Office for National Statistics

Article

Taxes and fees for sales of service: how they differ and why it is important

Defines and explains the main characteristics that lead to the classification of a transaction as a tax or a fee in the national accounts and public sector finances, and describes the effect that these classifications can have on economic indicators and the operation of government.

Contact:
David Beckett
econstats.classifications@ons.gov.uk
+44(0)1633 456980

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1 . Introduction

In the UK, the way that the public finances are measured is based on the national accounts. These accounts are a systematic and exhaustive account of all economic activity in the UK: all organisations must be placed in the appropriate sector, and all transactions between those bodies must be recorded appropriately.

The process of determining how to account for bodies and their transactions is known as “classification”, and the Office for National Statistics (ONS) is responsible for this process.

One of the most important classifications is how government income should be recorded in the national accounts and therefore the public sector finances. Of particular importance is whether government income should be considered to be a tax or a fee for a sale of a service (or for simplicity, a fee).

Classifications of this type provoke the attention of public sector bodies, the general public, and the media. Therefore, the purpose of this article is to act as a reference point for those who are interested in how the ONS makes these classification decisions, and their effects.

In making classification decisions, the ONS follows international standards, including statutory guidance issued by the European Statistical Office (Eurostat) such as the European System of National and Regional Accounts 2010: ESA 2010 and the Manual on Government Deficit and Debt (MGDD), the latest version being the MGDD 2016. Also relevant is the global System of National Accounts 2008: SNA 2008 issued jointly by the United Nations, International Monetary Fund, Organisation for Economic Co-operation and Development, World Bank Group, and European Commission.

This article summarises and references the international guidance throughout and explains the effect that the classification of a payment as a tax or a fee has on the UK economy, and on the operation of government.

However, before doing so the article explains the different types of government income, then defines the main characteristics and features of taxes and fees, and their differences.

2 . What income does government receive?

The UK government mainly funds its activities through taxes, which make up around 70% of total government income (which is termed public sector current receipts in the public sector finances). The next biggest component of government income, making up around 20%, are social contributions.

Social contributions differ to taxes in that they are contributions made to schemes that allow the payer to claim future social benefits, most commonly in relation to health care and old age. For example, in the UK, National Insurance contributions are classified as social contributions, in part because their payment directly affects entitlement to the State Pension. Most of the remainder of public sector current receipts is made up of fees.

Table 1: Public sector current receipts, UK, financial year ending 2018 to financial year ending 2019

	£ billion		% of total	
	Financial Year		Financial Year	
	2018/19	2017/18	2018/19	2017/18
Value added tax	151.1	142.8	18.2	18.1
Fuel duties	28.0	27.9	3.4	3.5
Business rates	28.0	27.4	3.4	3.5
Stamp duty land tax	12.9	13.6	1.6	1.7
Stamp taxes on shares	3.6	3.5	0.4	0.4
Tobacco duties	9.2	8.8	1.1	1.1
Alcohol duties	12.1	11.6	1.5	1.5
Vehicle excise duties paid by businesses	2.4	2.3	0.3	0.3
Other taxes on production	31.6	29.5	3.8	3.7
of which:				
Air passenger duty	3.6	3.4	0.4	0.4
Climate change levy	2.0	1.9	0.2	0.2
Environmental levies[2]	7.6	6.5	0.9	0.8
Insurance premium tax	6.3	5.9	0.8	0.7
Other	12.1	11.9	1.5	1.5
Total central government taxes on products/ production	278.8	267.4	33.6	33.9
Income tax (gross of tax credits)	201.7	188.4	24.3	23.9
of which:				
Pay as you earn	163.1	154.9	19.7	19.6
Self-assessment	31.4	28.3	3.8	3.6
Capital gains tax	9.2	7.8	1.1	1.0
Other income tax (including rebates)	-2.1	-2.6	-0.3	-0.3
Corporation tax	60.2	57.5	7.3	7.3
Petroleum revenue tax	-0.7	-0.6	-0.1	-0.1
Miscellaneous taxes on income and wealth	0.8	0.8	0.1	0.1
Total central government taxes on income and wealth	261.9	246.1	31.5	31.2
Vehicle excise duties paid by households	4.4	4.1	0.5	0.5
Bank levy	2.6	2.6	0.3	0.3
Television Licence fee receipts	3.2	3.2	0.4	0.4
Miscellaneous other taxes	8.1	8.0	1.0	1.0
of which:				
Inheritance tax	5.4	5.2	0.6	0.7
Other central government taxes	18.3	17.8	2.2	2.3
Total central government taxes	559.0	531.3	67.3	67.3
National insurance contributions (NICs)	137.7	131.5	16.6	16.7

