



HM TREASURY

# Taxation of gaming machines:

## consultation on a gross profits tax

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**July** 2009





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# Taxation of gaming machines: consultation on a gross profits tax

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<b>Subject of this consultation</b>	The modernisation of gaming machines taxation, and whether to move towards a gross profits tax for gaming machines.
<b>Scope of this consultation</b>	This consultation concerns the taxation of gaming machines, as defined by the VAT Act 1994 and the Betting and Gaming Duties Act 1981.
<b>Impact Assessment</b>	A consultation stage Impact Assessment is attached as Annex B
<b>Who should read this</b>	Operators, manufacturers and suppliers of gaming machines in the UK, trade bodies and all other stakeholders who have an interest in gaming machine taxation.
<b>Duration</b>	The consultation will run for 14 weeks. The closing date for responses is <b>23 October 2009</b> .
<b>Enquiries</b>	For general enquiries regarding this consultation please contact Graham Hunt at HM Treasury on 020 7270 5971. Analytical enquires regarding figures should be directed to Surjinder Johal in HM Revenue and Customs on 020 7147 2951.
<b>How to respond</b>	Responses to this consultation should be sent either by email to:  Gptconsultation@hm-treasury.x.gsi.gov.uk  or by post to:  Gaming Machines – GPT Consultation, Excise and Commercial Property Tax Team, Budget Tax and Welfare Directorate, HM Treasury, 1 Horse Guards Road, London, SW1A 2HQ
<b>Additional ways to become involved</b>	Please contact Graham Hunt (contact details above) if you would like to discuss your response
<b>After the consultation</b>	Considering the responses to this consultation, the Government will take a decision on whether to move to a gross profits tax on gaming machines.
<b>Getting to this stage</b>	This consultation document reflects joint analysis carried out by HM Treasury and HM Revenue & Customs. Other departments have been involved as appropriate.
<b>Previous engagement</b>	The issue of whether or not to introduce a gross profits tax on gaming machines was last consulted on in 2003.



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# Foreword

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Over the past few years the gambling industry in the UK has undergone a period of sustained and significant change. The Gambling Act 2005, implemented in 2007, has changed the regulatory environment affecting all gambling firms. The Act was essential to ensure gambling legislation remained relevant and ready for the challenges facing the industry in the 21<sup>st</sup> Century.

The specific challenges facing each gambling sector are different, and the gaming machines sector is no exception. With around 190,000 gaming machines subject to duty and an estimated 260,000 machines overall, as well as new limits on the maximum stake and prizes for some machines recently introduced, it is essential that the tax regime for gaming machines remains modern and fit for purpose.

The current duty regime applicable for gaming machines is simple in principle and has worked well up to now. However it is out-dated and relatively ill equipped to deal with regulatory changes and technological innovation in the gaming machines sector.

The issue of reform of gaming machines taxation was last consulted on in 2003. At the time there was considerable industry uncertainty regarding the progress of the Gambling Bill (later the Gambling Act 2005). The industry has now had some time to adjust to the new legislation.

Although any changes will need careful consideration, I believe there is scope for improving the efficiency, fairness and sustainability of the gaming machines tax regime. A reformed system may also significantly reduce the administrative burdens associated with compliance for operators.

This remains an important time for the machines sector and the wider gambling industry. I hope that you take the time to respond fully to this consultation. Your responses will help us to determine the best way forward for gaming machines taxation in the future.



Sarah McCarthy-Fry MP  
Exchequer Secretary to the Treasury  
July 2009



# 1

## The consultation process

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### How to respond

**1.1** All responses are valued, but a number of key questions aimed at guiding respondents to the central issues, have been set out in Chapter 6. Respondents are also encouraged to add any additional information they feel is relevant to the decision to proceed with a reformed duty calculated by reference to gross profits.

**1.2** To help the Government evaluate responses, it would be helpful if respondents could explain their interest in the consultation and also make clear if their response is being made on behalf of a group or representative body. In the case of representative bodies, please provide information on the number and nature of the people you represent.

**1.3** Responses to this consultation should be sent to HM Treasury by 23 October 2009 when the consultation closes. These responses should be clearly marked and addressed to:

Gaming Machines – GPT Consultation  
Excise and Commercial Property Tax Team  
Budget, Tax and Welfare Directorate  
HM Treasury  
1 Horse Guards Road  
London  
SW1A 2HQ

**1.4** Alternatively you can email your responses to [GPTconsultation@hm-treasury.x.gsi.gov.uk](mailto:GPTconsultation@hm-treasury.x.gsi.gov.uk). Any other queries or questions surrounding the consultation should be directed to Graham Hunt at HM Treasury, or for analytical matters, Surjinder Johal at HM Revenue and Customs (HMRC):

Graham Hunt (HM Treasury)

Surjinder Johal (HMRC)

[Graham.hunt@hm-treasury.x.gsi.gov.uk](mailto:Graham.hunt@hm-treasury.x.gsi.gov.uk)

[surjinder.johal@hmrc.gsi.gov.uk](mailto:surjinder.johal@hmrc.gsi.gov.uk)

**1.5** All responses will be acknowledged, but it will not be possible to give substantive replies to individual representations. If you are willing and able to provide data on the impact of taxation on your business then please do so. Responses will be shared between HM Treasury and HM Revenue & Customs.

**1.6** The consultation period will run from 16 July 2009 to 23 October 2009. A summary of responses will be published shortly after the closing date.

### Confidentiality

**1.7** Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

**1.8** If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on HM Treasury or HM Revenue & Customs.

**1.9** HM Treasury and HMRC will process your personal data in accordance with the DPA and in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.

