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## **1. INTRODUCTION**

Compliance costs studies in relation to taxation date back over 30 years. Such studies

2000, VAT has existed in the UK since 1973.<sup>8</sup> Despite some differences in terminology, both taxes operate in largel



complexity was directly related to compliance costs and that this in turn had an effect on personal taxpayers' commitment to compliance (which was found to be high).<sup>27</sup> Similarly, in the UK, Hansford and Hasseldine noted that small businesses may lack access to professional advice and may therefore not understand their compliance obligations.<sup>28</sup> Thus the tax gap and/or higher than necessary tax compliance costs may be a result of complexity of the VAT/GST law in a jurisdiction.

This article will now turn to a brief discussion of compliance costs studies, including recent evidence in relation to compliance costs associated with indirect taxes in the UK and Australia.

## 2.2 Compliance costs

Taxation compliance costs can be defined as: "those costs incurred by taxpayers, or third parties such as businesses, in meeting the requirements laid upon them in complying with a given structure and level of tax".<sup>29</sup> Various studies in relation to taxation compliance costs undertaken by Sandford found that such costs were regressive – that is, they have a larger impact on smaller businesses relative to the size of the business.<sup>30</sup>

When the GST debate was taking place in Australia in the mid-to-late 1990s, Evans and Walpole noted that little attention had been paid to compliance costs associated with the tax.<sup>31</sup> This was despite the fact that around the same time, the Australian government was recognising the importance of taxation compliance costs to businesses. Evans and Walpole reviewed compliance cost studies in relation to VAT/GST undertaken in five different countries, concluding: "the incidence of compliance costs in relation to trader turnover is broadly consistent between the United Kingdom, Germany, the Netherlands, Canada and New Zealand. The research shows that the compliance costs of the VAT/GST are severely regressive, and they may be more so than other business taxes".<sup>32</sup>

A recent report by Barbone, Bird and Vázquez-Caro provides an extensive review of the literature in relation to VAT/GST compliance costs.<sup>33</sup> Barbone et al confirms the findings of Evans<sup>34</sup> that compliance costs are high and significant, that they are

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<sup>27</sup> McKerchar, M (2007) 'Tax complexity and its impact on tax compliance and tax administration in Australia' *The IRS Research Bulletin* 185-204, 193. The study referred to was: Margaret McKerchar (2003) *The impact of complexity upon tax compliance: A study of Australian personal taxpayers* Australian Tax Research Foundation.

<sup>28</sup> Hansford, A and Hasseldine, J (2012) 'Tax compliance costs for small and medium sized enterprises (SMEs): the case of the UK' *eJournal of Tax Research* 10(2), 288-303, 290.

<sup>29</sup> Sandford, C, Godwin, M and Hardwick, P (1989) *Administrative and Compliance Costs of Taxation*, Bath: Fiscal Publications, 10.

<sup>30</sup> Ibid.

<sup>31</sup> Evans, C. and Walpole, M. (1996-97) 'The Hidden Costs of a GST – An International Perspective', *Policy*, 3.

<sup>32</sup> Ibid, 9-10.

<sup>33</sup> Barbone, L, Bird, R and Vazquez-Caro, J (2012) *The costs of VAT: A review of the literature*, CASE Network Reports No 106/2012, Warsaw, 8.

<sup>34</sup> Evans, C (2008) 'Taxation compliance and administrative costs: An overview' in M Lang et al (eds), *Tax compliance costs for companies in an enlarged European Community*, 457-459.

regressive and that they are not reducing over time.<sup>35</sup>

### **3. REGISTRATION**

#### **3.1 Registration threshold**

Both the UK and Australia have registration thresholds for VAT/GST purposes. Entities that are running businesses with annual turnover above the threshold are required to register. Businesses with turnover below the threshold can voluntarily register.<sup>44</sup>

In the UK, businesses that are entitled to register for VAT include those run by individuals, in partnership, as a company, a club, an association, a charity and any

superannuation funds)<sup>50</sup> is able to register for GST if they are carrying on an enterprise or intend to carry on an enterprise from a particular date.<sup>51</sup> An enterprise is defined broadly as including (by way of example) an activity or series of activities done in the form of a business, trade, profession, vocation or calling.<sup>52</sup> It does not include activities carried out as an employee, private recreational pursuits or hobbies, or activities carried out by individuals where there is no reasonable expectation of profit.<sup>53</sup>