Council Tax	34.5	32.1	4.2	4.1
Other tax adjustments	-0.5	-0.3	-0.1	0.0
Total Public Sector Taxes and NICs	730.7	694.7	88.0	88.0
Public Sector Interest and Dividends	9.1	7.1	1.1	0.9
Public Sector Gross Operating Surplus	42.1	45.9	n/a	n/a
Other Public Sector Receipts	5.3	5.4	0.6	0.7
Public Sector Current Receipts	787.1	753.1	n/a	n/a
Memo Items (included in Public Sector Finances as negative expenditure)				
General Government fee receipts[3]	53.7	51.5	6.5	6.5
General Government pension contributions	31.5	30.4	3.8	3.9
Public Sector Current Receipts (adjusted)	830.2	789.1	100.0	100.0

Notes

1. Figures in this table are from Public Sector Finances, May 2019 published 22 May 2019. Back to table
2. Environmental levies mainly include renewable obligation, carbon reduction and emission trading scheme receipts. Back to table
3. Described in Public Sector Finances as "Market output including output for own final use". Back to table
4. Adjusted to include fee receipts and government employee pension contributions and exclude imputed gross operating surplus. Back to table

In addition to taxes, social contributions and fees, government also receives smaller amounts of other types of income, such as fines and penalties, rent for use of natural resources (for example, land), and dividends and interest on government investments. Government also can generate income through the sale of financial or non-financial assets it holds, though such sales are not components of current receipts as presented in the public sector finances.

Generally, these other types of income are easily distinguishable, which is why this article focuses on the difference between taxes and fees.

3 . Classifying taxes and fees – how do they differ?

What is a tax and what is a fee?

Taxes largely finance the activity of government in providing free or subsidised goods or services to society, such as in the provision of public and merit goods (goods or services that are provided by government for society to meet a perceived need), like education, health, welfare and defence. Taxes are compulsory and unrequited charges levied by government on businesses and households (see ESA 2010 20.165 and SNA 2008 7.71). They are also most often redistributive in nature, with government taxing one section of society and using this to provide goods or services to another (see ESA 2010 1.122).

In contrast to taxes, fees are requited (see ESA 2010 1.71). It is possible for charges to be compulsory and still be fees, such as in the case of regulatory fees, where it is clear that a service is being provided to the payer (for example, government checking the safety of business premises), and the amount charged by government is not out of proportion to the cost of providing the service. Fees are either economically significant or not economically significant in nature.

While these terms may appear to be self-evident, they contain several subtleties that deserve further explanation. Therefore, the terms compulsory, requited, regulatory and economically significant are explained in greater detail in this section to help explain what factors are important when classifying income as taxes or fees.

Compulsory

A charge is considered to be compulsory if government has used its executive, legislative, or judicial power so that a payment must be made to a specific body or bodies, to engage in an activity, or once a chosen activity has been carried out (see SNA 2008 3.53, MGDD 2016 I.6.5.2, 36 and footnote 55 to MGDD 2016 I.2.4.7, 78).

The definition of compulsory requires this specific wording as there are very few things that can be considered to be entirely compulsory. Just because an individual can opt not to earn any money, this is clearly not a sufficient condition to consider the payment of Income Tax as voluntary. Similarly, it is not compulsory for anyone to buy and drive a vehicle. However, once someone has chosen to do so, Vehicle Tax must be paid.

As the existence of compulsion is assessed only after the payer of a charge has chosen to carry out an activity, defining the activity is important to any classification. To see why, consider payments for visa charges, which have been classified by the Office for National Statistics (ONS) as taxes.

The activity in this instance is entering the UK to visit, live or work. As the government has mandated a payment to be made to a specific body (the Home Office) to enable the activity to be carried out, payments for visa charges are compulsory.

Further visa charge payments, called premium service charges, can also be made to expedite the application process. However, these payments have been deemed by the ONS to be voluntary. Why is this?

