

EXPLANATORY MEMORANDUM TO

THE AIR PASSENGER DUTY (AMENDMENT) REGULATIONS 2013

2013 No. 493

1. This explanatory memorandum has been prepared by HM Revenue and Customs (HMRC) and is laid before the House of Commons by Command of Her Majesty

2. Purpose of the instrument

2.1 This instrument amends the Air Passenger Duty Regulations 1994 (S.I. 1994/1738) (“the principal Regulations”).

2.2 The Finance Act 2012 extended, with effect from 1 April 2013, the scope of air passenger duty (APD) to business jets and smaller aircraft. Many of the aircraft operators who will become liable to APD are small to medium businesses or operate only occasionally and this instrument amends the principal Regulations to provide for an annual accounting scheme and an occasional operator scheme for such operators.

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

3.1 None.

4. Legislative Context

4.1 APD was introduced by the Finance Act 1994 to apply to aircraft with an authorised take off weight of 10 tonnes or more equipped to seat 19 or more passengers.

4.2 Finance Act 2012 amends that Act by reducing the 10 tonne de minimis limit to 5.7 tonnes and removing the minimum passenger capacity.

4.3 Regulation 2 of the principal Regulations defines 'accounting period'. This instrument amends that definition so that “transitional accounting periods” and “current accounting years” under the annual accounting scheme are accounting periods for the purposes of the principal Regulations. It also inserts a definition of “occasional operator” as being an operator who makes no more than 12 flights in a 12 month period.

4.4 Regulation 4 of the principal Regulations provides for the inclusion in a register of aircraft operators who are liable to be registered. This instrument amends that regulation to provide that the Commissioners need not include in the register occasional operators who have an annual APD liability of no more than £5000.

4.5 Regulations 9 and 10 of the principal Regulations require aircraft operators to submit returns and pay any duty due by a specified time. This instrument makes those regulations subject to new provisions relating to occasional operators (new regulation 10F) and also inserts new regulations 10A to 10E, which set out the eligibility criteria

for the annual accounting scheme, how the scheme operates and the circumstances when an operator may cease to be authorised to use the scheme.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- *What is being done and why*

7.1 From 1 April 2013 APD will apply to private jets and smaller aircraft. As many of the aircraft operators being brought into the tax are small to medium businesses HMRC are providing for two accounting schemes to minimise the administrative burden.

Annual accounting scheme

7.2 Currently APD is declared and paid on a monthly basis. This is appropriate for the current trader population many of whom operate several hundred routes to both short and long haul destinations. However, for smaller operators who may not have many passengers, fly predominantly to short haul destinations and are likely to have in the main manual systems, monthly declarations could be onerous. An annual accounting system, where operators declare on a single return their whole year's liability, will reduce the administrative burden on them.

7.3 In order to make this scheme available to as many small operators as possible, while taking into consideration the need to protect the revenue, eligibility for the scheme is limited to operators with an estimated annual APD liability of no more than £500,000.

Occasional operator scheme

7.4 Under the current APD regime, aircraft operators are required to notify HMRC of their liability to be registered within seven days of their becoming so liable (i.e. when they carry chargeable passengers on a chargeable aircraft). Once registered they are then required to complete and submit monthly returns.

7.5 Extending APD to smaller aircraft operators means that many who make ad hoc one off flights will also be required to notify their liability to register. Such operators may then not fly into the UK again for many months. Including such operators in the register and requiring them to make monthly returns would be burdensome. Instead this instrument introduces a scheme where occasional operators with an estimated annual APD liability of no more than £5000 will be able to declare and pay APD as and when they carry chargeable passengers on a chargeable aircraft.

- *Consolidation*

7.6 There are currently no plans to consolidate the principal Regulations.

8. Consultation outcome

8.1 No consultation on this change was conducted, although HMRC have discussed the design of the schemes with the industry representative bodies.

9. Guidance

9.1 Guidance on the changes being made will be included in a new HMRC Public Notice.

10. Impact

10.1 The impact on business, charities or voluntary bodies is negligible.

10.2 The impact on the public sector is negligible.

10.3 A Tax Information and Impact Note was published on 6 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.

11. Regulating small business

11.1 The legislation applies to small business.

11.2 To minimise the impact of the requirements on firms employing up to 20 people, the approach taken is to make only the minimum changes required.

11.3 The basis for the final decision on what action to take to assist small business was that no additional regulatory requirement other than that which is necessary is to be introduced.

11.4 APD makes allowances for small businesses, with a de minimis exemption for flights made in aircraft of less than 5.7 tonnes. HMRC do not expect small businesses that do pay APD to be disadvantaged by the changes relative to larger airlines, as in general they are less likely to operate the direct long haul flights affected by the changes.

12. Monitoring & review

12.1 HMRC will work with the industry to ensure effective monitoring of the wider impact of the policy to extend APD to private jets and smaller aircraft and it would be appropriate to review this instrument as part of this process.

13. Contact

Wing Edmundson at the Transport Taxes Team, HMRC Tel: 0207 147 0410 or email: wing.edmundson@hmrc.gsi.gov.uk can answer any queries regarding the instrument.