

**EXPLANATORY MEMORANDUM TO**  
**THE AIR PASSENGER DUTY (RATE) (QUALIFYING TERRITORIES) ORDER**  
**2007**

**2007 No. 22**

**1.** This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs on behalf of the Treasury and is laid before Parliament by Command of Her Majesty.

**2. Description**

The instrument extends the list of 'qualifying territories' to which the lower rate of air passenger duty (APD) applies to include Albania; Bosnia and Herzegovina; the Former Yugoslav Republic of Macedonia; Kosovo under the Interim Administration of the United Nations Mission; Montenegro; and Serbia.

**3. Matters of special interest to the Joint Committee on Statutory Instruments**

None.

**4. Legislative Background**

4.1 APD was introduced by the Finance Act 1994 (c.9) ("the Act"). All airlines pay an amount of duty for each passenger they carry from a UK airport (except in the Scottish Highlands and Islands) based on each passenger's final destination and, from 1 April 2001, the class of travel.

4.2 The rate of duty is determined by section 30 of the Act. From 1 February 2007, the lower rate for standard class travel will be £10, and for travel other than standard class £20. The standard rate will be £40 for standard class of travel and for travel other than standard class, £80.

4.3 The lower rate applies to flights within the UK or to another EEA State, any territory for whose external relations the UK or another EU Member State is responsible and to any qualifying territory. "EEA State" is defined in section 30(9) and "qualifying territory" is defined in section 30(9A).

4.4 Section 30(9A) was inserted by section 121(1) and (4) of the Finance Act 2002 (c.23) and extended the lower rate of duty to, at that time, all EU applicant countries and Switzerland. Section 30(9B) provides that the definition of "qualifying territory" in section 30(9A) can be amended by Treasury Order by adding, removing or varying the description of any territory. Under that power, the section was amended by the Air Passenger Duty (Rates) (Qualifying Territories) Order 2006 (S.I. 2006/2653), which added Croatia to the list of "qualifying territories". This Order is made under the same power.

**5. Extent**

This instrument applies to all of the United Kingdom.

## **6. European Convention on Human Rights**

John Healey MP, Financial Secretary to the Treasury, has made the following statement regarding Human Rights:

In my view the provisions of the instrument are compatible with the Convention rights.

## **7. Policy background**

The European Commission has recently concluded an agreement\* with eight South East European countries to create a European Common Aviation Area (ECAA). A number of those countries (Albania; Bosnia and Herzegovina; the Former Yugoslav Republic of Macedonia; Kosovo under the Interim Administration of the United Nations Mission; Montenegro; and Serbia) are not included in the current list of countries to which the lower rates of APD apply. In keeping with a similar earlier agreement which led to extension of the scope of the lower rates in 2002, and to ensure that the list is compatible with the ECAA, it is therefore now appropriate to extend the list to include Albania; Bosnia and Herzegovina; the Former Yugoslav Republic of Macedonia; Kosovo under the Interim Administration of the United Nations Mission; Montenegro; and Serbia.

## **8. Impact**

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as no impact on the private or voluntary sectors is foreseen.

8.2 The impact on the public sector is that H M Revenue and Customs staff, as part of the assurance of the businesses that are liable to pay APD, will monitor compliance with the Order.

## **9. Contact**

Catherine Mawer, Excise and Stamp Taxes Directorate, Transport Taxes Team, H M Revenue and Customs, Room 3E/01,100, Parliament Street, London SW1A 2BQ Tel: 020-7147- 0383 or e-mail: catherine.mawer@hmrc.gsi.gov.uk can answer any queries regarding the instrument.

\*OJ: L285, 16.10.2006, p.3- Multilateral agreement between the European Community and its Member States, the Republic of Albania, Bosnia and Herzegovina, the Republic of Bulgaria, the Republic of Croatia, the former Yugoslav Republic of Macedonia, the Republic of Iceland, the Republic of Montenegro, the Kingdom of Norway, Romania, the Republic of Serbia and the United Nation Interim Administration in Kosovo on the establishment of a European Common Aviation Area.