirits industry during scheme design helped HMRC enormously in ensuring its smooth implementation and now the vast majority of spirits on sale are duty stamped.

Purpose of this consultation

1.13 This consultation seeks to gather the spirits trade's views on the following:

- a. **The impact of duty stamps on the spirits market**
- b. **The compliance costs associated with duty stamps**
- c. **The manner in which the scheme was implemented**

Benefits of consultation

1.14 It is only with industry's full co-operation that HMRC will be able to assess the true impact of the duty stamps scheme, and indeed, use it as an effective measure to counter fraud. Businesses are encouraged to participate to keep Government informed of the impact of new regulation on the legitimate industry and, as a result, allow HMRC the opportunity to explore the possibilities for reducing compliance costs through simplification and deregulation.

How to participate

- 1.15 This consultation is relevant not only to those who are registered with HMRC to acquire and affix duty stamps to spirits, but also to businesses providing bottling or duty stamping services for registered persons, and those who warehouse, transport or retail/wholesale spirits intended for UK consumption.
- 1.16 To help HMRC evaluate the responses, respondents should explain their interest in the consultation and also make clear if their response is being made on behalf their own business, or of a group or representative body.
- 1.17 Trade bodies/associations represented on the JATCG – please forward your responses to peterlane@ginvodka.org.uk, the consultant employed by the JATCG to collate members' views.
- 1.18 Members of other trade bodies/associations - please contact your representative before responding to establish whether they are collating responses on behalf of their members. If not, please return to HMRC at the address below by the closing date.
- 1.19 Individual businesses - if you are not a member of a trade body/association, or wish to respond individually, please complete the questionnaire and return it to HMRC at the address below by the closing date.
- 1.20 Responses sent directly to HMRC should be submitted by 7 March 2008 **at the latest**. These responses (and any queries) should be addressed to:

Ruth Ryan
HM Revenue & Customs
Excise, Stamps & Money Businesses
3 West, Ralli Quays
3 Stanley Street
Salford M60 9LA

or

Email to dutystamps@hmrc.gsi.gov.uk

Please note that:

- Responses, and the names of respondents, may be quoted and made available to the public under the Freedom of Information Act. Please see below for further information on this.

1.21 A summary of responses to this consultation will be published on the HMRC website.

1.22 Additional paper copies of this document, or a Welsh language version, can be obtained from the address shown at paragraph 1.20 or from the HMRC website. www.hmrc.gov.uk

Freedom of Information

1.23 Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000(FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

1.24 If you want the information that you provide to be treated as confidential please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic disclaimer generated by your IT system will not, of itself, be regarded as binding on HMRC.

1.25 HMRC will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

1.26 Please send any comments or requests for confidentiality, as explained above, to the name and address shown in paragraph 1.27 below.

1.27 For any comment or complaints regarding the consultation process, please contact the following consultation co-ordinator:

Duncan Calloway
Business Customer Unit – Consultations
HM Revenue & Customs

020 7147 2389

mail to: Duncan.Calloway1@hmrc.gsi.gov.uk

1.28 Further information is provided at:

Annex B - The Cabinet Office's Code of Practice on Consultation
Annex C - Current Duty Stamps Legislation

THIS CONSULTATION ENDS ON 7 March 2008

SECTION 2: QUESTIONNAIRE

A. BUSINESS DETAILS

1. Name of Business
2. Address
3. Status e.g. warehousekeeper, retailer, wholesaler.
4. E-mail address
5. Name of person completing questionnaire
6. Contact details (acknowledgement purposes only) - e-mail address, tel no)
7. Are you a small or medium sized enterprise (SME)? For the purposes of this survey, a SME is defined as a business who handles 1 million or less case equivalents per annum
8. Do you affix duty stamps to retail containers? If your answer is no, please give details of your involvement with the duty stamps scheme?
9. If you answered Yes to Q8, are you registered for duty stamps, and, if so, what is your registration number?
10. Are you a member of a trade association? If so, please give details.
11. Did you participate in the original survey of compliance costs in 2005?

