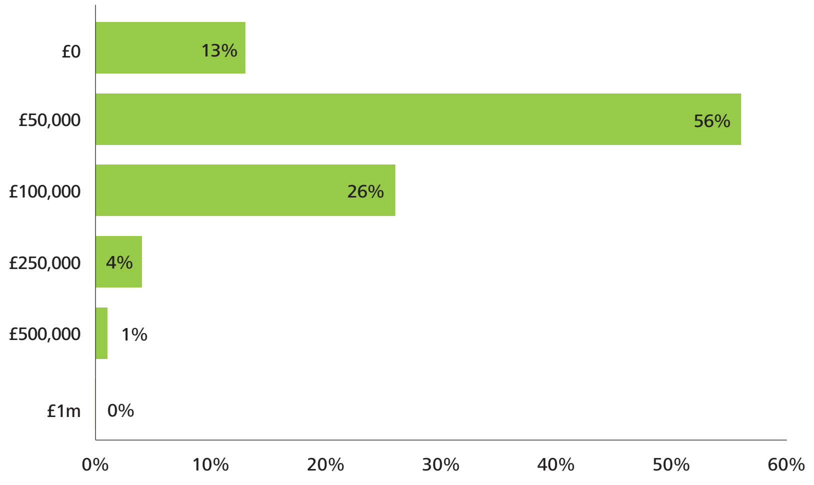
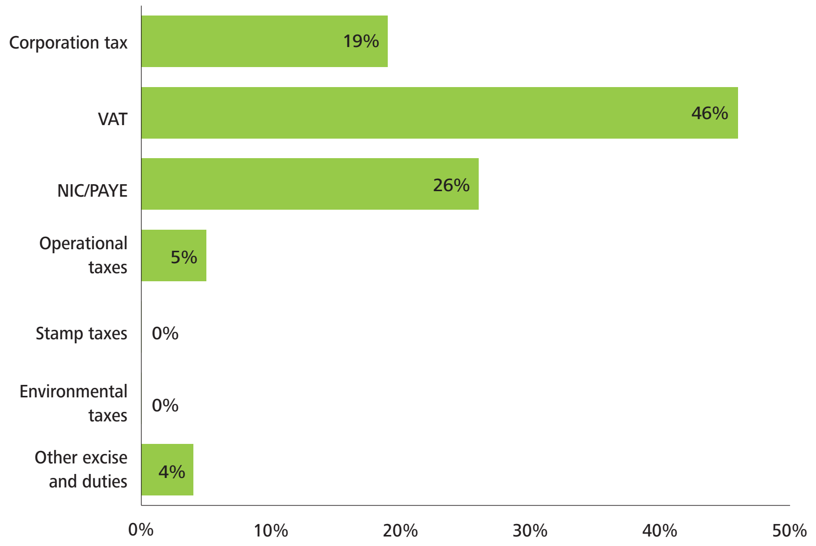
Question 6. How much do you think achieving compliance will cost your organisation?



Source: 2009 Deloitte Touche Tohmatsu

Question 7. Which areas of tax will cause you the most concern?



Source: 2009 Deloitte Touche Tohmatsu

The vast majority of respondents felt that achieving compliance will cost them between £50,000 – £100,000, which is contrary to HMRC's statement that the measure should not create additional cost. When making this statement, HMRC are taking into account only the negligible sum of filing the certificate itself, and are assuming that, as adequate accounting systems are already required by law, companies won't be required to spend extra money to be compliant.

If we look at the companies most likely to be affected, we see that 81% of the FTSE100 and 85% of the FTSE250 respondents feel that compliance will cost £50,000 – £100,000. We believe that common areas of spend for companies are likely to be:

- A high-level review of the current state of tax controls, tested against an informed view of good practice and likely HMRC expectations, to identify areas of risk.
- A more detailed review of the existence and effectiveness of controls, with particular regard to areas of perceived weakness.
- If significant gaps are identified, then additional procedures to ensure compliance.
- SAOs may require specific documentation to be made available to them to support their certification.

VAT is the tax which most respondents were concerned about. There could be a number of reasons for this. VAT is frequently managed outside the remit of the Head of Tax, and Corporation tax is often perceived as the 'priority', despite the fact that it can represent less risk and less cost for a company than VAT. Additionally, the volume of transactions involved in a VAT return can make the process much more unwieldy.

Looking at the corporation tax result from a market sector perspective, we learn that 38% of FTSE250 respondents consider this an area of concern, in comparison to only 4% of Inbound respondents. We believe this significant difference may be due to whether companies are insourcing or outsourcing their Corporation tax compliance. Inbound groups traditionally outsource, and hence are less concerned than FTSE250 companies, who outsource less of their corporation tax compliance, so the responsibility for compliance lies squarely with a relatively small tax department.