An entity that is carrying on an enterprise is required to be registered for GST if its current or projected GST turnover for a 12-month period is at or above the registration turnover threshold.<sup>54</sup> GST turnover is essentially gross business income, but excludes supplies that are input taxed,<sup>55</sup> supplies where no consideration is paid, supplies that are not made in connection with the enterprise, and supplies that are not connected with Australia.<sup>56</sup> When GST was first introduced in Australia, the registration turnover threshold was set at \$50,000 AUD (and \$100,000 AUD for non-profit entities).<sup>57</sup> The threshold was subsequently increased to \$75,000 AUD (with an associated increase to \$150,000 AUD for non-profit bodies), with effect from 1 July 2007.<sup>58</sup> Unlike in the UK, the GST registration threshold is not revised each year.

Whilst the UK and Australian thresholds sound similar when expressed in local currency, a significant difference is seen when the thresholds are converted to US Dollars based on the World Bank Purchasing Power Parity rates for 2013, with the UK threshold being more than double that of Australia, as shown in Table 3 below.

**Table 3: Registration thresholds for VAT/GST – UK and Australia**

Country	Currency	General Threshold		
		National currency	USD	Exchange rate <sup>59</sup>
United Kingdom	GBP	81,000	103,846	0.78
Australia	AUD	75,000	48,701	1.54

Using a similar conversion, the OECD noted that the UK threshold is the highest out of all OECD countries that have introduced a VAT-style consumption tax.<sup>60</sup>

<sup>50</sup> *A New Tax System (Goods and Services Tax) 1999* (Cth), s 29-45. “Entity” is defined in s 184-1. “You” is defined in s195-1 as applying to entities generally.

<sup>51</sup> *A New Tax System (Goods and Services Tax) 1999* (Cth), s 23-10.

<sup>52</sup> *A New Tax System (Goods and Services Tax) 1999* (Cth), s 9-20(1) provides further examples.

<sup>53</sup> *A New Tax System (Goods and Services Tax) 1999* (Cth), s 9-20(2).

<sup>54</sup> *A New Tax System (Goods and Services Tax) 1999* (Cth), s 23-5. (Entities who are carrying on an enterprise but do not meet this threshold have the choice of whether or not to register for GST, see s 23-10).

<sup>55</sup> An input taxed supply is a supply where no GST is charged, but the supplier is not entitled to any input tax credits on acquisitions associated with the supply. Input taxed supplies are provided in Division 40.

<sup>56</sup> *A New Tax System (Goods and Services Tax) 1999* (Cth), s 188-15.

<sup>57</sup> *A New Tax System (Goods and Services Tax) 1999* (Cth), s 23-15.

<sup>58</sup> *A New Tax System (Goods and Services Tax) Regulations 1999* (Cth), regs 23-15-01; 23-15-02.

<sup>59</sup> World Bank Purchasing Power Parity rates, available at: <<http://data.worldbank.org/indicator/PA.NUS.PRVT.PP>>.

Given the significant difference in thresholds, one reason for the higher compliance costs faced by Australian small businesses may be due to those at lower turnover levels being required to register. However, in both the UK and Australia, businesses below the threshold can voluntarily register. If businesses in both countries are registering for VAT/GST when they are not required to, it is unlikely that increasing the compulsory registration threshold would have any substantial impact in the number of businesses registered. For this reason, the extent of voluntary registrations is discussed in Section 3.2 below.

### **3.2 Number of registrations**

In both countries, a substantial number of businesses choose to voluntarily register for VAT/GST. This can be seen in Table 4 below, which shows the total number of registered businesses and the percentage of registered businesses that are below the threshold.

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<sup>60</sup> OECD (2012) *Consumption Tax Trends 2012: VAT/GST and Excise Rates, Trends and Administration Issues*, OECD Publishing, 84.

