

The Modernisation of Gambling Taxes:

Consultation on the Review of Amusement Machine Licence Duty

A Summary of Responses



HM Customs and Excise

The modernisation of gambling taxes:

Consultation on the review of amusement machine licence duty (AMLDD)

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1: INTRODUCTION

PURPOSE OF THIS DOCUMENT

1.1 This document summarises the responses that Customs received to its consultation document, *The Modernisation of Gambling Taxes: Consultation on the review of amusement machine licence duty (AMLD)*, published in July 2003.

1.2 The document is divided into four sections. The first part explains why the Government consulted and what it wanted to know. The second summarises the respondents' answers to the key questions asked. The third part uses short quotes from the various respondents to illustrate the range of views expressed. Finally, annexes list those who we met and those who submitted written responses to the consultation.

BACKGROUND TO THE CONSULTATION

1.3 Gaming Machine Licence Duty (now called AMLD) was introduced in 1966. In order to keep pace with market developments and changing social regulation, the regime has been modified from time to time. The structure of AMLD is now relatively complex, with five different rates payable for an annual licence, depending on the type of machine, the size of stake and the size of jackpot prize. Seasonal and part year licences are also available.

1.4 There are seven main machine retail sub-sectors: pubs; private members' clubs (such as British Legion, Working Men's Clubs); casinos; bingo clubs; betting shops; inland/seaside arcades; and motorway service stations. Machines are also regularly offered for play on ferries, in sports clubs and in leisure centres.

1.5 In Budget 2003 the Chancellor announced that, following the reforms to the taxation of betting, the football pools, and bingo, the Government would now review the taxation of gaming and amusement machines. Among the factors influencing the Government's decision to consult on amusement and gaming machines were:

- the variation in profitability of machines between locations, ranging from locations where machines are barely profitable to run to those where machines can be hugely profitable;
- concerns that the complexity of the current tax regime could hinder technological development and innovation;
- the barriers to entry that the current licence-based structure can cause. Some businesses do not install their full quota of machines if they are unsure that the machines can generate sufficient revenue to meet tax and other costs; and
- some businesses argue that the system is currently too complex and costly to administer.

1.6 The consultation document outlined the background to the Government's ongoing modernisation of the gambling duties; provided an overview of the gaming and amusement machine sector; identified some preliminary options for reform; and sought information and views from stakeholders about the way ahead.

1.7 As part of this consultation, the Government was particularly keen to hear the views of machine operators, suppliers, manufacturers and trade representatives. It also welcomed comments from other interested parties, including academic researchers, industry analysts and machine players.

1.8 A number of specific questions, primarily aimed at machine operators and suppliers, were set out in the consultation document's questionnaire. However, in addition to answers to these questions, the Government also asked respondents for general comments about amusement machine licence duty (AMLD) and the VAT system as currently applied to machines and for ideas for alternative approaches to taxation in this area. The Government also wished to hear about the compliance costs and benefits associated with the current system and any proposed alternatives.

1.9 Respondents were advised that if they did not want their detailed response to be made public then they should clearly state that in their reply. In accordance with the *Code of Practice on Access to Government Information*, they were also asked to provide a summary of their response for publication that included the specific reason(s) why the full response needed to remain confidential, for example if it contained any sensitive commercial information.

1.10 The formal consultation closed on 6 October 2003.

2: A SUMMARY OF RESPONSES

SUMMARY OF RESPONSES

2.1 There was a very good response to the consultation. Formal meetings and site visits were held across the various parts of the machines industry and following on from this, the Government received 32 responses from trade bodies, business organisations and individual companies representing all the amusement and gaming machine sub-sectors, namely:

- arcades;
- betting shops;
- bingo halls;
- casinos;
- clubs;
- distributors;
- ferry operators;
- manufacturers;
- mixed leisure centres;
- motorway service stations;
- private members' clubs;
- pubs; and
- sports clubs.