Another priority area for Inbounds was NIC/PAYE, with 37% identifying this tax as the one that gave the most concern. We believe this is most likely to be due to the additional NIC/PAYE complexities inherent with an internationally mobile workforce.

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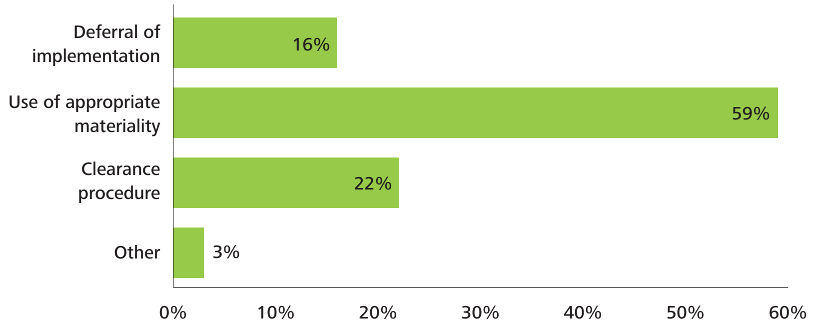
Senior Accounting Officer accountability
Who's in the firing line?

A survey of tax and finance professionals' views on the proposed legislation

At a Deloitte Breakfast Briefing on 12 May, we surveyed over 100 clients from a variety of business sectors on their opinions regarding the new SAO accountability measure. The respondents mainly comprised tax and finance heads and managers.

There have been some developments since the survey was conducted, namely the measure was debated in the House of Commons on 13 May. A selection of the questions, together with our commentary in light of the recent debate, are set out below.

Question 1. If you could influence the legislation, what change would you most like to see on the implementation of the measure?

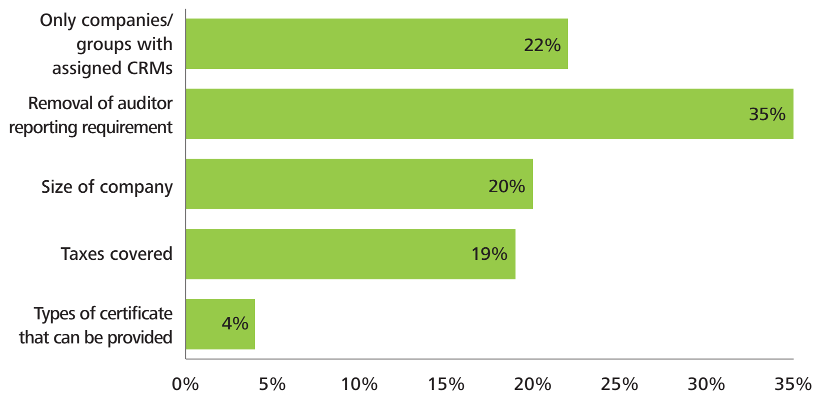


Source: 2009 Deloitte Touche Tohmatsu

The most popular option was 'use of appropriate materiality' which is perhaps unsurprising given the audiences' likely desire for a more workable and realistic way of meeting the proposed requirements. While Business would clearly like the measure to incorporate the use of appropriate materiality, the Government remain steadfast that the use of 'reasonable steps' to 'accurately calculate the tax' (which they are assuming companies are doing now) should already incorporate an appropriate level of materiality. We would expect to see guideline examples issued to define this further, e.g., an error in a small number of invoice postings out of 10 million postings would appear to satisfy the requirement, while calculating the wrong stamp duty land tax payable on a single property transaction would probably not.

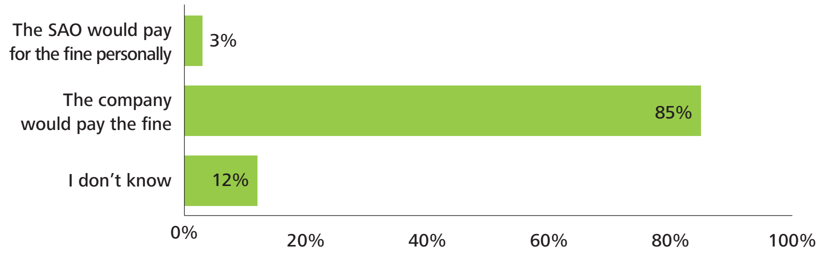
Only 16% of respondents wanted to see a 'deferral of implementation'. During the 13 May debate, an amendment to the Finance Bill to defer the measure by 12 months tabled by the opposition was voted down, so we now have clarification that the measure will be coming into force on the original date expected (from Royal Assent in July 2009).

Question 2. Personal liability aside, if you could influence the legislation, what change would you most like to see to the scope of the measure?



Source: 2009 Deloitte Touche Tohmatsu

Question 3. If your SAO was penalised, what would happen?