**Table 4: Businesses voluntarily registered for VAT/GST (as a percentage of total VAT/GST registrations) – UK and Australia**

Year	United Kingdom <sup>61</sup>		Australia <sup>62</sup>	
	Total no. of registered businesses <sup>63</sup>	Percentage of businesses below threshold <sup>64</sup>	Total no. of registered businesses	Percentage of businesses below threshold
2007-08	2,051,080	43.29%	2,599,253 <sup>65</sup>	30.17% <sup>66</sup>
2008-09	2,070,690	42.59%	2,660,854 <sup>67</sup>	30.88% <sup>68</sup>





carriage of the introduction of GST, has publicly commented on this, and on the strain it imposed at the time of GST implementation.<sup>95</sup>

### 3.3 Registration process

In both the UK and Australia, an entity must be carrying on a business / enterprise before it can register for VAT/GST. In both countries, there are registration requirements before an entity can carry on a business. In the UK, if the business is to be operated as a sole trader or a partnership, this involves registering for self-assessment with HMRC.<sup>96</sup> If the business is to be run as a company, once the company is incorporated with Companies House, it must obtain a Unique Taxpayer Reference from HMRC in order to be set up for Corporation Tax<sup>97</sup>. Regardless of how the business is to be operated, VAT registration is a separate process to the business registration process. For example, if you register for VAT via post, you need to complete form VAT 1 “Value Added Tax Application for Registration”.<sup>98</sup> If the business is being carried on as a partnership, form VAT 2 will also need to be completed “Value Added Tax Partnership Details”.<sup>99</sup> These are in addition to any forms that need to be completed to register for self-assessment or Corporation Tax. (Whilst most VAT registrations can be completed online, it is still a separate registration process.)

In Australia, whilst some requirements are similar to the UK, the process for registering for GST is more streamlined. All businesses are required to obtain an Australian Business Number (ABN) before commencing operations.<sup>100</sup> As noted by the ATO: “When you apply for an ABN you can also apply for the tax registrations you need”.<sup>101</sup> This includes applying for a tax file number (TFN) (if required<sup>102</sup>) and for GST. It is only if the business is to be carried on as a company that a separate registration may be necessary. If the company has not already been established, it will need to be incorporated with the Australian Securities and Investment Commission (ASIC) and obtain an Australian Company Number (ACN).

<sup>95</sup> Bruce Quigley, Keynote address ‘The Australian GST, its origins and its future’, *ATAX Annual GST Conference*, Brisbane, April 2014.

<sup>96</sup> UK Crown (2014) ‘Register your business in the UK’ *Set up a business in the UK*, available at: <<https://www.gov.uk/set-up-business-uk/register-your-business-in-the-uk>>; UK Crown (2014) *Set up a business partnership*, available at: <https://www.gov.uk/set-up-business-partnership>.

<sup>97</sup> UK Crown (2014) ‘Register your business in the UK’ *Set up a business in the UK*, available at: <<https://www.gov.uk/set-up-business-uk/register-your-business-in-the-uk>>; UK Crown (2014) ‘Set up your company for Corporation Tax’ *Set up a private limited company*, available at: <https://www.gov.uk/limited-company-formation/set-up-your-company-for-corporation-tax>.

<sup>98</sup> HMRC, *VAT 1 – Value Added Tax – Application for Registration*, available at: [www.hmrc.gov.uk/forms/vat1.pdf](http://www.hmrc.gov.uk/forms/vat1.pdf).

<sup>99</sup> HMRC, *VAT 2 – Value Added Tax – Partnership Details*, available at: <<http://www.hmrc.gov.uk/forms/vat2.pdf>>.

<sup>100</sup> If GST registration is not required, it is not compulsory to have an ABN. However, if a business does not have an ABN, other businesses are required to withhold 46.5% tax from any payments and remit this to the ATO.

<sup>101</sup> ATO (2013) *Register your new business*, available at: <<https://www.ato.gov.au/Business/Registration/Register-your-new-business/>>.

<sup>102</sup> For example, most individuals would already have a TFN. If they are operating their business as a sole trader, a separate TFN is not required.