2.2 Different opinions were expressed about the two key issues; whether the current licence-based tax regime is fit for purpose, or whether there is benefit in planning to move towards a gross profits based regime, and (no matter what tax regime we end up with) whether now is the right time for a major update of machines tax, given the current work being undertaken by the Department for Culture, Media and Sport on the wider gambling regulatory regime.

2.3 There was a mixed response to the idea of a move from a specific licence duty on machines to a gross profits-based tax system.

IN FAVOUR OF GROSS PROFITS TAX IN PRINCIPLE

2.4 Although cautious about any major changes to the tax regime before the implementation of regulatory changes, some of the larger business organisations, such as Gala, Leisure Link, and the British Casino Association (BCA) are in favour of moving to a gross profits based tax regime but are concerned about the timing, and whether the tax rate would be reasonable.

2.5 The Central Council for Physical Recreation (CCPR), a body representing 151,000 UK voluntary sports and recreation clubs, was very much in favour of a move to a profits-based tax, as many of its members would like to offer good quality machines as a part of their facilities, but would struggle to cover a large fixed licence fee.

IN FAVOUR OF REFORMED LICENCE DUTY REGIME

2.6 The main amusement machine trade body, the British Amusement and Catering Trades Association (BACTA) submitted a detailed report analysing options for improved administration of the current tax

system, which they favour above gross profits tax, through industry self-regulation. The Bingo Association (BA), the British Beer and Pubs Association (BBPA) and arcades also support industry self-regulation.

INWARD INVESTMENT

2.7 One major potential inward investor in casinos, MGM Mirage, wrote that it would be in favour of GPT at an appropriate rate, arguing that taxation would complement deregulation as a factor in determining the future shape of the industry and levels of overseas investment.

DATA AND ANALYSIS

2.8 Many trade bodies and individual companies supplied data on the number and category of machines, on gross profits, machine rental etc. Customs is currently aggregating and analysing the data supplied so far, and is working with the trade to improve further the quality of data for some specific sub-sectors of the industry.

NEXT STEPS

2.9 The Government is considering the range of views expressed, together with the data provided by the industry and its own further modelling and analysis work, before deciding on the scope and timing of any major changes to the structure of taxation of machines. Any further reform of the gambling taxes will take account of the Government's wider proposals for modernising gambling regulation.

3: INTERPRETATION OF RESPONSES

3.1 Responses to the various issues covered in the consultation are summarised below, with quotes from the various responses copied to illustrate the wide range of views raised on each subject. Care has been taken to avoid releasing personal company data.

3.2 It is worth noting that answers from a number of businesses don't entirely match the somewhat broader views of the trade bodies to which they belong; indeed some organisations may belong to several trade bodies, each of which has expressed a collective and differing viewpoint.

3.3 A full copy of the AMLD consultation questionnaire is attached at annex C for reference.

Is AMLD a barrier to entry?

Yes - but this prevents proliferation

“The BBPA recognises that AMLD is a special tax and regards its presence as a curb on machine numbers... AMLD... provides a barrier to entry such that the number of machines is self-limiting since the machine must be capable of generating sufficient income to meet the duty charge. The Association also recognises that the duty itself must be limited since too great a charge will result in machines in some locations becoming uneconomic, leading to their withdrawal and subsequent loss in income to the Revenue.”

The British Beer and Pubs Association (BBPA)

“The replacement of AMLD would encourage an increase in the number of locations operating machines, some of which would not be compatible with the Government’s objectives to restrict access to vulnerable groups. We would be concerned for the likely increase in locations such as taxi offices, cafes and take-away restaurants utilising machines available on the second-hand market if AMLD licences were not required.”

The British Association of Leisure Parks, Piers and Attractions Ltd. (BALPPA)

Yes – but AMLD is not the only factor

“A fixed licence fee undoubtedly impacts more heavily on machines generating lower income flows but [there is] a general tolerance for the established licensing system with which clubs are now entirely familiar.”

The Committee of Registered Clubs Associations (CORCA)

“The current licence fee structure undoubtedly has an impact on commercial business decisions about whether to install machines in a particular location. That is equally the case with other costs incurred by a pub, and pub operators are well used to calculating the cost-benefit of different services.”