### **The Government's Consultation Code of Practice**

**1.10** This consultation is being conducted in accordance with the Government's Code of Practice on Consultation. A copy of the Code of Practice can be found on the Business Innovation and Skills (the Department formerly known as Business Enterprise and Regulatory Reform) website: <http://www.berr.gov.uk/files/file47158.pdf>. More information can be found in Annex A.

### **Additional information**

**1.11** A consultation stage Impact Assessment is attached as Annex B. We welcome comments from stakeholders on the indicative costs and benefits of moving to a gross profits regime.

# 2

## Introduction

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### Background

**2.1** Recent years have seen considerable changes to both the regulatory and tax regimes faced by gambling businesses. Since 2001 the betting and bingo tax regimes have undergone significant reform, with the abolition of the old stakes based duty regimes and the introduction of tax systems calculated by reference to gross profits (stakes received minus prizes paid out). The regulation of gambling has also undergone reform, with the introduction and implementation of the Gambling Act 2005.

**2.2** Five of the seven gambling tax regimes (general betting duty, pools betting duty, gaming duty, remote gaming duty and bingo duty) are now calculated on a gross profits basis. Lottery duty continues to be charged on stakes, and gaming machines face a combination of amusement machine licence duty (AMLDD), a licence fee paid before a gaming machine may be made available to play, and VAT at the standard rate on their net takings.

### The 2003 consultation

**2.3** The Government last consulted on modernising gaming machines taxation in July 2003. The consultation focused on whether or not the AMLDD regime should be replaced with a tax based upon gross profits. Though identifying some strong theoretical advantages of a gross profits tax (GPT) over the AMLDD regime, the previous consultation concluded that AMLDD should be retained.

**2.4** This conclusion was primarily driven by the uncertainty arising from the passage of the Gambling Act (then the Gambling Bill) through Parliament. It was concluded that there might be a case for moving towards a GPT on gaming machines, but that it would be better to wait until the uncertainties of the Gambling Act were removed.

### The 2009 consultation

**2.5** The Gambling Act 2005 was implemented in the autumn of 2007. For gaming machine operators this meant adjusting to new categories of gaming machine, and new rules and regulations on where gaming machines may be located. The Government believes it is now time to look again at whether the taxation of gaming machines should move toward a reformed duty calculated by reference to a machines' gross profit.

**2.6** This consultation is seeking views on the costs and benefits of a move toward a gross profits tax regime for machines, which will be set out in later Chapters. All interested parties are encouraged to engage fully with the consultation. The Government will take all responses into account before deciding upon the best course of action.

**2.7** A consultation stage impact assessment (IA) is included as Annex B. A final stage impact assessment will be published after the consultation has been completed. The IA and consultation process have been designed with the Hampton principles of better regulation in mind, to minimise burdens on the industry and to provide all interested parties with a voice.

# 3

## Gross profits tax on gaming machines

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### The current AMLD regime

**3.1** There are currently around 260,000 gaming machines available in the UK, with approximately 190,000 subject to AMLD. Machines are found in a variety of locations, from dedicated gambling sites such as casinos, bookmakers, bingo halls and adult gaming centres, to sites where gambling is incidental, such as pubs, clubs and family entertainment centres (FECs).

**3.2** The structure of the market is complex, with operators of machines either owning or renting machines from machine suppliers and manufacturers. It is hoped that all areas of the industry, including machine operators, manufacturers and suppliers, will engage with this consultation.

**3.3** The rules determining which machines can be located in various premises are set by the Department of Culture, Media and Sport (DCMS), and implemented by the Gambling Commission.

**3.4** The tax treatment of gaming machines is set by HM Treasury and administered by HM Revenue and Customs (HMRC). The administration of AMLD has remained broadly unchanged for many years. The current tax treatment of gaming machines comprises of a licence fee, with different rates applied to a range of machine categories, and VAT. A summary of machine categories, and the different AMLD rates applicable for each, is included within the attached Impact Assessment.

**3.5** An AMLD licence must be taken out before a gaming machine is made available for play. The licence fee does not vary with machine gross profit, nor is it dependent on whether or not the machine is *actually* made available for play. In addition to the AMLD due, the net takings of gaming machines are subject to VAT at the standard rate.

**3.6** The current regime is relatively simple in principle, but it could be argued that it is old-fashioned, inconvenient to pay, and poorly equipped to deal with technological changes and advances. The current AMLD regime is also relatively inefficient and inequitable.

### Inefficiency and inequity

**3.7** As a licence fee, AMLD represents a “lump sum” fixed cost to machine operators. The licence fee could be considered to be a barrier to entry into the gaming machine market for some potential machine operators, which causes inefficiency and acts in favour of incumbents in high turnover locations. As a result low turnover machines may be underprovided, as high AMLD costs act as a barrier to their introduction.

**3.8** If a fixed licence payment was no longer required and replaced with a gross profits tax, machines could be placed in more marginal locations, which may not be viable under an AMLD system. This would allow some operators to introduce additional machines, as long as the operator continued to comply with the existing social regulations. This has the potential to offer consumers more choice, and would be more efficient.

**3.9** Perhaps a greater concern is the lack of fairness in the present AMLD system. For machines of a given category, AMLD tax liability is the same regardless of profit and results in a wide range of effective tax rates. This could be considered unfair as it benefits the operators with the most profitable machines, as the most profitable machines have the lowest effective tax rates (i.e. net VAT and AMLD paid as a proportion of the gross profit taken by the machine).

**3.10** The current AMLD system also means that machines of equal income could be liable for different rates of tax, if machines are in different AMLD categories. Currently it is even possible for machines earning more money to pay less in tax than less profitable machines. This would happen if a machine of a higher AMLD category (e.g. Category B3) had lower gross profit than a machine in a lower AMLD category (e.g. Category C).