Essentially, if a person wants to start a business in the UK, they need to register their business and then register for VAT. In Australia, a business can register for GST as part of the business registration process. The combined ABN/GST registration process may explain why such a high percentage of Australian businesses are registered for GST. A person registering for an ABN may register for GST without giving it much thought, and without fully appreciating the compliance requirements



approved the cash basis for the type of business that is carried on.<sup>117</sup> An entity that does not meet these requirements may still apply to the Commissioner to get permission to account on a cash basis. The



beyond the food industry) may have some impact on internal compliance costs, the difference is not expected to be significant.

## 5. LODGEMENT PROCESSES

### 5.1 Frequency of lodgement and payment

In the UK, a business that has a VAT turnover of less than £1.35<sup>133</sup> million pounds is eligible to make use of the Annual Accounting Scheme, which requires only one VAT return each year. However, VAT has to be paid on account throughout the year in nine monthly or three quarterly instalments. Once the VAT return has been completed any shortfall has to be paid to HMRC or alternatively a refund can be claimed if too much VAT has been paid. It is up to the business to elect for annual accounting and should not be considered for businesses that regularly reclaim VAT as the repayment due would only be made at the end of the year. According to recent HMRC statistics, whilst 90 per cent of VAT registered businesses were eligible to use the Annual Accounting Scheme, less than one percent chose to do so.<sup>134</sup>

Businesses that are not eligible for the Annual Accounting Scheme (or choose not to use the scheme) must lodge VAT returns (and pay any VAT due) on a monthly basis. The returns and payments must be made electronically.<sup>135</sup>

In Australia, a Business Activity Statement must be provided to the ATO for each tax period. Australia has a similar system available to businesses as the Annual Accounting Scheme, in that an entity that is not required to be registered for GST may elect to have an annual tax period, meaning they report and pay GST on an annual basis.<sup>136</sup> Additionally, small business taxpayers (entities with a turnover of less than \$2 million)<sup>137</sup> may choose to pay GST by instalments. Under this method, the ATO provides an estimated GST amount to be paid each quarter. A GST return is then lodged annually, with a reconciliation occurring between the instalments paid and actual amount due.<sup>138</sup> In 2010-11, 98.9 per cent of GST registrations were below the \$2 million threshold (approximately 2,649,420 businesses). In 2010-11, 223,828 businesses chose to report on an annual basis.<sup>139</sup>

Even if an entity does not fall below the \$2 million threshold, most taxpayers are only required to lodge their BAS and pay GST quarterly. Unlike the UK, the only entities that are required to use monthly tax periods are those whose GST turnover is \$20 million<sup>140</sup> or more, or an entity that will carry on the enterprise in Australia for fewer

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<sup>133</sup> USD \$1.73 million, converted using World Bank PPP as shown in Table 3.

<sup>134</sup> HM Revenue and Customs (2013) *Value Added Tax (VAT) Factsheet 2012-13*, available online: <<https://www.uktradeinfo.com/Statistics/Pages/TaxAndDutyBulletins.aspx>>.

<sup>135</sup> HM Revenue and Customs (2013)

than three months, or the entity has a history of failing to comply with their taxation obligations.<sup>141</sup>

Taxpayers with GST turnover of \$20 million or more must lodge their GST returns electronically.<sup>142</sup> Taxpayers below this threshold have the option of lodging physical GST returns (that is, completing a return on paper and mailing it to the ATO), or

In Australia, if an error has been made on a BAS, a taxpayer can either lodge a revision to the activity statement, or correct the error on a later BAS if certain conditions are met. The error may have resulted in either an overstatement of GST liability (credit error) or an understatement of GST liability (debit error).