The Association of Licensed Multiple Retailers (ALMR)

No – AMLD is not a major barrier

“Machine performance as measured by cash-in-box remains the greatest influence.”

Leisure Link

“The current system works well and has no detrimental impact on machine installation decisions either by type of machine or location.”

RAL Holdings Ltd. (RAL)

Should a gross profits tax system be introduced for machines?

No – concentrate on improving the existing licence-based system

“BACTA’s preferred option is a limited reform of the present system of AMLD by adoption of self-licensing.

The effect of [this change] would be to transfer the full responsibility for licensing of the machine and payment of the correct amount of AMLD (calculated on a daily basis and declared and paid in a monthly return) to the machine operator enabling Customs to reduce very significantly its administration costs. Customs would no longer have to issue licences themselves; instead of receiving an application for 1000 machine licences at different rates from an operator and having to issue a licence for each machine, Customs would simply receive and note the machines to be self-licensed under the new system; receive and monitor the monthly returns indicating the duty calculated on a daily basis; and conduct any spot-checks or audit inspections deemed necessary, if appropriate as part of the VAT control programme for the operator in question. AMLD’s liability would switch from being an “old fashioned” specific duty calculated and controlled per machine licensed by Customs to a more modern concept of self-licensing with monthly payments of duty to reflect the availability in the return period of the machine i.e. whether it is on site. Audit control by Customs would be much more similar to VAT, but would be backed up by knowledge of where machines were located and in what numbers. A similar system is already in use for Phonographic Performance Licence and works well.”

The British Amusement and Catering Trades Association (BACTA)

“A revised licence-based system which allowed the industry to take a more direct and active role in the licensing process could act to reduce any administrative burden for Customs.”

The Bingo Association

“... we suggest that short-term focus should be placed on addressing the administrative costs associated with the existing system by shifting to one of self certification. An initial declaration would be made at the start of the year by the site owner/machine supplier of the number of machines to be covered by the self-issued licence. The amount of tax would be adjusted up or down on a period basis (probably monthly) to reflect the number of machines actually in use on a daily basis throughout that period.”

Leisure Link

“Probably the most obvious alternative to AMLD would be to retain the licence-based system but to simplify its application by introducing a self-licensing system.”

Association of British Bookmakers Ltd. (ABB)

“Coral recognise that the licensing system in its current form is inflexible and burdensome for the machine industry and Customs to operate and would support a change to a self-licensing return.”

Coral

“The licensing system should be taken ‘on-line’ to reduce the administrative burden at HMCE ... Systems such as this are operating successfully in a number of fields, most notably Self-Assessment for personal taxation. A nominal increase in the level of AMLD may be necessary and acceptable to cover the costs of developing the system.”

Gala Group

Yes – but at the right time and at a reasonable rate

“The BCA supports, in principle, the concept of GPT and believes that economic growth and competition is best served by setting a single flat rate of GPT across all sectors and types of gaming and that the percentage rate of gaming GPT should be set at a level which stimulates investment and growth in the sector.”

The British Casino Association (BCA)

“Gala believes that the best option at present is to retain AMLD. There is no alternative tax regime currently available that would avoid an inequitable redistribution of the current tax burden and consequently alter competitive positions within the machine market. We feel it would be possible to make the AMLD system more efficient. We believe that an ideal tax regime would be one where all gaming products are taxed at the same rate. Gala would therefore support a GPT system at the right time, in the right environment and at the right rate.”

Gala Group

“We believe that a system of gross profits tax incorporating VAT is the best long-term solution for the industry. This should be supported by suitable technological development that would introduce a robust ‘black box’ solution, ideally networked, to provide more effective monitoring and control, improve data accuracy and ensure legal siting. Such technology would also assist in the setting of equitable GPT rates.”

