



Finance (No. 2) Act 2017

2017 CHAPTER 32

PART 2

INDIRECT TAXES

46 Remote gaming duty: freeplay

- (1) Part 3 of FA 2014 (general betting duty, pool betting duty and remote gaming duty) is amended in accordance with subsections (2) to (8).
- (2) In section 159 (remote gaming duty: gaming payments), for subsection (4) substitute—
 - “(4) For the purposes of this Chapter—
 - (a) where the chargeable person participates in the remote gaming in reliance on an offer which waives all of a gaming payment, the person is to be treated as having made a gaming payment of the amount which would have been required to be paid without the offer (“the full amount”), and
 - (b) where the chargeable person participates in the remote gaming in reliance on an offer which waives part of a gaming payment, the person is to be treated as having made an additional gaming payment of the difference between the gaming payment actually made and the full amount.
 - (5) Where a person is treated by subsection (4) as having made a gaming payment, the payment is to be treated for the purposes of this Chapter—
 - (a) as having been made to the gaming provider at the time when the chargeable person begins to participate in the remote gaming to which it relates, and
 - (b) as not having been—
 - (i) returned, or
 - (ii) assigned to a gaming prize fund.

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(6) The Commissioners may by regulations make further provision about how a gaming payment which a person is treated as having made under subsection (4) is to be treated for the purposes of this Chapter.

(7) This section has effect subject to section 159A.”

(3) After section 159 insert—

“159A Play using the results of successful freeplay

(1) Where a chargeable person participates in remote gaming, an amount is not to be taken into account in determining the “gaming payment” (if any) under section 159 so far as the amount is paid out of money in relation to which the first and second conditions are met (“excluded winnings”).

(2) The first condition is that the money has been won by participation in the gaming either—

- (a) in reliance on an offer which waives all or part of a gaming payment, or
- (b) in a case where the gaming payment was paid out of money in relation to which this condition and the second condition were met.

(3) The second condition is that the chargeable person is not entitled to use the money otherwise than for the purpose of participation in the gaming.

(4) Subsection (5) applies where—

- (a) a chargeable person participates in remote gaming in reliance on an offer which waives all or part of a gaming payment, and
- (b) that offer has been won in the course of the person's participation in the gaming (and the person was not given the choice of receiving a different benefit instead of the offer).

(5) The amount which would, apart from this subsection, be treated by section 159(4)(a) or (b) as a gaming payment (or additional gaming payment) is not to be so treated.

(6) For the purposes of this section, where a payment is made out of moneys which include both excluded winnings and money which is not excluded winnings (the “other funds”), the payment is not taken to be made out of excluded winnings except so far as the amount of the payment exceeds the amount of those other funds.

(7) In this section “money” includes any amount credited and any other money's worth.”

(4) In section 160 (remote gaming duty: prizes)—

- (a) in subsection (1), in the opening words, after “account” insert “ only ”,
- (b) omit subsection (2),
- (c) in subsection (3), at the end insert “ (but where a gaming payment is returned by being credited to an account this subsection has effect subject to subsection (1)) ”, and
- (d) at the end insert—

“(9) This section has effect subject to section 160A.”

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(5) After section 160 insert—

“160A Prizes: freeplay

- (1) Where a prize is a freeplay offer (whether or not in the form of a voucher) which does not fall within section 160(4)—
 - (a) for the purposes of sections 156 and 157, the expenditure on the prize is nil, and
 - (b) subsections (5) to (7) of section 160 do not apply in relation to the prize.
- (2) Where a prize is a voucher which gives the recipient a choice of using it in place of money for freeplay or as whole or partial payment for another benefit, section 160(5)(b) has effect as if after “used” there were inserted “ if it is used as payment for a benefit other than freeplay ”.

(3) In this section—

“freeplay” means participation, in reliance on a freeplay offer, in—

- (a) remote gaming, or
- (b) an activity in respect of which a gambling tax listed in section 161(4) is charged;

“freeplay offer” means an offer which waives all or part of—

- (a) a gaming payment, or
- (b) a payment in connection with participation in an activity in respect of which a gambling tax listed in section 161(4) is charged.”

(6) In section 188 (gaming), after subsection (2) insert—

“(3) But a game is not a “game of chance” for the purposes of this Part if—

- (a) it can only be played with the participation of two or more persons, and
- (b) no amounts are paid or required to be paid—
 - (i) in respect of entitlement to participate in the game, or
 - (ii) otherwise for, on account of or in connection with participation in the game.”

(7) In section 190 (index), in the Table, in the entry for “game of chance”, for “188(1)(b)” substitute “ 188(1)(b) and (3) ”.

(8) In section 194(4) (regulations under Part 3 to which the procedure in section 194(5) is to apply), before paragraph (a), insert—

“(za) regulations under section 159(6);”.

(9) The amendments made by this section have effect with respect to accounting periods beginning on or after 1 August 2017.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. A1 para. 8(6)(b) omitted by [2022 c. 3 Sch. 1 para. 32\(b\)](#)
- Sch. A1 para. 8(2) substituted by [2022 c. 3 Sch. 1 para. 32\(a\)](#)