There is generally a four year statutory period of review once an activity statement is lodged. A credit error can be corrected in a BAS for a later tax period that starts within this period of review. If a debit error has been made, a value limit applies to the amount of the error that can be corrected in a later BAS. If the error (or sum of multiple errors) is above the debit error value limit, the original BAS must be revised. The debit limits are shown in Table 7 below. Different time limits also apply based on the amount of the error. Additionally, regardless of the amount of the error, it must be corrected in the first BAS after it is identified and must not be the result of recklessness or intentionally disregarding the GST law.<sup>147</sup>

**Table 7: Value limits and time limits for correcting an error in a subsequent BAS (Australia)**

GST Turnover	Debit error value limit	Debit error time limit
Less than \$20 million <sup>148</sup>	Less than \$10,000 <sup>149</sup>	The debit error must be corrected on a BAS that is lodged within 18 months of the due date of the activity statement in which the error was made.
\$20 million to less than \$100 million <sup>150</sup>	Less than \$20,000	

The vast majority of Australian businesses have a turnover of less than \$20 million, and would therefore be subject to the \$10,000 debit error value limit. Higher limits apply for all UK businesses. Whilst it is therefore easier for UK businesses to correct errors, it is unlikely that this explains the higher compliance costs borne by Australian small businesses, as it would only arise by (D.d84.812 T.098t only uponJ1oseerror sses to )-5.h(h)hadnal

for any taxable supplies of \$75 (excluding GST) or higher.<sup>162</sup> For sales that are less than \$1,000, the tax invoice must contain enough information to clearly ascertain: the supplier's identity and ABN; what is supplied, the quantity and the price; whether each supply is a taxable supply; the date the document is issued; and the amount of GST (if any). It must also be clear that the document is intended to be a tax invoice. For sales of \$1,000 or more, the invoice must also contain the buyer's identity or ABN.<sup>163</sup> If a tax invoice includes both taxable and non-taxable (either GST-free or input taxed) supplies, the invoice must show each taxable sale, the amount of GST to be paid, and the total amount to be paid. Although a tax invoice is not required unless requested by the purchaser, the purchaser will not be able to claim an input tax credit for a creditable acquisition unless a valid tax invoice is held.<sup>164</sup> (For purchases of \$75.00 or less (excluding GST), records such as cash register receipts must be kept.)

The ATO's current guidance on what meets the requirements of a valid tax invoice is contained in GSTR 2013/1. In that ruling, the ATO summarises the importance of a tax invoice by stating: "The requirement to issue a tax invoice is a key component of the integrity of the GST system. It forms an essential part of the audit trail and is an important indicator that a taxable supply has been made."<sup>165</sup>

Tax invoices and other GST records must be kept for five years after the relevant transaction has been completed.<sup>166</sup> Failure to comply with record-keeping requirements may result in the ATO imposing an administrative penalty of up to 20 penalty units.<sup>167</sup> The Commissioner of Taxation also has wide-ranging powers to gather information and access premises.<sup>168</sup> The Commissioner of Taxation may require taxpayers to provide information; give evidence; produce documents; and give full and free access to all buildings, books, documents etc.<sup>169</sup>

As the invoicing and record keeping requirements in both countries are similar, this design factor would not explain the difference in compliance costs across UK and Australian small businesses. Further, similar records would be required for income / corporation tax purposes.

## **6. AVAILABILITY OF GUIDANCE**

### **6.1 General guidance**

The ATO and HMRC provide general information and guidance to taxpayers through

and HMRC website.<sup>170</sup> Taxpayers can also contact the ATO and HMRC via phone, with HMRC stating that the “quickest and easiest” way to obtain guidance about a VAT issue is to ring the VAT helpline.<sup>171</sup> A business can write to the HMRC for guidance if: they have reviewed the VAT information that is published online; have already contacted the VAT helpline; or can demonstrate that the HMRC’s guidance or the law are unclear.<sup>172</sup>

The ATO answered almost 1.4 million calls in relation to GST in the 2011–12 year.<sup>173</sup> They also provide tailored assistance to small businesses to increase GST understanding and compliance, which includes assistance visits,<sup>174</sup> seminars,<sup>175</sup> outbound education calls, online support, and more recently, the introduction of webinars. In October 2011, the ATO introduced the Online Small Business Forum “which provides an opportunity for small business to interact directly with the ATO and learn from other small businesses.”<sup>176</sup>

## 6.2 Formal guidance

If the law is unclear, a business can ask the HMRC to provide a ‘clearance’, which is written confirmation of HMRC’s view of how tax law is applied to a specific transaction or event. A business can then rely on the advice contained in the clearance.<sup>177</sup>