Leisure Link

“CCPR supports the intention of the proposals to make taxes on amusement machines fairer, especially for small clubs: this will provide considerable benefit to voluntary sector sports clubs, whose contribution to sporting and recreational opportunity has recently been recognised by the Government through tax and rate relief, for those clubs demonstrating community benefit. The research evidence provided does form the basis for a belief that the overall tax burden to voluntary sector sport and recreation clubs will be lower. Therefore, CCPR welcomes the proposal for a gross profits tax system for amusement and gaming machines.”

The Central Council for Physical Recreation (CCPR)

Would a gross profits tax work better with or without VAT?

Better with VAT

“The VAT on rentals account for a substantial charge on income, and which if not offset against the VAT deducted from machine income, would reduce profitability. The Association would be opposed to the removal of this offset at this time. Difficulties of partial exemption when the scope for arguments about what percentage of other Vat-able supplies should also be deducted would place a burden on industry, which could not possibly be justified by any marginal gain that might accrue.”

The British Beer and Pub Association (BBPA)

“In principle, MGM MIRAGE believes that a gross profits tax is a simple and efficient way to tax the industry... However, if a GPT system would preclude us from recovering significant VAT costs, then we do not believe that it should be introduced.”

MGM Mirage

“If GPT is introduced it should be a replacement for AMLD and should not impact on current VAT legislation. Any reduction in input tax re-claim would increase our costs and impact profitability. Our ability to invest in new machines and premises refurbishment would be compromised and, in the medium term, our commercial viability.”

RAL Holdings Ltd.

Better without VAT

“We ... would favour VAT exemption of machines receipts which, bearing in mind the VAT de minimis limit should benefit the majority of clubs.”

Committee of Registered Clubs and Associations (CORCA)

“It is ... our view that under a GPT regime all gaming machines should be exempt from VAT ...”

Association of British Bookmakers Ltd. (ABB)

“We would like to see a single rate of GPT with no VAT ...”

The British Casino Association (BCA)

Should a gross profits tax be tiered or flat-rate?

A gross profits tax should be flat-rate

“The BCA ... believes that economic growth and competition is best served by setting a single flat rate of GPT across all sectors and types of gaming and that the percentage rate of gaming GPT should be set at a level which stimulates investment and growth in the sector..”

The British Casino Association (BCA)

“We would prefer to see a single rate of tax applied across all machines; this would address the issue of complexity which is one of the drivers for change sited in the [consultation] paper. However, in identifying the correct rate, it will, we believe, be essential to avoid significant changes to the burden of taxation between different types of machine operators.”

Association of British Bookmakers Ltd. (ABB)

A gross profits tax should be tiered by machine category

“. . .if GPT were to be introduced, it should not be on the basis of a ‘one size fits all’ single rate for all machines. BACTA considers that the question of rates should be considered firmly in the context of the new categories proposed for social regulation in the White Paper. In BACTA’s view there would need to be a special relatively high rate of GPT applicable to the new casinos slot machines offering unlimited stakes and prizes, which if AMLD were retained on a self-licensing basis would in any case require to be placed in a category of its own, e.g. Category F, at a relatively high new rate. In addition BACTA suggests that there might then be two rates of GPT, one for the new Category B (which maps to present Category E), and the other for the new Category C (which maps to present Categories B/C/D). The present Category A, together with White Paper Category D, [should] be subject to VAT only.”

The British Amusement and Catering Trades Association (BACTA)

“The ALMR would suggest that the categories of machine for gaming machine duty mirror the categories outlined under the Government’s proposals for gaming reform – namely, casino slots, jackpot machines, AWP machines and amusement machines.”

The Association of Licensed Multiple Retailers (ALMR)

Have we got the scope of machines taxation right?

Currently exempt machines should remain so

“Any proposal to include machines currently outside the tax net would cause concern. Those currently not subject to AMLD allow operators to include machines that increase variety of amusement without increased financial risk.”

The British Association of Leisure Parks, Piers and Attractions Ltd. (BALPPA)

Category A machines should be exempt from machines tax

“Category A machines should be de-licensed consistent with other amusement machines that do not attract duty.”