Compulsion exists only if government uses its power so that a payment must be made to a specific body or bodies, to engage in an activity, or once a chosen activity has been carried out. In this instance, the government has passed a law meaning that the payments for premium service charges can only be made to the Home Office. However, the premium service charge does not have to be paid to carry out the activity. This is because it is possible for someone to pay the regular visa charge without paying the premium service charge and still enter the country, albeit having had to wait for a longer period of time.

Requited

Payments to public sector bodies can either be requited or unrequited. This is important because if a charge is requited, it cannot be a tax (as by definition taxes are unrequited).

The main characteristic of an unrequited transaction is that nothing commensurate with the charge is provided to the payer (see ESA 2010 20.165 and SNA 2008 22.88). In some cases, such as in the payment of Income Tax or Inheritance Tax, it is clear that the charge is unrequited, as nothing is received directly in exchange for the payment.

However, in other cases a payment may be made to receive a permit, license or similar permission. Here the payer of the charge is directly receiving a benefit of some sort, but that individual benefit needs to be considered carefully to determine whether the payment is genuinely requited.

Charges must be reviewed against the main characteristics of requited transactions, which are specified in the following questions:

- Is the body setting the charge undertaking significant work (for example, checks) to deliver the service, and is the charge proportionate to the service being provided?
- Is the charge set at a level to cover the global costs of providing the service or is there a surplus by design to fund other activities unrelated to the service?
- Is the payer receiving a clear benefit directly in exchange for the charge or is the charge primarily a means to fund broader benefits to a section of society?

In addressing the first question, when determining if significant work has been undertaken to deliver the service, it is useful to outline two circumstances. First, if little or no work is carried out on receipt of the payment, and the payer receives something from the government automatically, the payment is likely to be a device to raise revenue and is not commensurate or requited (see ESA 2010 4.79d).

On the other hand, if a payment was made in exchange for a regulatory service, the payment would be requited, unless the amounts charged were out of proportion (see later in this section for a definition) to the cost of the checks carried out by the government (see ESA 2010 4.23e & 4.79d, and MGDD 2016 I.2.4.8, 86).

A regulatory service is provided, for example, when government checks the competence or qualifications of the person concerned; the reliability, suitability or safety of equipment or premises; or the quality or standard of goods or services produced (see SNA 2008 7.80).

An example of a regulatory service is government setting an exam to qualify for permission to drive a car (see ESA 2010 15.31). This involves a clear assessment of the competence of applicants' driving skills, and as long as the amount charged by the government was proportionate, this would be recorded as a fee.

In contrast to services of a regulatory nature, it is also possible for the government to issue permits to engage in specific activities that are not dependent on qualifying criteria. For example, if the permits issued by government are designed to limit the number of people entitled to engage in the activity rather than to assess competence in some way, the charge should be considered unrequited (see ESA 2010 15.31 to 15.32). An example of this is the government restricting the number of cars entitled to operate as taxis.

The second element of the first question is whether a charge is proportionate to the service being provided. When making this assessment, all the costs that a private company would need to cover when setting a price must be included (see MGDD 2016 VI.1.2.5, 21). So, all direct costs should be included in this assessment, as should all indirect costs.

It is also worth noting that a body may choose to provide a range of similar services at different prices to reflect the costs required to deliver the service (see MGDD VI.1.2.5, 21). For example, a charge can still be requited if the price is set higher at times of peak demand, or set lower for a service delivered online rather than in person.

Having established the relevant costs to compare, it is useful to detail clear examples of when charges are proportionate, and when they are not. At one end of the spectrum are charges where nothing is received following payment, such as income taxes and inheritance taxes. At the other end of the spectrum are full cost recovery models where the price charged corresponds exactly to the costs incurred in delivering the service.

In the real world however, many cases are not clear-cut and are more finely-balanced. One useful example is the charge made for registration of title with Her Majesty's Land Registry (HMLR), where the amount charged is based on the value of the land or property being registered, and not on how much it costs HMLR to provide the service.

By way of example, there may be two people who wish to register their respective properties, each being worth £100,000. As the properties have the same value, each applicant pays the same charge. One property is a studio flat in a city centre, requiring relatively little work by HMLR. However, the other property is based in a rural setting, meaning that acres of farm land have to be mapped for the application. Of course, it is not possible to argue that nothing is received by the payers of the charge. However, it is clear, given the different level of service provided to each applicant, that the payments are not proportionate and are therefore unrequited.

