

2005 No. 3328

VALUE ADDED TAX

**The Value Added Tax (Betting, Gaming and Lotteries) Order
2005**

Made - - - - *5th December 2005*

Laid before the House of Commons *5th December 2005*

Coming into force - - *6th December 2005*

Approved by the House of Commons

The Treasury make the following Order in exercise of the powers conferred by sections 31(2) and 96(9) of the Value Added Tax Act 1994(a):

Citation and commencement

1. This Order may be cited as the Value Added Tax (Betting, Gaming and Lotteries) Order 2005 and comes into force on 6th December 2005.

Variation of Group 4 of Schedule 9

2. For Note (3) to Group 4 of Schedule 9 to the Value Added Tax Act 1994(b) substitute—

“(3) ”Gaming machine” means a machine which is designed or adapted for use by individuals to gamble (whether or not it can also be used for other purposes).

(4) But—

- (a) a machine is not a gaming machine to the extent that it is designed or adapted for use to bet on future real events,
- (b) a machine is not a gaming machine to the extent that—
 - (i) it is designed or adapted for the playing of bingo, and
 - (ii) bingo duty is charged under section 17 of the Betting and Gaming Duties Act 1981(c) on the playing of that bingo, or would be charged but for paragraphs 1 to 5 of Schedule 3 to that Act, and
- (c) a machine is not a gaming machine to the extent that—
 - (i) it is designed or adapted for the playing of a real game of chance, and

(a) 1994 c.23. There are no relevant amendments to section 31(2) or 96(9).

(b) Note (3) to Group 4 was amended by section 10(4)(b) of the Finance Act 2003 (c.14).

(c) 1981 c. 63; section 17 of, and Schedule 3 to, the Act were substituted and amended respectively by section 9 of the Finance Act 2003 (c. 14).

- (ii) the playing of the game is dutiable gaming for the purposes of section 10 of the Finance Act 1997(a), or would be dutiable gaming but for subsections (3) and (4) of that section.
- (5) In Notes (3) and (4)—
 - (a) a reference to a machine is a reference to any apparatus which uses or applies mechanical power, electrical power or both,
 - (b) a reference to a machine being designed or adapted for a purpose includes a reference to a machine to which anything has been done as a result of which it can reasonably be expected to be used for that purpose, and
 - (c) a reference to a machine being adapted includes a reference to computer software being installed on it.
- (6) “To gamble” means to participate in—
 - (a) gaming within the meaning of section 6 of the Gambling Act 2005(b), or
 - (b) betting within the meaning of section 9 of that Act.
- (7) “Real” has the meaning given by section 353(1) of the Gambling Act 2005(c).
- (8) “Bingo” means any version of that game, irrespective of by what name it is described.”.

*Joan Ryan
Tom Watson*

5th December 2005

Two of the Lords Commissioners of Her Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, which comes into force on 6th December 2005, amends Group 4 of Schedule 9 to the Value Added Tax Act 1994. Group 4 of Schedule 9 exempts from VAT supplies of betting, gaming and lotteries, subject to certain exceptions. One of these exceptions is the provision of a gaming machine. Note (3) to the Group defines “gaming machine”.

Article 2 of this Order replaces Note (3), extending the definition of gaming machine to all machines that are designed or adapted for gambling, subject to some limited exceptions.

(a) 1997 c.16; subsection (1) of section 10 defines “dutiable gaming” as gaming to which the section applies and subsections (2) to (4) make relevant provision.

(b) 2005 c.19; sections 6 and 9 come into effect on a day appointed in accordance with section 358 of the Act.

(c) 2005 c.19; section 353 comes into effect on a day appointed in accordance with section 358 of the Act.

£3.00

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E0039 1/2006 160039T 19585