Leisure Link

“Category A non-gaming machines will not need permits under the new regulatory regime and should therefore be excluded from the tax regime.”

The Association of Licensed Multiple Retailers (ALMR)

“[Removing category A from machines tax] would help voluntary sport and recreation clubs to provide enhanced social facilities for their members, while allowing them to use the profits from such machines to support further development of their facilities and services. This measure would also be within the spirit and intention of the recent tax and rate relief to provide fiscal support for Community Amateur Sports Clubs (CASCs).”

The Central Council for Physical Recreation (CCPR)

“We identified the need to remove from AMLD those machines in Category A of the licensing band. This would simplify the licensing application process and would in some cases increase the demand for this type of equipment, which in turn would increase VAT income levels.”

Gamestec Leisure Ltd.

When should any reforms be introduced?

Align with the Gambling Bill

“Changes of whatever nature should be in line with changes in regulations governing the industry.”

RAL Holdings Ltd. (RAL)

“Machine taxation should only be reviewed in conjunction with a total review of taxation in the Casino sector, including duty on table games, and when we have clarity as to content (e.g. what is a machine) and timing on the proposed new Gambling Act.”

The British Casino Association (BCA)

“If the Government does believe reform of the taxation regime is required, we strongly recommend that the consultation is postponed until after the content of the draft Gaming Bill is clearer.”

The Association of Licensed Multiple Retailers (ALMR)

“It is too early to assess the exact nature of the environment post-deregulation. The introduction of a gaming-wide GPT system should therefore be deferred until the future of the industry is clarified and the recent reform of Bingo GPT has been fully implemented and evaluated.”

Gala Group

“It is not at all clear what the final effects [of deregulation] will be; and there must therefore be a strong argument in favour of waiting until the likely impact of the new legislation becomes less opaque before changing the fiscal regime which applies to machines.”

Association of British Bookmakers Ltd. (ABB)

“From a bingo industry perspective, there should be no change in machines taxation until the full impact of the change to a bingo GPT has been evaluated, and until after the new Gambling Act has been implemented.”

The Bingo Association

“ There is still major uncertainty about the exact content and timing of the new Gambling Act, and in BACTA’s view it would be a mistake to consider material changes to the system of taxation until the new gaming landscape is much clearer, as to have two structural upheavals in succession could cause huge disruption and economic damage to the sector.”

The British Amusement and Catering Trades Association (BACTA)

A: ORGANISATIONS THAT RESPONDED

Association of British Bookmakers Ltd. (ABB)
The Association of Licensed Multiple Retailers (ALMR)
The Bingo Association
The British Amusement and Catering Trades Association (BACTA)
The British Association of Leisure Parks, Piers and Attractions Ltd. (BALPPA)
The British Beer & Pubs Association (BBPA)
The British Casino Association (BCA)
The British Institute of Innkeepers (BII)
Business in Sport & Leisure Ltd. (BISL)
The Central Council for Physical Recreation (CCPR)
The Casino Operators' Association of the UK (COA)
Coral
The Committee of Registered Clubs Associations (CORCA)
The Chamber of Shipping
Enterprise Inns plc.
The Federation of Licensed Victuallers
Gala Group
Gamestec Leisure Ltd.
Ladbrokes Ltd.
Leisure Link
Mitchells and Butlers (MAB)
MGM Mirage
NAMCO Operations Europe Ltd. (NOEL)
The Northern Ireland Amusement Caterer's Trade Association (NIACTA)
RAL Holdings Ltd. (RAL)
Rank Gaming (Mecca Bingo)
Stanley Leisure
Scottish & Newcastle Retail
Thomas Estates Limited
Welcome Break Group Ltd.
Whitbread Group PLC.
William Hill

B: ORGANISATIONS CUSTOMS MET

Association of British Bookmakers Ltd. (ABB)

The Bingo Association (BA)

The British Amusement and Catering Trades Association (BACTA)

The British Association of Leisure Parks, Piers and Attractions Ltd. (BALPPA)