The second question requires an assessment of the global revenue a unit receives against the global cost of providing the service. If these amounts are similar, this suggests the transaction is commensurate and requited. However, if a body has deliberately set prices at a level that will result in a surplus being received, and that surplus is used directly for an activity unrelated to the original payment, this suggests the transaction is not commensurate and is unrequited (see MGDD 2016 VI.1.2.5, 21).

Visa charges are again a useful example, as prices for visa charges are set deliberately at a level that results in global revenue received by the Home Office being more than the global cost of providing the service. The resulting surplus is used for activities including securing the UK border against class A drugs and preventing people-smuggling. As a result, there is an element of redistribution, where a surplus from the original payment (for legally entering the UK) is spent on activities that are unrelated to the administrative costs of providing the visas. Therefore, as visa charges are compulsory (see earlier in this article) and unrequited, they have been classified as a tax by the ONS.

The third question requires an assessment of whether the payer of the charge is receiving a service or other benefit directly in exchange for what has been paid. The guidance explains that a charge to a business can be classified as a tax if it is used to benefit consumers or the industry of the business in general, rather than funding services delivered directly to the individual business paying the levy (see MGDD VI.1.2.5, 24).

A useful example to consider is that of the Financial Services Compensation Scheme (FSCS), which is funded through compulsory annual levies paid by the financial services industry. These levies fund both the running costs of the FSCS and compensation payments made by the scheme. Although the financial institutions paying the levy can be said to receive some benefit through a scheme that provides compensation for its customers, the primary benefit is to the customers themselves and the financial industry more generally. As a result, the ONS has classified these compulsory and unrequited levies as taxes.

Economically significant

If a charge has been classified as a fee, it is also important to note that public sector bodies can charge fees at market prices that are economically significant or at non-market prices that are not. In evaluating whether a charge is economically significant, it is necessary to consider two questions:

- Does the charge have a substantial influence on the amounts of products producers are willing to supply and on the amounts of products that purchasers wish to acquire?
- Does the existence of alternative options for the purchaser mean they can freely choose to purchase or not on the basis of the prices charged?

The guidance explains that the capacity of producers and consumers to react to economic price signals is fundamental in assessing market behaviour (see MGDD I.2.4.1, 26). But what does this mean in practice?

Markets are defined, in part, by the level of competition that exists within them. At one end of this conceptional spectrum is a perfectly competitive market, which does not exist in reality, but is useful to consider for illustrative purposes. Here, a private corporation produces a good or service, and prices act as market signals that guide the decisions of households and corporations when determining the relative value of goods and services.

In a perfectly competitive market, the price adjusts until it reaches an equilibrium where supply equals demand and the price (which equals marginal cost) is at a pareto-efficient level, where resources cannot be reallocated to make an individual better off without making someone else worse off. As there are a large number of corporations providing the same good or service, both the private corporation and those who demand its output do not have any significant market power, meaning they are “price-takers”.

If the corporation charges a below-market price they will increase the number of units sold, but the average cost to produce each unit will be higher than the price, therefore, it will go out of business. If the corporation charges an above-market price, no units will be sold because the same units could be purchased elsewhere at a lower price, also meaning that the corporation will go out of business.

Therefore, the price has a substantial influence on the number of products producers are willing to supply, and on the amount that purchasers wish to acquire (see ESA 2010, 20.19, MGDD 2016 I.2.4.1, 26, and SNA 2008 4.18). Further, consumers can make a choice based on the prices charged (see ESA 2010 3.19 and 20.23) as they can purchase output from a number of different producers. It is for these reasons that the prices charged by private producers are considered to be economically significant (see MGDD 2016 I.2.4.2, 28).

There also exist other types of market structure that have some, but not all features of competitive markets. These markets are imperfectly competitive and can take different forms. One such form is an oligopolistic market, which results from collusion between a small number of large firms. Another example is a monopolistic market, where a large number of producers sell differentiable products that are not perfect substitutes.