### **Cascading effects**

**3.11** Some sections of the industry have argued previously that the current AMLD system facilitates a “cascading effect”, where higher turnover machines with low effective tax rates drive technological development and bring new higher quality machines into the market, which are in turn rented further down the chain at reduced rates. Industry representatives have suggested that the higher turnover machines are subsidising the lower turnover machines, and that this justifies the favourable tax treatment high turnover machines receive from the AMLD system.

**3.12** However, it could be argued that operators of low turnover machines are disadvantaged by their high tax burden under the AMLD system and so are unable to compete effectively with companies at the high turnover end of the market. Removing the distortion created by AMLD would lead to machine operators competing on a more level playing field, which could lead to a reduction in the discrepancy of quality between different machine locations.

### **Replacing AMLD with a gross profits tax**

**3.13** A gross profits tax (GPT) would remove the fixed cost element of the current regime, reducing the undesirable effects explained above and potentially leading to large improvements in equity and efficiency.

**3.14** A GPT would be charged as a percentage of a gaming machine’s gross profit (stakes received minus prizes paid out). The overall impact of a GPT on the industry would depend upon the rate set, but there are some broad principles that would be applicable regardless of the rate, which may make a GPT regime more desirable than AMLD.

**3.15** At present, the AMLD due on a machine varies only on the amount of time a machine is made available for play. Regardless of how this time period is measured (be it monthly, as is the case currently, or on a daily-basis as some sections of the industry have proposed) it remains a poor approximation of economic activity, particularly for seasonal and changing businesses. Taxing on the basis of gross profit, rather than time available for play, appears to be considerably more equitable as gross profit is a more direct measure of economic activity.

### **Removal of a barrier to entry**

**3.16** Under a GPT system, machines taxation would no longer involve a fixed cost payment. As discussed, this would remove the anomaly that higher turnover machines within a particular category have the lowest effective tax rates, as is the case under the status quo. Without the fixed cost of AMLD, a GPT system would remove a potentially significant barrier to entry to the machines market. This would allow machine operators to compete on a more level playing field, and would no longer favour the most profitable machines.

**3.17** The removal of the barrier to entry caused by AMLD may result in more machines being made available (operators must comply with the social regulations on machine numbers set by DCMS), potentially providing more choice and a better deal for consumers. Regardless of whether or not a GPT leads to more machines being made available it has the potential to be far more efficient than the current regime.

**3.18** A GPT system would be significantly more equitable than the status quo. Under a single rate GPT system, for example, machines of equal gross profit would pay equal taxes, regardless of machine category or location. Machines with higher gross profit would pay more tax, and machines with lower gross profit would pay less tax. This is not the case under the present AMLD system.

## **Flexibility**

**3.19** The current AMLD system could be criticised on the grounds that it is that it is inflexible, and poorly equipped to deal with regulatory and technological changes. Many gaming machines have the potential to switch between machine categories, and social regulation rules are periodically reviewed by DCMS. Under the current AMLD system, the tax law is generally adjusted following social regulation changes. This occurred recently, when the tax system was amended to take account of changes to the stake and prize levels for category C machines.

**3.20** Under a flat rate GPT system technological innovations and changes to social regulations may not require changes to the gaming machines tax law. This would reduce the need for legislative changes, and could remove uncertainty for the industry. A GPT system, by being more flexible and robust to potential changes in the legislative and technological environment, has the potential to benefit all parties.

## **Administrative ease**

**3.21** A GPT system has the potential to be administratively easier, and therefore cheaper, for both the industry and for HMRC, and to reduce compliance costs. The precise nature of any administrative gains will depend on the specific design of GPT chosen.

**3.22** A GPT system that removed the need for individual paper licences (as are at present mandatory) and the current systems of payment would be considerably more modern and easier to administer. Combined with the removal of VAT, this would also bring the taxation of gaming machines into line with other gambling sectors, where the gambling activity is exempt from VAT, and a relevant gambling duty is applied instead.

## **Summary**

**3.23** The current AMLD regime, though in theory simple and easy to understand, could be criticised on the grounds that it is old fashioned and inconvenient to pay for some. It is to some extent inefficient, inequitable, inflexible, and has required relatively frequent legislative changes to take account of technological progress and regulatory changes.

**3.24** In principle a GPT regime has the potential to combat many of these issues depending on the precise design. However designed, there may be a strong case for reforming gaming machines taxation by moving away from AMLD and toward a gross profits tax system.



# 4

## What a gross profits tax might look like

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**4.1** As mentioned in the previous section, there are some theoretical advantages with a GPT system over the current AMLD regime. However there are many potential GPT regimes that could be implemented. All would be a reformed duty based upon the gross profits of the gaming machine, chargeable on making a gaming machine available to play.

**4.2** As all GPT regimes are based upon the gross profits of gaming machines rather than a fixed cost licence fee, all would hold advantages over the present AMLD system

**4.3** To facilitate discussion, this consultation sets out some initial assumptions of what a GPT system would look like. These are discussed in more detail below, but to summarise, the Government's prior assumptions are that a GPT regime would:

- **replace AMLD and VAT**, with all takings from all gaming machines becoming VAT exempt;
- comprise of a **single rate**, applicable for all gaming machine categories;
- be set at a revenue neutral rate overall; and
- be based on the **current definition** of "gaming machine".

**4.4** The questions set out in chapter 6 allow respondents an opportunity to comment on all of these initial assumptions.

