

2013 No. 493

EXCISE

The Air Passenger Duty (Amendment) Regulations 2013

Made - - - - *6th March 2013*

Laid before the House of Commons *7th March 2013*

Coming into force - - *1st April 2013*

The Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of the powers conferred by sections 33(7) and (8), 38 and 42(2) of the Finance Act 1994(a):

Citation and commencement

1. These Regulations may be cited as the Air Passenger Duty (Amendment) Regulations 2013 and come into force on 1st April 2013.

Amendments to the Air Passenger Duty Regulations 1994

2. Amend the Air Passenger Duty Regulations 1994(b) as follows.

3. In paragraph (1) of regulation 2 (interpretation)—

(a) for the definition of “accounting period” substitute—

““accounting period” means (other than in regulation 10G)—

(a) a period ending on the last day of each month;

(b) a transitional accounting period or current accounting year (as defined in regulation 10A); or

(c) such other period as, in any particular case, the Commissioners allow;”;

(b) after the definition of “business day” insert—

““occasional operator” means an operator who satisfies the Commissioners that, in any period of 12 months beginning on any day during which the operator uses for a flight a chargeable aircraft for the carriage of any chargeable passengers, the number of such flights will not exceed 12;”.

4. In regulation 4 (registration of operators)—

(a) in paragraph (3) for “Where” substitute “Subject to paragraphs (8) and (9), where”;

(a) 1994 c.9; sections 33(7) was amended by paragraph 10 of Schedule 23 to the Finance Act 2012 (c. 14). Section 43(4) of the Finance Act 1994 provides that expressions used in Chapter 4 of Part 1 and in the Customs and Excise Management Act 1979 (c. 2) have the same meaning as in that Act. Section 1(1) of the Customs and Excise Management 1979 (as amended by paragraph 22(b) of Schedule 4 to the Commissioners for Revenue and Customs Act 2005 (c.11)) defines “the Commissioners” as the Commissioners for Her Majesty's Revenue and Customs.

(b) S.I. 1994/1738; relevant amending instruments are S.I. 2009/2045, 2012/ 3017.

(b) after paragraph (7) insert—

“(8) In the circumstances prescribed in paragraph (9) the Commissioners need not include in the register an operator who has given notice of liability to be registered.

(9) The prescribed circumstances are —

- (a) the operator is an occasional operator; and
- (b) the Commissioners are satisfied that the amount of duty that will become due from the operator in the period of 12 months beginning on the date on which notice of liability to register is given will not exceed £5000.”.

5. In paragraph (1) of regulation 9 (returns) and paragraph (1) of regulation 10 (payment) after “below” insert “and regulation 10F”.

6. In Part 4 (returns and payment), after regulation 10 insert—

“Interpretation of regulations 10B to 10E

10A. In regulations 10B to 10E—

“authorised operator” means an operator who has been authorised by the Commissioners under regulation 10B(1) and “authorised” and “authorisation” shall be construed accordingly;

“current accounting year” means the period of 12 months beginning on 1st April and ending on 31st March;

“the scheme” means the annual accounting scheme established by regulations 10B to 10E;

“transitional accounting period” means the period beginning on the first day of the month in which the Commissioners authorise the operator to use the scheme and ending on 31st March next following that day.

Annual accounting scheme

10B.—(1) The Commissioners may authorise an operator to pay and account for duty by reference to any transitional accounting period, and any subsequent current accounting year.

(2) An operator is eligible to apply for authorisation under paragraph (1) if the operator has reasonable grounds for believing that the amount of duty that will become due from the operator in the period of 12 months beginning on the date of the application for authorisation will not exceed £500,000.

10C. The Commissioners may refuse to authorise an operator under regulation 10B(1) where—

- (a) the operator has failed to furnish a return in accordance with regulation 9;
- (b) the operator has failed to pay any duty that has become due in accordance with regulation 10; or
- (c) they consider it is necessary for the protection of the revenue.

10D.—(1) An authorised operator must continue to pay and account for duty in accordance with the scheme until the day on which the operator ceases to be authorised.

(2) The day on which an authorised operator ceases to be authorised shall be—

- (a) the day following the last day of any transitional accounting period or current accounting year in which the amount of duty which has become due from the operator in that period or, as the case may be, year has exceeded £500,000;
- (b) the day on which the operator’s authorisation is terminated in accordance with regulation 10E;

- (c) the day following the day on which the operator ceases to operate chargeable aircraft;
- (d) the day following the last day of the month in which the Commissioners receive notification that the operator wishes to cease to operate the scheme.

(3) Paragraph (2)(a) does not apply if the Commissioners are satisfied that the amount of duty that will become due from the operator in the subsequent current accounting year will not exceed £500,000.