While both of these markets are imperfectly competitive, private corporations that operate within them still produce at economically significant prices. Why is this? Remembering the criteria against which to assess the existence of economically significant prices, prices in this market will clearly affect demand as there exist alternative options for the purchaser where a choice can be made based on price, and the price also has a substantial influence on levels of supply.

A final imperfectly competitive market to consider is the monopoly, where a producer is the sole supplier of a good or service. While perfectly-competitive firms are “price-takers”, monopolies are “price-makers”. In other words, the absence of competition means a monopoly can set their output price, having first determined the quantity they wish to produce.

While there is an absence of competition in a monopolised market, monopolies still sell output at economically significant prices. The price still influences supply, and the consumer can make a choice to purchase or not based on the price.

Public sector bodies, unlike private corporations, cannot be assumed to produce output at economically significant prices. At face value, it could be suggested that output that is sold to households or private corporations by public bodies such as non-profit institutions and monopolies is economically significant (see MGDD 2016 I.2.3, 17 and I.2.4.2, 28).

However, this fails to recognise that public bodies are often created for social purposes when the market would not produce output in the quantities or at the prices necessary to meet government policy (see ESA 2010 20.21). In this instance, a public body may receive a subsidy or other type of support from government (see MGDD 2016 I.2.4.6, 72), allowing them to sell a good or service thought to have some social worth by the government for a price below that of private corporations. In such an instance, the prices charged would not be economically significant.

It could also be suggested that a public body that sells most or all of its output to government does so at prices that are not economically significant. However, this fails to recognise that government could purchase the output on fully commercial terms.

For example, there may be fair competition between a public body and private sector producers for a contract with government, such as with an open tendering process. On the assumption that the public body receives no subsidy or support from government, it would likely react to market signals, and government would be choosing who to purchase from on the basis of price and other aspects. In this instance, the public body would produce its output at economically significant prices (see MGDD 2016 I.2.4.2, 28).

As is the case when considering whether a payment is compulsory, great care must be taken when defining the activity that is being assessed, and whether the price of the charge associated with the activity actually affects demand. Two examples can be used to explain why.

First, prices paid for stamps from Royal Mail are economically significant. In this instance, the activity is the choice to communicate with another party, rather than buying stamps. In carrying out this activity, a letter could be written, or an e-mail, or a number of alternative options could be chosen.

Therefore, the price of the stamp, and of the available alternatives, has a substantial influence on the amount Royal Mail is willing to supply and how much consumers are willing to purchase. If stamps were to double in price, consumers would likely choose one of the alternative options available to them, and sales of stamps would reduce. Therefore, the price paid for the stamp is economically significant.

However, as detailed earlier in this article, the activity when paying premium service charges for visas is entering the UK to visit, live or work. In this instance, the price of the service charge does not substantially influence demand. Rather, other factors would influence demand such as the number of people granted work visas, the waiting time for the regular non-premium service, and the cost for people to travel to and spend time visiting the UK (for example, through currency fluctuations).

Therefore, as payments for this service are not compulsory or economically significant, the ONS has classified them as non-market fees (P.131).

Who can levy taxes and fees?

As described earlier in this article, both public sector bodies and private sector bodies can charge fees. Interestingly, from a national accounts perspective, both public sector and private sector bodies can also levy taxes (see MGDD 2016 I.2.4.5.1, 56).

It may seem peculiar that a private sector body can levy a tax. However, it is not unknown for government to entrust another unit with implementation of specific policies or interventions. Of course, it is more likely that such work will be carried out by a public sector body. However, if a non-government body is in receipt of a tax, whether it be a public or private corporation, then the transaction must be rearranged, with the tax being shown as received by government, and an equal and opposite payment then recorded from government to the corporation.

4 . Classifying taxes and fees – why is it important?

The classification decisions made by the Office for National Statistics (ONS) are statistical: they affect the statistics describing the UK’s economy and public finances, but they do not directly affect legal questions such as ownership.

Nonetheless, because ONS classifications relating to the public sector are widely used for purposes other than calculating statistical outputs, classification decisions on taxes can have a consequential effect on public bodies. However, it is best to begin by explaining how these classifications affect ONS statistical outputs.

Effect on headline statistical aggregates

The classification of a payment as a tax, market fee (that is, one at economically significant prices), or non-market fee (one not at economically significant prices) has different effects on economic indicators such as public sector net borrowing (PSNB) and gross domestic product (GDP). In general terms, if a transaction is classified as a tax rather than a fee, it will have no effect on PSNB as both taxes and fees are components of PSNB.