### VAT treatment under a GPT regime

**4.5** One key aspect of any GPT regime will be the ongoing VAT treatment of gaming machines. The majority of gambling activities in the United Kingdom are now exempt from VAT although VAT currently applies to gaming machine takings. The Government's starting assumption for this consultation is that the operators of gaming machines should be taxed in the same way as other forms of gambling, and so exempt from VAT but liable to a relevant gross profits tax. The Government would therefore like to understand the impact of making gaming machine takings VAT exempt.

**4.6** The potential impact of any VAT exemption is discussed in more detail in Chapter 5. In order to better understand the impact of VAT exemption, in addition to issues around partial exemption and VAT recoverability, the Government would like to develop a better understanding of the various contractual relationships between the owners of gaming machines and the operators of the sites where the machines are located.

### Single rate of GPT

**4.7** For simplicity, the initial assumption is that a GPT regime would involve a single rate, applicable to all gaming machine categories including category D. The Government does recognise however that a single rate would have large redistributive effects, and thus there may be a case for a separate rate of GPT for category D machines (discussed below).

**4.8** Different rates of tax introduce additional distortions that would lead to the gaming machines market operating less efficiently than would be the case under a flat rate. The starting point for this consultation is therefore that there should be a single rate of taxation for gaming machines. However the Treasury would be interested to hear from respondents who believe there is an economic rationale for different rates, and to understand the impact on the industry of not introducing different rates.

**4.9** The Treasury does not normally consult on rates of tax. However the Government would like to know what rate of GPT would leave particular operators paying the same amount of tax overall, taking into account the fact that VAT exemption would mean some operators would be unable to reclaim back all the input VAT they currently claim on business purchases and expenses.

### **Category D machines – a separate rate?**

**4.10** Currently category D gaming machines are exempt from AMLD. Category D machines are small stake, small prize machines typically located in seaside resorts such as piers and family entertainment centres. The businesses that operate category D machines may be seasonal, opening only for the summer months.

**4.11** If the Government does introduce a gross profits tax on gaming machines, replacing AMLD and VAT, the simplest design would include category D machines within the regime. The impact of VAT exemption for operators of category D machines will be of key importance, and is discussed more in Chapter 5.

**4.12** To assess the case for a different rate of GPT for category D machines, the Government is keen to receive representations from as many operators of category D machines as possible. Operators of category D machines are strongly encouraged to consider how operating under the same tax conditions as other machine categories would affect their business.

### **The scope of GPT and the definition of “gaming machine”**

**4.13** It is the view of the Treasury that any GPT regime should not necessarily alter the definition of “gaming machine”, currently set out in section 23 of the VAT Act 1994 and section 25 of the Betting and Gaming Duties Act 1981. By keeping with the current definitions, all machines currently falling within the definition of gaming machines will be brought into the GPT regime, and all machines not classified as gaming machines, including skill machines and quiz machines, which do not involve an element of chance, will keep their current tax arrangements.

**4.14** It is the Treasury’s expectation that the industry will be supportive of this view. However we welcome representations on this point, including any views that explain why the current definition of gaming machine may not be appropriate.

### **Who should be liable to account for the duty?**

**4.15** Currently, HMRC can recover AMLD from the owner, lessee or occupier of the premises where the machine is situated, the person controlling the use of the machine, or the owner or hirer of the machine.

**4.16** One possible model for a GPT is for the operator (the person making the machine available for play and in many cases the person obliged to hold an operating licence issued by the Gambling Commission) to be liable to account for duty, but in some circumstances, perhaps where machines are rented or leased from someone else it might be beneficial for another person to account for duty, perhaps on behalf of the operator.

**4.17** Information on the various contractual models that exist are welcomed, as are views on who should be liable to account for a reformed duty.



# 5

## Understanding the impact

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**5.1** As set out in the previous chapter, there are some strong theoretical advantages to GPT, which could benefit the industry as a whole. However a GPT regime is likely to involve changes in tax liability across the industry (machines with a higher gross profit are likely to pay more tax under a GPT system, and machines with low gross profit are likely to pay less). Thus it is likely that a GPT system, however designed, will result in some businesses paying more tax and some less. Even the firms whose tax liability is broadly the same under a GPT system will have to adjust to a new tax regime.

**5.2** Fully understanding how a GPT regime would impact upon the industry is a key aim of this consultation. Responses are encouraged not just from machine operators, but also from suppliers and manufacturers, to explain how the industry as a whole would react to the introduction of a GPT.

**5.3** To complement this consultation, a consultation stage impact assessment (IA) is attached as Annex B, which focuses on how any move to GPT will impact on the industry. The responses received from this consultation will be used to construct a final stage impact assessment, which will be published after the consultation has closed.

### Impact of VAT exemption

**5.4** As mentioned in previous sections, it is the Government's expectation that if a GPT were to be introduced for gaming machines then gaming machines of all categories, including category D, will become VAT exempt. The potential impact of VAT exemption on this industry is of central importance, and operators are encouraged to provide as much information as possible on how VAT exemption would impact upon their business.

**5.5** As a result of paying VAT on machine takings, operators are currently able to fully recover VAT incurred on the costs attributable to offering machines for play. If takings from gaming machines are made VAT exempt, operators will be brought into the partial exemption regime if they are not already, and this may reduce the ability of the operator to recover VAT paid on inputs. It is therefore important to understand the extent to which operators of gaming machines are already partly exempt for VAT purposes.

**5.6** For smaller operators of gaming machines (e.g. a tenanted pub) it may be that if their takings were made exempt from VAT they would be able to recover VAT on related costs under the partial exemption de minimis rules. The Government would like to understand whether operators with only a small number of gaming machines are likely to be in such a position.