B. IMPACT OF DUTY STAMPS ON THE SPIRITS MARKET

12. What impact do you think the duty stamps scheme has had on the illicit spirits market? Please provide examples, if possible.
13. What have been the benefits from the introduction of duty stamps e.g. benefits from changes in the way the market operates, as a result of a reduction in illicit sales? Can these benefits be quantified?
14. What specific impacts, if any, has the introduction of the duty stamps scheme had on the way you conduct business?
15. Are there any aspects of the scheme you would seek to change in order to improve its effectiveness, or to reduce administrative burdens on the industry? If so please quantify the cost saving to your business.

C. COMPLIANCE COSTS

16. If you participated in the original survey of compliance costs in 2005, are there any differences in the costs you actually incurred from the figures you previously estimated?
17. If yes, what are those differences and do you know the reasons for these e.g. did systems or machinery cost more/less than anticipated.
18. If you didn't take part in the original survey, have you incurred costs as a result of the introduction of the duty stamps scheme? If yes, can you breakdown these costs into set-up costs (e.g. purchase of new machinery, additional stock-keeping units), and ongoing costs (e.g. reworking unstamped stock, additional staff to affix duty stamps).
19. If you have incurred costs, did you incur them at the expected time (e.g. prior to 1 October 2006)? If no, please give details.
20. Do you see a continuing need to rework stock in order to affix freestanding stamps? Please give details.
21. Did you receive sufficient notice to understand and carry out the necessary changes to your business to implement the scheme? Please give details if your answer is no.

D. IMPLEMENTATION

Registration and Obtaining Duty Stamps - (please ignore if your business is not registered for duty stamps)

22. If registered for duty stamps, how straightforward and efficient did you find the registration process for the duty stamps scheme?
23. What suggestions do you have for improving our registration process?
24. How user-friendly and efficient have you found the ordering system for duty stamps?
25. What suggestions do you have for improving the stamps-ordering process?
26. Have you found the duty stamp easy to affix/incorporate into your product label? If you have had difficulties, do you have any suggestions to improve the physical properties of the stamp?

Communications & Guidance

27. Do you find the duty stamps guidance (Notice DS5) easy to understand and sufficiently comprehensive? If not, please give details how we may improve it.
28. Do you feel the guidance provided on the Internet, at the industry seminars and through publicity material and advertising was sufficient to prepare you for the scheme's introduction? If no, what else might we have done to help?
29. If you used HMRC's National Advice Service, did you find their advice on duty stamps satisfactory? If not, please describe your experience and suggest how this service could be improved.
30. Was there anything else you felt you needed which wasn't provided?

ANNEX A

RIA: Excise – Tackling Spirits Fraud

http://customs.hmrc.gov.uk/channelsPortalWebApp/channelsPortalWebApp.portal?_nfpb=true&_pageLabel=pageLibrary_ReferenceDocuments&propertyType=document&columns=1&id=HMCE_PROD1_024545

Appendix

http://customs.hmrc.gov.uk/channelsPortalWebApp/channelsPortalWebApp.portal?_nfpb=true&_pageLabel=pageLibrary_ReferenceDocuments&propertyType=document&columns=1&id=HMCE_PROD1_025043#P10_3314

Annex B

Code of Practice on Consultation

HM Revenue & Customs confirms that where possible these consultation criteria have and will continue to be followed.

The six consultation criteria:

- Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.
- Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.
- Ensure that your consultation is clear, concise and widely accessible.
- Give feedback regarding the responses received and how the consultation process has influenced the policy.
- Monitor the department's effectiveness at consultation, including through the use of a designated consultation co-ordinator.
- Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.

You can view the full version of the Code on the Cabinet Office website: www.cabinet-office.gov.uk/regulation/Consultation/Code.htm.

Annex C

Current legislation

Schedule 2A, Alcoholic Liquor Duties Act 1979

The Duty Stamps (Amendment of paragraph 1(3) of Schedule 2A to the Alcoholic Liquor Duties Act 1979) Order 2006.

The Duty Stamps Regulations 2006.