However, GDP could be affected depending on whether the tax is considered to be a tax on products (which is part of the GDP calculation) or a tax on income and wealth (which is not).

One other important consequence is the effect on tax revenue as a percentage of GDP, a measure that is widely used by analysts, rating agencies and investors. This is commonly referred to as the "tax burden" and can be regarded as a measure of the degree to which government controls the economy's resources. Clearly, to calculate this metric it is important to be able to accurately identify and separate tax revenue from other revenue.

Effect on the sector classification of public sector bodies

In determining the sector classification of a public sector body, it is often necessary to carry out the quantitative "market test" (see ESA 2010 20.29). Under this test, if a body's "sales" are equal to at least 50% of its production costs it would be classified as a public corporation. If its sales are less than 50% it would be classified as general government.

Market fee revenue is treated as "sales" whereas non-market fee revenue and tax revenue are not treated as "sales". Therefore, the classification of payments as taxes or fees can change the sector classification of the body receiving the payments. This can be important as Her Majesty's Government applies different levels and types of control to public corporations than those it applies to general government bodies.

Effect on departmental accounts and budgets

The classification of a payment as a tax or a fee is an important distinction for government department budgets. Departmental budget rules detailed in Her Majesty's Treasury's (HMT's) Consolidated Budget Guidance do not generally allow central government departments to "keep" tax revenue. Instead, they must either yield tax revenue to the Exchequer, or the Exchequer reduces the amount paid to the department so that its budget is not positively impacted by the tax revenue. By contrast, departments may use other revenue streams, such as fees, to increase their budget expenditure limits.

It is worth noting that Chapter 6 of HMT's Managing Public Money explains the principles departments should use when setting prices for fees, and is based on the same statistical guidance referenced in this article. As it is based on the same statistical guidance, the principles departments are instructed to follow when setting prices for fees relate to similar areas that the ONS considers when classifying payments as fees or taxes.

For example, Managing Public Money explains that the standard approach in setting prices for fees is to recover full costs, to ensure that the government neither profits at the expense of consumers or makes a loss for taxpayers to subsidise.

It also explains that different prices can be set for different categories of service such as premium services, or to reflect the costs of supplying the service in person, or by post or online.

Finally, it explains that cross-subsidisation is not considered standard practice when setting fees and reference is made to the fact that such payments are normally classified by the ONS as taxes.

5 . Conclusion

While the information presented in this article demonstrates how complex it can be to determine whether a payment is a tax or a fee, it is intended to act as a useful summary of how the Office for National Statistics (ONS) makes these decisions, and what these decisions can mean for public sector bodies.

It may also be helpful to provide some general advice on the application of the guidance. First, it is important to state that it is rare that one indicator would by itself result in a transaction being classified as a tax or a fee. Rather, all of the different characteristics of a transaction, assessed against the guidance cited in this article, should be taken into account.

Classifications have to be made on a case by case basis, taking into account the individual context and circumstances of each transaction against the relevant characteristics, which have been summarised in this section.

Is the charge compulsory?

- Has government used its power so a payment must be made to a specific body or bodies, to engage in an activity, or once a chosen activity has been carried out?

Is the charge requited?

- Is the body setting the charge undertaking significant work (for example, checks) to deliver the service and is the charge proportionate with the service being provided?
- Is the charge set at a level to cover the global costs of providing the service or is there a surplus by design to fund other activities unrelated to the service?
- Is the payee receiving a clear benefit directly in exchange for the charge or is the charge primarily a means to fund broader benefits to a section of society?

Is the charge regulatory?

- Following the payment, does the government check, for example, the competence or qualifications of the person concerned; the reliability, suitability, or safety of equipment or premises; or the quality or standard of goods or services provided?

Is the charge economically significant?

- Does the charge have a substantial influence on the amounts of products producers are willing to supply and on the amounts of products that purchasers wish to acquire?
- Does the existence of alternative options for the purchaser mean they can freely choose to purchase or not on the basis of the prices charged?

Finally, as the purpose of this article is to act as a reference point for those that are interested in this area, we would welcome any comments or questions from those that read the article by email at econstats.classifications@ons.gov.uk.