### Category D machines

**5.7** Category D machines are gaming machines with low stake and prize limits, which are currently exempt from requiring an AMLD licence. How category D machines are treated by a GPT regime will be of key importance to operators, particularly those in seaside arcades and piers.

**5.8** HMRC collects data regarding how many AMLD licences are issued for each category of gaming machine. As category D machines do not require an AMLD licence, the Government has less information on category D machines than on machines of other categories.

**5.9** The Government is particularly interested therefore to receive responses from operators of category D machines on how a GPT regime would affect them. Many of the benefits of a GPT regime described in Chapter 3 may be particularly applicable to category D machines, but a single rate of GPT may not be desirable for the operators of category D machines. Businesses that operate category D machines are encouraged to consider how a single rate of GPT would impact upon their business, and how best category D machines might be accommodated within a GPT system.

## **Small businesses**

**5.10** Small gaming machine businesses, including single site operators and small manufacturers and suppliers, may be impacted in different ways to the larger companies in the industry. Many small businesses may benefit from VAT partial exemption *de minimis* rules, and some of the very smallest firms may operate below the VAT threshold altogether.

**5.11** However administrative burdens may be more acute for the smallest firms, who may take longer to adjust to a new tax regime. Small businesses are encouraged to engage with this consultation, highlighting and explaining particular challenges, which are considered to be unique to small businesses.

**5.12** Small businesses, once they have adjusted to any GPT regime, have the potential to benefit from reduced administrative burdens and compliance costs. Understanding how the day-to-day administration of a GPT regime would affect small businesses will be a key consideration for the Government.

## **Mechanisms to reduce the impact**

**5.13** HM Revenue & Customs is considering ways in which it might simplify the VAT partial exemption regime. It has recently introduced changes to simplify the standard method which is used by some operators of gaming machines to calculate how much VAT they can recover on their costs. It is also considering ways to simplify the *de minimis* rules. More generally, if the takings from gaming machines were made VAT exempt HM Revenue & Customs would welcome the opportunity to discuss how the partial exemption principles apply to the gaming machine operators, with a view to further improving the partial exemption guidance for them, should that be necessary.

**5.14** There may be other ways in which any administrative burdens resulting from a move to GPT could be minimised. Respondents to the consultation are encouraged to mention any potential measures, which may be adopted to reduce the impact on firms.

# 6

## Summary of questions

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**6.1** A number of key questions are set out below, aimed at guiding respondents to the central issues. Responses to these questions are welcome, but the Government would also like to hear about other concerns and issues respondents would like to raise. The Government is keen to hear from all stakeholders and all responses are valued.

### **Gaming machine information (for operators of gaming machines)**

**6.2** How many gaming machines (per category) does your business own/rent/operate? Where are they located? What is the average gross profit per machine in each category per year?

**6.3** If you are willing to provide such data for your business, you may find it useful to contact Surjinder Johal in HMRC (contact details are provided at the beginning of this document), to discuss the most appropriate format for this.

### **Arguments for a Gross Profits Tax (for all respondents)**

**6.4** An outline for a potential gross profits tax (GPT) regime has been discussed earlier in this consultation. Would your business welcome a move to GPT in principle? Why or why not? Would your view change depending on the design of the tax?

### **Administrative burdens and compliance costs**

**6.5** If a GPT were introduced on gaming machines, would such a regime be more or less burdensome for your business? Why or why not? Do you find the current AMLD regime easy or difficult to comply with? How would this change under a GPT regime?

**6.6** Would the introduction of a GPT regime alter the structure of the industry? How would a GPT regime impact upon your business? How might a GPT regime benefit your business?

### **VAT Treatment**

**6.7** If a GPT regime were to replace AMLD and VAT, businesses would be able to recover a smaller proportion of input VAT. What is your current ratio of recoverable to output VAT? Some businesses may also become partly exempt for VAT purposes. Is your business currently partly exempt for VAT purposes? What effect would VAT exemption on gaming machines have on your business?

### **Rate of GPT**

**6.8** It is not the policy of HM Treasury to consult on the rate of taxation. However, to fully understand the impact of any change to GPT, it is important for us to understand how taxation impacts upon the sector currently. If the taxation of gaming machines was changed to a GPT basis, what would the rate of GPT have to be to leave your business no worse off, assuming the number of machines and payout rates remained the same (taking into account lower VAT recoverability)?

## Category D machines

**6.9** The treatment of category D machines is a key aspect of any move to a gross profits system, and it is our initial expectation that category D machines would be included within any GPT system. If category D machines were included in the GPT regime (and became VAT exempt), what level of GPT for category D machines would leave your business paying *the same amount of tax overall* (taking into account lower VAT recovery)?

## GPT implementation

**6.10** If the Government concluded that implementation of a GPT regime was the best course of action, implementation would ordinarily follow a Budget or Pre Budget Report. How much notice would you need to prepare adequately for implementation of a GPT regime?

**6.11** If a GPT regime were adopted, who should be liable for the reformed duty?

## Other Issues

**6.12** It is the Government's initial assumption that any GPT regime introduced would be based on the current definition of "gaming machine". Do you believe that this definition is appropriate? If not, how should the scope of gaming machine taxation change?

