



# Finance (No. 2) Act 2017

## 2017 CHAPTER 32

### PART 2

#### INDIRECT TAXES

#### **43 Air passenger duty: rates of duty from 1 April 2018**

- (1) In section 30 of FA 1994 (air passenger duty: rates of duty), in subsection (4A) (long haul rates of duty)—
- (a) in paragraph (a), for “£75” substitute “£78”;
  - (b) in paragraph (b), for “£150” substitute “£156”.
- (2) The amendments made by this section have effect in relation to the carriage of passengers beginning on or after 1 April 2018.

#### **44 Petroleum revenue tax: elections for oil fields to become non-taxable**

- (1) In Schedule 20B to FA 1993, for paragraphs 2 to 12 substitute—

*“Method of election*

- 2 An election must be made in writing.
- 3 An election must be notified to the Commissioners.
- 4 An election is deemed to have been made on the date on which notification of the election was sent to the Commissioners.

*Effect of election*

- 5 If an election is made, the field ceases to be taxable with effect from the start of the first chargeable period to begin after the election is made.

---

*Status: This is the original version (as it was originally enacted).*

---

*No unrelievable field losses from field*

- 6 From the start of the first chargeable period to begin after an election is made, no allowable loss that accrues from the oil field is an allowable unrelievable field loss for the purposes of petroleum revenue tax.

*Interpretation*

- 7 (1) In this Schedule—  
“Commissioners” means the Commissioners for Her Majesty’s Revenue and Customs;  
“participator”, in relation to a particular time, means a person who is a participator in the chargeable period which includes that time.

- (2) Expressions used in this Schedule and in Part 1 of the Oil Taxation Act 1975 have the same meaning in this Schedule as in Part 1 of that Act.”

- (2) In OTA 1975, in section 6(1A), for “paragraph 5” substitute “paragraph 6”.  
(3) In FA 1980, in paragraph 15(9A) of Schedule 17, for “paragraph 5” substitute “paragraph 6”.  
(4) The amendment made by this section is to be treated as having come into force on 23 November 2016.

**45 Gaming duty: rates**

- (1) In section 11(2) of FA 1997 (rates of gaming duty), for the table substitute—

“TABLE

Part of gross gaming yield	Rate
The first £2,423,500	15%
The next £1,670,500	20%
The next £2,925,500	30%
The next £6,175,500	40%
The remainder	50%”.

- (2) The amendment made by this section has effect in relation to accounting periods beginning on or after 1 April 2017.

**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.
- (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).

---

*Status: This is the original version (as it was originally enacted).*

---

- (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.”
- (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—

---

*Status: This is the original version (as it was originally enacted).*

---

- (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.

#### **47 Tobacco products manufacturing machinery: licensing scheme**

- (1) After section 8U of TPDA 1979 insert—

##### **“8V Tobacco products manufacturing machinery: licensing scheme**

- (1) In this section “tobacco products manufacturing machinery” means machinery that is designed primarily for use for the purpose of (or for purposes including) manufacturing tobacco products.
- (2) The Commissioners may by regulations—
- (a) prohibit a person from purchasing, acquiring, owning or being in possession of, or carrying out other specified activities in respect of, an item of tobacco products manufacturing machinery, except in accordance with a licence granted under the regulations;
  - (b) provide that if a person contravenes the prohibition in relation to an item of tobacco products manufacturing machinery, the machinery is liable to forfeiture.
- (3) The regulations may provide that the prohibition does not apply—
- (a) in relation to persons, or items of tobacco products manufacturing machinery, of a specified description;
  - (b) in specified circumstances.
- (4) Regulations under this section may include provision—
- (a) imposing obligations on licensed persons;
  - (b) for a licensed person who fails to comply with a condition or restriction of a licence, or with an obligation imposed by the regulations, to be liable to a penalty of the amount for the time being specified in section 9(2)(b) of the Finance Act 1994;
  - (c) for exceptions from liability to a penalty under the regulations;
  - (d) for the assessment and recovery of a penalty, including provision for two or more contraventions to be treated as a single contravention for the purposes of assessment;

---

*Status: This is the original version (as it was originally enacted).*

---

- (e) for the Commissioners, if they think it right because of special circumstances, to remit, reduce (including reduce to nil) or stay a penalty, or agree a compromise in relation to proceedings for a penalty;
  - (f) about reviews by the Commissioners, or by an officer of Revenue and Customs, of decisions in connection with licensing and the imposition of penalties under the regulations and about appeals against those decisions (which may include provision for specified decisions of the Commissioners to be treated as if they were listed in section 13A(2) of, or Schedule 5 to, the Finance Act 1994);
  - (g) for the Customs and Excise Management Act 1979 to have effect in relation to licensed persons as it has effect in relation to revenue traders, subject to such modifications as may be specified in the regulations.
- (5) The Commissioners may, by or under regulations under this section, make provision—
- (a) regulating the grant of licences, including provision about the circumstances in which a licence may be granted and the requirements to be met by or in relation to the applicant (which may include a requirement that the applicant is a fit and proper person to hold a licence);
  - (b) about the form, manner and content of an application for or in respect of a licence;
  - (c) for licences to be subject to specified conditions or restrictions;
  - (d) regulating the variation or revocation of a licence, or of any condition or restriction to which a licence is subject;
  - (e) about the renewal, surrender or transfer of a licence;
  - (f) for communications by or with the Commissioners in connection with a licence to be made electronically;
  - (g) as to the arrangements for licensing bodies corporate which are members of the same group (as defined in the regulations);
  - (h) for members of a group to be jointly and severally liable for any penalties imposed under the regulations.”
- (2) In section 9 of TPDA 1979 (regulations), in subsection (1A), for “or 8U” substitute “, 8U or 8V”.