Source: 2009 Deloitte Touche Tohmatsu

The survey was conducted on the day prior to the measure being debated in the House of Commons. Stephen Timms, Financial Secretary to the Treasury, took the opportunity to announce some concessions to the measure, which in fact dealt with the three most popular responses to question 2. It is intended that only much larger companies or groups with assigned CRMs will now be liable to the proposed measure, and the mandate for companies to provide an explanation to its auditors where the requirements of the measure have not been met is to be dropped. There remains the question of whether auditors would now regard such an explanation as a necessary part of their audit processes in any case.

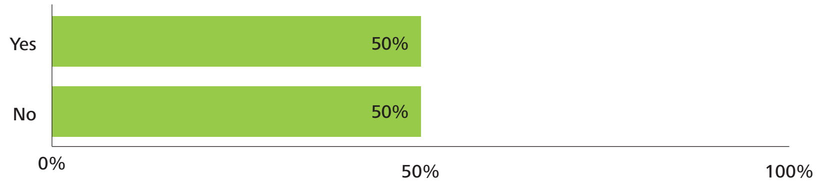
At this stage it is unclear how the companies that Stephen Timms intends to keep in scope will be brought within the measure. It is not possible to legislate in terms of who has been assigned a CRM as this is an administrative process controlled by HMRC themselves, and therefore some level of turnover/asset test is still likely to be required. This prolongs the uncertainty as to which companies/groups will fall within the requirement. In any case, we would still anticipate the measures to apply to more companies over time as the CRM/CM programme is rolled out further, and presumably, the turnover/asset thresholds will be adjusted accordingly.

The fact that 85% of respondents said that a fine would be picked up by the company, as opposed to the individual on whom it was levied, suggests that companies are seeking to circumvent the personal impact of the measure. The personal liability aspect of the measure has proven deeply unpopular, however it appears to be a point on which HMRC refuses to budge. This begs the question as to how HMRC would react if they suspect that the 'spirit' of the measure is not being complied with.

It is interesting to compare the results of this question with the next, which addresses the reputational impact of a penalty for SAOs.

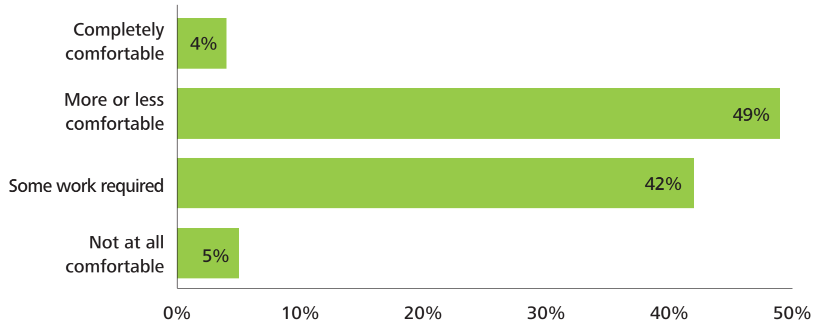
The fact that 85% of respondents said that a fine would be picked up by the company, as opposed to the individual on whom it was levied, suggests that companies are seeking to circumvent the personal impact of the measure.

Question 4. Do you think being penalised would have a personal impact on an SAO's career and reputation?



Source: 2009 Deloitte Touche Tohmatsu

Question 5. How confident are you that your organisation could provide the necessary sign-off, given your current arrangments?



Source: 2009 Deloitte Touche Tohmatsu

The 50/50 split represented here looks very different when broken down by market sector. Of the respondents who were FTSE100 companies, 58% felt that there would be a personal impact, as did 64% from FTSE250 companies. Of those members of our audiences who were Heads of Finance, 73% voted 'yes'. Given the recent 'narrowing of the scope of the measures' (those with a large business relationship with HMRC, and a Customer Relationship Manager reflecting that), it is to be expected that these larger organisations, and the relevant individuals who work for them, are most likely to be affected and are rightly concerned about the reputational impact of incurring a penalty. For those concerned individuals it would appear that having the company pay any fine on their behalf will not therefore circumvent the personal responsibility that the proposed law is attempting to impose.

Most of the respondents were not completely comfortable that, as things currently stand, they could provide the necessary sign-off. Again if we look at the largest companies represented in our survey, the FTSE100 and FTSE250, then the concern grows – 55% of FTSE100 respondents voted for 'some work required', or 'not at all comfortable', compared with 57% of FTSE250 respondents.

Those working in Finance seemed relatively more comfortable with their current arrangements, with 70% of Finance Managers and 80% of Heads of Finance 'more or less comfortable'. However their counterparts in Tax don't share their confidence, with 54% of Tax Managers, and 58% of Heads of Tax voting for 'some work required', or 'not at all comfortable'. This could be due to Tax people having a better hands-on understanding of the level of work required as part of the tax accounting systems and processes to get financial data to a level where it is accurate for tax compliance purposes, and hence having more knowledge of existing inadequacies.

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