**6.13** Are there any other comments regarding a potential move to a gross profits tax that you feel are relevant?

# A

# The Government's Code of Practice on Consultation

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## About the consultation process

**A.1** This consultation is being conducted in accordance with the Government's Code of Practice on Consultation. If you wish to access the full version of the Code, you can obtain it online at:

<http://www.berr.gov.uk/files/file47158.pdf>

## The consultation criteria

- 1 When to consult - Formal consultation should take place at a stage when there is scope to influence the policy outcome.
- 2 Duration of consultation exercises - Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.
- 3 Clarity of scope and impact - Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.
- 4 Accessibility of consultation exercise - Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.
- 5 The burden of consultation - Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.
- 6 Responsiveness of consultation exercises - Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.
- 7 Capacity to consult - Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

**A.2** If you feel that this consultation does not satisfy these criteria, or if you have any complaints or comments about the process, please contact:

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# B

## Impact Assessment

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## Summary: Intervention & Options

<b>Department /Agency:</b> <b>HM Treasury</b>	<b>Title:</b> <b>Impact Assessment of Gaming Machines Gross Profits Tax</b>	
<b>Stage:</b> Consultation	<b>Version:</b> 1	<b>Date:</b> 16 July 2009
<b>Related Publications:</b> Gaming machines taxation: Consultation on moving to a gross profits tax basis		

### Available to view or download at:

<http://www.hmrc.gov.uk/ria/index.htm#partial>

**Contact for enquiries:** Graham Hunt

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### What is the problem under consideration? Why is government intervention necessary?

Gaming machines currently attract two different taxes; amusement machine licence duty (AML) - an annual charge for making a gaming machine available for play - and VAT at the standard rate on the "cash in box". Reforms over the last decade have seen five of the seven gambling tax regimes move to a gross profits tax (GPT) basis, which potentially offers benefits in terms of both improved equity and efficiency, relative to the current licence regime. A GPT may also reduce administrative burdens.

### What are the policy objectives and the intended effects?

Gaming machines are taxed to ensure that they, alongside other gambling products, make a fair contribution to public expenditure. In principle, a shift to a GPT might improve the economic efficiency of the regime by removing the barrier to entry for less profitable machines that is currently presented by AML. A GPT may also be more equitable, by ensuring that the amount of tax paid is related to the takings from the machine. The Government is keen to explore whether a move to a GPT would deliver these benefits in practice.

### What policy options have been considered? Please justify any preferred option.

The Government believes that the experience of moving to a gross profits tax for the majority of gambling tax regimes has been beneficial. The Government's lead option is therefore to bring the taxation of gaming machines onto a consistent basis by replacing AML with a GPT. Consistency with other gambling regimes would see gaming machine takings become VAT exempt. The Government would like to understand the implications of such a move, recognising that this would represent a potentially major change to the industry. Maintaining the current regime of AML is therefore also a policy option.

**When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?** If there is a switch to a GPT we would expect to evaluate it within two years of implementation.

### **Ministerial Sign-off** For consultation stage Impact Assessments:

*I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.*

Signed by the responsible Minister:

Date: 13 July 2009



## Summary: Analysis & Evidence

<b>Policy Option: A</b>	<b>Description: Gross profits tax to replace AMLD and VAT</b>
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<b>COSTS</b>	<b>ANNUAL COSTS</b>	Description and scale of <b>key monetised costs</b> by 'main affected groups' Operators would need to familiarise and adapt to the new tax regime. Some operators who are not currently partially exempt for VAT, and are drawn into that regime, will also need to adapt and potentially bear ongoing costs.			
	One-off (Transition) <span style="float: right;">Yrs</span>				
	<b>£ To be quantified</b>				
	<b>Average Annual Cost</b> (excluding one-off)				
	<b>£ To be quantified</b>	<b>Total Cost (PV)</b>	<b>£ To be quantified</b>		
Other <b>key non-monetised costs</b> by 'main affected groups' The consultation seeks information on the practical consequences and impact of a move to a GPT. Information on the structure of the industry and different contractual arrangements is required to better understand the impact of a GPT on each of the main affected groups (manufacturers, suppliers, and operators.)					

<b>BENEFITS</b>	<b>ANNUAL BENEFITS</b>	Description and scale of <b>key monetised benefits</b> by 'main affected groups' Removal of AMLD would remove the administrative burden associated with the current AMLD regime. A GPT will in principle act as less of a barrier to entry than the current regime.			
	One-off <span style="float: right;">Yrs</span>				
	<b>£ To be quantified</b>				
	<b>Average Annual Benefit</b> (excluding one-off)				
	<b>£ To be quantified</b>	<b>Total Benefit (PV)</b>	<b>£ To be quantified</b>		
Other <b>key non-monetised benefits</b> by 'main affected groups' A move to a GPT has the potential to be more equitable, by ensuring that operators of the least profitable machines pay the least amount of tax.					

Key Assumptions/Sensitivities/Risks

Price Base Year	Time Period Years	<b>Net Benefit Range (NPV)</b> <b>£ To be quantified</b>	<b>NET BENEFIT (NPV Best estimate)</b> <b>£ To be quantified</b>
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What is the geographic coverage of the policy/option?	United Kingdom			
On what date will the policy be implemented?	Not determined			
Which organisation(s) will enforce the policy?	HMRC			
What is the total annual cost of enforcement for these organisations?	£ To be quantified			
Does enforcement comply with Hampton principles?	Yes			
Will implementation go beyond minimum EU requirements?	N/A			
What is the value of the proposed offsetting measure per year?	£ Not applicable			
What is the value of changes in greenhouse gas emissions?	£ Not applicable			
Will the proposal have a significant impact on competition?	No			
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium	Large
Are any of these organisations exempt?	No	No	N/A	N/A

<b>Impact on Admin Burdens Baseline</b> (2005 Prices)			(Increase - Decrease)	
Increase of	£ N/K	Decrease of	£2m-£3m	<b>Net Impact</b> <b>£ to be quantified</b>