Australia has a similar, but more formalised, system of taxation rulings which provide the Commissioner’s interpretation of a particular aspect of law. Taxpayers can also apply to the ATO for a private ruling, which is “a written expression of the Commissioner’s opinion on how a relevant provision applies, or would apply, to a particular entity in relation to a specified scheme, arrangement or transaction. It provides the taxpayer with advice on how the Commissioner will apply the tax law (which includes its administration or collection) to their particular circumstances”.<sup>178</sup> Private rulings are only binding in favour of the applicant. The tax rulings system is administered through the *Taxation Administration Act*.<sup>179</sup> However, until recently, there was no legislated rulings regime for GST, with these being issued under the

<sup>170</sup> Australian Taxation Office: <www.ato.gov.au>; HM Revenue and Customs: <www.hmrc.gov.uk>.

<sup>171</sup> HM Revenue and Customs, “VAT Helpline” *VAT enquiries*, available at <http://search2.hmrc.gov.uk/kb5/hmrc/contactus/view.page?record=dMVkEC6liWE>.

<sup>172</sup> HM Revenue and Customs *Questions about VAT: writing to HMRC to get them answered*, available online <<http://www.hmrc.gov.uk/vat/managing/problems/getting-answers.htm>>.

<sup>173</sup> Australian Taxation Office, *GST Administration Annual Performance Report 2011-12*, 45.

<sup>174</sup> 6,596 assistance visits were conducted in 2012-13: Australian Taxation Office (2013) *GST administration end-year performance 2012-13* Canberra: Commonwealth of Australia, 3. See also: Australian Taxation Office, *Free and helpful tax assistance – no strings attached*, available online <<http://www.ato.gov.au/Business/Business-Portal/In-detail/Help/Free-and-helpful-tax-assistance---no-stringsattached/>>.

<sup>175</sup> In 2012-13, 20,306 participants attended either seminars, webinars or workshops. Australian Taxation Office (2013) *GST administration end-year performance 2012-13* Canberra: Commonwealth of Australia, 3.

<sup>176</sup> Australian Taxation Office, *GST Administration Annual Performance Report 2011-12*, 23.

<sup>177</sup> HM Revenue and Customs *Other Non-Statutory Clearance Guidance*, available online <<http://www.hmrc.gov.uk/cap/nscg.htm>>.

<sup>178</sup> PS LA 2008/3 *Provision and guidance by the ATO*, [80].

<sup>179</sup> *Taxation Administration Act 1953* (Cth), Sch 1, Divs 357-359.



The comparative study of these design features has shown that many aspects of the UK VAT and Australian GST system are quite similar. This is particularly the case in relation to calculation and lodgement processes; invoicing and record keeping requirements; and the availability of guidance from the revenue authority. Those design factors would therefore not explain the difference in compliance costs.

The simplified accounting methods that have been discussed in this article apply to a broader range of businesses in the UK. In Australia, the simplified methods are limited to food retailers. Although this may have some impact on compliance costs, research conducted in Australia has shown that even the simplified accounting methods are complex and are not fully understood by businesses. It therefore seems unlikely that broadening the scope of these simplified accounting methods would cause a significant reduction in compliance costs.

It would appear that the main difference between the Australian GST and UK VAT system is the registration threshold, with the UK threshold currently set at more than double that of Australia when translated to constant currency terms. This difference will continue to increase as the UK threshold is indexed each year. As compliance costs are (highly) regressive, a lower threshold requirement will clearly have a significant impact, with a much greater number of small businesses being required to register. In both countries, a significant number of businesses below the threshold choose to voluntarily register. However, the majority of UK businesses remain unregistered for VAT, whereas over 90 percent of Australian businesses are registered for GST.

This article has identified reasons why businesses below the threshold in both countries may choose to register, and in the case of Australia, registering for GST is a more streamlined process. However, further research is needed to examine what is the driving cause of voluntary registration, as it is these voluntary registrants that are significantly affected by compliance costs. Opportunities for mitigation of the internal tax compliance costs burden in Australia through system and process re-design may then be highlighted. This could be an outcome that could be of considerable assistance to a time-poor small business sector always struggling under the burden of red tape imposed by the tax and other workplace obligations.