(4) Where an authorised operator ceases to be authorised the operator must—

- (a) if the authorisation ceases before the end of the operator's transitional accounting period or current accounting year, furnish a return not later than the twenty-first day following the day specified in paragraph (2)(b), (2)(c) or (2)(d) together with any payment due to the Commissioners in respect of the operator's liability for duty for that part of the period or year arising before the day on which the authorisation ceased; or
- (b) if the authorisation ceases at the end of the operator's transitional accounting period or current accounting year, furnish a return together with any payment due to the Commissioners in respect of the operator's liability for duty in accordance with regulations 9 and 10;

and in either case, on and after the day on which the authorisation ceases, account for and pay duty as provided for otherwise than by the scheme.

10E.—(1) The Commissioners may terminate an authorisation where—

- (a) a false statement has been made by or behalf of an authorised operator in relation to the operator's application for authorisation;
- (b) an authorised operator fails to furnish by the due date a return for the operator's transitional accounting period or current accounting year;
- (c) an authorised operator fails to make by the due date any payment shown as due on any return for the operator's transitional accounting period or current accounting year;
- (d) at any time during an authorised operator's transitional accounting period or current accounting year they have reason to believe that the amount of duty due during the period or, as the case may be, year will exceed £500,000;
- (e) it is necessary to do so for the protection of the revenue;
- (f) an authorised operator has not, in relation to any assessment made under section 12 of the Finance Act 1994(a), paid all the duty assessed.

(2) Where an authorised operator has reason to believe that the amount of duty due in a transitional accounting period or current accounting year will exceed £500,000 the operator must, within 30 days, notify the Commissioners in writing.

Occasional operators

10F.—(1) An operator who is an occasional operator must, not later than the seventh day following the end of each accounting period, furnish to the Commissioners a return—

- (a) on a form provided by, or on behalf of, them for the purpose, or
- (b) on any other document provided it contains all the information specified in paragraph (4),

and pay to the Commissioners the amount of duty due in that period.

(a) Section 12 has been amended by the Finance Act 1997 (c. 16), Schedule 2, paragraph 7, Schedule 5, paragraph 6 and Schedule 6, paragraph 1(3), the Finance Act 1998 (c. 36), Schedule 2, paragraph 7, the Finance Act 2004 (c. 12), section 4(3), the Finance (No.3) Act 2010 (c. 33), Schedule 13, paragraphs 3(1) to (7), the Finance Act 2012 (c.14), Schedule 24, Part 1, paragraph 47, S.I. 2001/3022, regulation 9 and S.I. 2011/1043, regulation 6(2).

(2) Where the seventh day would fall on a day that is not a business day the return must be furnished and payment made not later than the last business day before that day.

(3) Returns must be furnished and payment made to the Commissioners at such place as, in accordance with section 38(1)(b) of the Act, they have specified.

(4) A return must contain the following information—

- (a) the reference number provided to the operator by the Commissioners;
- (b) the operator's name and address;
- (c) the operator's email address or telephone number (if any);
- (d) the accounting period to which the return relates;
- (e) the registration number of each aircraft operated by the operator in that period;
- (f) the airport of departure of each flight in that period (including the International Air Transport Association (IATA) code for the airport);
- (g) the country of destination of each flight;
- (h) the number of chargeable passengers carried on each flight; and
- (i) the total amount of duty due.

(5) The operator must sign, date and declare on the return that the information provided in it is true and complete.

(6) In this regulation "accounting period" means a period of twenty-four hours commencing at the beginning of any day on which an occasional operator carries chargeable passengers on a chargeable aircraft."

*Jim Harra
Edward Troup*

6th March 2013

Two of the Commissioners for Her Majesty's Revenue and Customs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Air Passenger Duty Regulations 1994 (S.I.1994/1738) ("the principal Regulations").

Regulation 3 amends the definition of "accounting period" in regulation 2 of the principal Regulations (interpretation) to include a transitional accounting period and current accounting year as defined in new regulation 10A. It also inserts a definition of "occasional operator".

Regulation 4 amends regulation 4 of the principal Regulations (registration of operators) to provide that the Commissioners need not register an occasional operator who satisfies them that, in any period of 12 months beginning with the day on which notice of liability to register is given, the amount of air passenger duty that will become due from the operator will not exceed £5000.

Regulation 5 amends regulations 9 (returns) and 10 (payment) of the principal Regulations so that they are subject to new regulation 10F.

Regulation 6 inserts new regulations 10A to 10F into the principal Regulations.

New regulations 10A to 10E provide for a scheme under which, subject to satisfying the qualifying criteria and authorisation by the Commissioners, an operator may account for and pay air passenger duty on an annual basis. Authorisation to use the scheme may be terminated in the circumstances set out in new regulation 10E.

New regulation 10F provides for how an occasional operator must account for and pay air passenger duty that becomes due from the operator and, for those purposes, defines an accounting period as any day on which the operator carries chargeable passengers on a chargeable aircraft.

A Tax Information and Impact Note covering this instrument was published on 6th December 2011 alongside the draft Finance Bill 2012 and is available on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm>. It remains an accurate summary of the impacts that apply to this instrument.

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STATUTORY INSTRUMENTS

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