The British Casino Association (BCA)

The British Beer and Pubs Association (BBPA)

The Casino Operators Association (COA)

The Central Council for Physical Recreation (CCPR)

The Committee of Registered Clubs Associations (CORCA)

Crown Leisure

Gala Bingo

Gamestec

HB Leisure

Leisure Link

Palatial Leisure

Playsafe Monitoring

The Working Mens' Club and Institute Union Ltd.(CIU)

C: AMLD CONSULTATION QUESTIONNAIRE

This questionnaire was included in the consultation document on amusement machine licence duty and is copied here in full:

The following list provides a summary of the main issues for this consultation. The Government would be happy to receive consolidated responses from relevant trade associations as well as from individual businesses and other interested parties.

In addition to responses to the issues and questions raised in this document, the Government would welcome any more general views, and is keen to gather as much information as possible about the current machines market.

1. For responses from machine operators and suppliers, it would be very useful if you could detail (for all machines – not just those currently liable to AMLD):

- i How many machines you own, rent or operate;
- ii Where they are located;
- iii What type of machines they are i.e. category of licence applicable;
- iv Average weekly gross profits (machine earnings) per type of machine, per location, and if possible, stakes and winnings;
- v Typical rents on machines by location;
- vi Net effective VAT rate on machine takings after input tax reclaimed;
- vii Your machines' turnover and profitability in this and recent years;
- viii Any specific difficulties you have experienced with the cost and/or administration of AMLD or VAT (in relation to machines only);
- ix Any work you have undertaken to assess your growth potential or the profile of your players (pre and post social de-regulation);
- x Any other information relevant to the operation of machines.

Where requested, the above information will of course be treated in the strictest of confidence in line with the provisions set out in paragraph 1.8 [of the original consultation, and reproduced at paragraph 1.9 in this document].

Below is a list of specific questions relating to the issues for consultation. It would be very helpful if you could provide any supporting analysis on which you have based answers to these questions.

2. What is the impact of the current licence-based system?

- a) Does the current regime significantly affect a decision whether or not to install a particular machine in a particular location?

- b) Do you experience significantly different turnover and profit in different machine locations?
- c) What impact on your business do you think an increase or decrease in licence fees would have?
(justify)
- d) Do you find the current system complex or simple to administer?

3. Should a gross profits tax system be introduced for machines?

- a) What do you estimate the impact of moving to a gross profits tax would be on your current business and ability to grow?
- b) What structure would be preferable? A flat-rate fee across all machines or a tiered structure according to machine category?
- c) What other alternatives should be considered?

4. Should gaming machine profits be exempted from VAT?

- a) Do you think gaming machines should be exempt from VAT, like most other forms of gambling activity? If so, do you think gaming machines currently exempt from AMLD should be taxed under a replacement duty or tax system?
- b) What impact would a different rate of input tax recovery have on your business costs and decisions?
- c) What additional costs would you incur if your business was brought into the VAT partial exemption system for the first time?

5. Is there a need to review the scope of machine taxation?

- a) Do you have any views on the current scope of machine taxation?
- b) If so, what options for change would you suggest, and why?

6. Who should be liable or be able to account for the tax?

- a) Should any party other than the machine operator be liable for the tax?
- b) How would this work in practice?

7. Administration of a replacement system

- a) What arrangements would you prefer for registration with HM Customs and Excise?
- b) What arrangements would you prefer for accounting and payment of duty?
- c) How much do you estimate it would cost you to administer a gross profits tax and/or any other replacement system?
- d) Are there any ways in which your compliance costs can be reduced?

8. An adaptable and flexible regime

- a) How would a gross profits system stand up to future technological developments and innovations?
- b) What else could Customs do to nurture these developments?

9. When should any reforms be introduced?

- a) What training and other preparation will you need to do in order to make the transition to an alternative tax regime? How much would this cost?
- b) What other factors should be considered in deciding the timing?
- c) When would you like to see any reforms introduced?

This consultation ends on 6 October 2003.