Key: Annual costs and benefits: Constant Prices (Net) Present Value

Summary: Analysis & Evidence					
Policy Option: B		Description: Continue with the Status Quo			
COSTS	<b>ANNUAL COSTS</b>		Description and scale of <b>key monetised costs</b> by 'main affected groups' There are no changes in administrative burdens or compliance costs.		
	<b>One-off</b> (Transition)	Yrs			
	£ 0				
	<b>Average Annual Cost</b> (excluding one-off)				
	£ 0		<b>Total Cost (PV)</b>	£ 0	
Other <b>key non-monetised costs</b> by 'main affected groups' Retention of the status quo would preserve the possible inefficiencies and inequities of the current regime.					
BENEFITS	<b>ANNUAL BENEFITS</b>		Description and scale of <b>key monetised benefits</b> by 'main affected groups' There are no changes in administrative burdens or compliance costs.		
	<b>One-off</b>	Yrs			
	£ 0				
	<b>Average Annual Benefit</b> (excluding one-off)				
	£ 0		<b>Total Benefit (PV)</b>	£ 0	
Other <b>key non-monetised benefits</b> by 'main affected groups' Retention of the status quo would preserve the possible inefficiencies and inequities of the current regime.					
<b>Key Assumptions/Sensitivities/Risks</b> The Government would miss an opportunity to modernise one of its key areas of responsibility, by aligning the taxation of gaming machines, with the approach taken to most of the other gambling tax regimes.					
Price Base	Time Period	<b>Net Benefit Range (NPV)</b> £ 0	<b>NET BENEFIT (NPV Best estimate)</b> £ 0		
What is the geographic coverage of the policy/option?			United Kingdom		
On what date will the policy be implemented?					
Which organisation(s) will enforce the policy?			HMRC		
What is the total annual cost of enforcement for these organisations?			£		
Does enforcement comply with Hampton principles?			Yes		
Will implementation go beyond minimum EU requirements?			Yes		
What is the value of the proposed offsetting measure per year?			£ 0		
What is the value of changes in greenhouse gas emissions?			£ 0		
Will the proposal have a significant impact on competition?			tbc		
Annual cost (£-£) per organisation (excluding one-off)		Micro	Small	Medium	Large
Are any of these organisations exempt?		No	No	No	No
<b>Impact on Admin Burdens Baseline</b> (2005 Prices)			(Increase - Decrease)		
Increase	£ 0	Decrease of	0	<b>Net Impact</b>	£ 0
Key: Annual costs and benefits: Constant Prices				(Net) Present Value	

## Evidence Base (for summary sheets)

### 1. The Issue

Recent years have seen considerable changes to both the regulatory and tax regimes faced by gambling. Since 2001, the betting and bingo tax regimes have undergone significant reform, with the abolition of the old stakes based regimes and the introduction of tax systems based upon gross profits. The regulation of gambling has also undergone reform, with the introduction and implementation of the Gambling Act 2005.

Five of the seven gambling tax regimes (general betting duty, pools betting duty, gaming duty, remote gaming duty and bingo duty) are now calculated on a gross profits tax (GPT) basis. The Government believes that the gross profits tax model holds potential benefits for the gaming machines sector, and therefore wishes to explore the impact that a move to GPT would have.

The consultation is intended to gather evidence to inform the Government's decision on whether to proceed with a GPT. This consultation stage impact assessment should be viewed as part of that process.

### 2. Background

#### Structure of the Industry

The gaming machine industry consists of a number of different types of businesses ranging from manufacturers and suppliers to a range of operator types (including adult gaming centres, pubs, family entertainment centres, clubs, casinos, betting shops and bingo halls).

Manufacturers are responsible for designing and manufacturing new games for machines whilst the machine suppliers primary business is to supply and maintain gaming machines on behalf of operators.

The Gambling Commission regulates the types, numbers and location of machines across the different operator types.

Understanding the nature of the relationships between different parts of the gaming machine industry will be a crucial element in determining the likely impact of a switch to a GPT. This consultation hopes therefore to gather evidence on the contractual linkages between different elements of this industry.

#### Machine Types

For both regulatory purposes and AMLD, gaming machines are categorised according to their stake and prize limits. Table 1 below sets out the different categories of machine, together with the annual rates of AMLD that apply.

#### Gaming machine numbers and location

HMRC estimates, based on data from AMLD licences, that there are approximately 190,000 gaming machines in Categories B-C. In addition, BACTA, the British Amusement Catering Trade Association, the principle gaming machines trade body, estimate that there are perhaps around 70,000 Category D machines which are not liable to AMLD. The table below provides estimates of the number of gaming machines by different category.

**Table 1: Categories of gaming machine**

Category	Maximum Stake / Prize Limit	AMLD per annum
B1	£2 / £4,000	£2815
B2	£100 / £500	£2215
B3	£1 / £500	£2215
B4	£1 / £250	£2010
C	£1 / £70	£830
D	Various. See below	£0 (AMLD exempt)

Source: Gambling Commission/HMRC

**Table 2: Estimated machine numbers by category**

Category	Estimate machine numbers
B1	2,000
B2	27,000
B3	12,000
B4	17,000
C	131,000
D	72,000

Source: Published in “Gambling Commission: Industry Statistics 2007-08”

The Gambling Commission regulates the location of gaming machines with policy set by the Department of Culture, Media and Sport (DCMS). Table 3 below provides estimates of the breakdown of location of gaming machines by type of operator, table 4 provides details of the regulatory framework.

**Table 3: Estimated breakdown of location of gaming machines by operator type**

Location	%
Adult Gaming Centres	22.4
Family Entertainment Centres	26
Pubs	26
Betting	11.6
Bingo	6.6
Clubs	6.5
Casinos	0.8
Others	0.1
<b>Total</b>	<b>100</b>

Source: Published in “Gambling Commission: Industry Statistics 2007-08”

**Table 4: Regulations on the number and location of gaming machines**

Premises	Machine category (x = category of machine not permitted on this type of premises)					
	B1	B2	B3	B4	C	D
Existing "1968" casinos	20 in total, any combination of category B				Any number of C or D <i>instead</i> of 20 B	
Premises licensed for betting	x	4 in total, any combination of B2 to D				
Licensed Bingo Premises	x	x	8 in total, any combination of B3 and B4		Any number of C and D	
Licensed Adult Gaming Centres	x	x	4 in total, any combination of B3 and B4		Any number of C and D	
Clubs or Miners' welfare institutes with permits	x	x	3 in total, maximum 1 B3A, and any combination of B4, C or D			
Premises with bar licensed for alcohol consumption	x	x	x	x	2 in total, automatically, with notification. In addition, as many as allowed by permit.	
Licensed Family Entertainment Centre (FEC)	x	x	x	x	Any number of C and D	
Unlicensed FEC	x	x	x	x	x	Any number
Travelling Fair	x	x	x	x	x	Any number

**Source: DCMS/Gambling Commission**

### Tax Regime

Amusement machine licence duty is a duty payable for making gaming machines available for play. Different AMLD rates apply to different categories of machine, differentiated by their stake and prize limits. VAT at the standard rate is also paid on the net takings from gaming machines. Table 1 above provides details of the AMLD regime for different categories of machine.

Category D gaming machines are machines offering a small stake / prize, and are exempt from AMLD. They are typically found in seaside arcades and family entertainment centres. The category is sub-divided into three prize categories, "cash prize", "non-cash prize" and "mixed prize". The stake and prize allowances are shown in table 5 below.

**Table 5: Definition of a “Category D” machine**

<b>Category</b>	<b>Max Stake / Prize</b>
Cat D cash-prize	10p / £5
Cat D non-cash prize	30p / £8
Cat D non-cash (“crane grab” machines only)	£1 / £50
Cat D mixed prize	10p / £8 (of which £5 can be cash)
Cat D mixed (“penny fall / pusher” machines only)	10p / £15 (of which £8 can be cash)

**Source: Gambling Commission**

### **3. Replacing AMLD with a GPT and make gaming machine takings VAT exempt**

Taxation on the basis of a gross profits tax (GPT) would relate the amount of tax paid to the takings of the gaming machine.

#### **Costs**

There would be some one-off familiarisation costs with a switch to a GPT though it is expected that the ongoing costs of operating a GPT would be low because the reporting requirements are likely to be fairly similar to current requirements for VAT. If takings from gaming machines are made VAT exempt, that may bring a number of operators into VAT partial exemption (operators in many gambling sectors are already likely to be partially exempt). This will result in an additional administrative burden, although for many of the smallest operators it is likely that they would benefit from de minimis rules, reducing both the administrative and taxation impact. Operators of currently exempt category D machines may face some additional costs, though many of these operators will have other machines that already face an AMLD charge. The Government is keen to understand the scale of any additional costs arising from a move to a GPT.

#### **Benefits**

GPT will benefit businesses by removing the need to deal with the current AMLD licensing regime and by more closely associating the tax paid with the takings of the machine. If a GPT leads to an increase in the number of gaming machines, that may have benefits for manufacturers and suppliers. The consultation has invited comments on the likely costs and benefits arising from a move to a GPT.

#### **Administrative burden effects**

Given the shortage of information available the precise administrative burden associated with either the current regime or a reformed regime is difficult to assess. In particular more detailed information on the structure of the industry is required. Our best estimate, given the currently available information, is that the current burden associated with AMLD, for the sector as a whole, is in the range of £2m to £3m. The consultation is seeking additional information from the industry that will enable a more accurate assessment of the net impact on administrative burden of a switch from the current regime to a GPT. The Government will publish a best assessment of the costs and benefits of moving to a GPT in any final impact assessment.

## **Impact on HMRC**

HMRC would replace one system of taxation (AMLD) with another (GPT). On an ongoing basis this has the potential to reduce costs. However, there would be implementation costs from the introduction of a new tax, including setting up or modifying IT systems to oversee the new tax.

## **Revenue Impacts**

The consultation is not considering the rate of taxation, but the Government hopes to gain sufficient information to understand the impact of different choices regarding the rate(s) at which a GPT might be set.

## **4. Impact Tests**

### **Competition Assessment**

A switch to a GPT should not have an adverse impact on competition, and if it removes a potential barrier to entry it may have beneficial impacts on competition. These in turn might have benefits for both the industry and for consumers.

### **Small firms impact**

The Government recognises that many operators of gaming machines are small firms and is therefore particularly keen to hear from such operators as part of the consultation.

### **Other Impact Tests**

Initial assessments against the other specific impact tests in the checklist were made. The Government does not expect any significant impact in these areas.

## **5. Caveats and risks**

Quantitative evidence is at present limited. A key aim of the consultation is to gather the evidence from which to draw a stronger picture of the likely costs and benefits of moving towards a GPT.

## **6. Conclusion**

The Government believes that there are good reasons in principle why a GPT will represent a sensible reform to the taxation of gaming machines and one that achieves a good balance between the costs and benefits of reform. The Government recognises there are significant gaps in the evidence base at present and is seeking further evidence and information through the consultation process.

## Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

**Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.**

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	No	No
Sustainable Development	No	No
Carbon Assessment	No	No
Other Environment	No	No
Health Impact Assessment	No	No
Race Equality	No	No
Disability Equality	No	No
Gender Equality	No	No
Human Rights	No	No
Rural Proofing	No	No



### HM Treasury contacts

This document can be found in full on our website at:  
[hm-treasury.gov.uk](http://hm-treasury.gov.uk)

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