HM Revenue & Customs

# Gaming Duty: review of accounting periods

**Summary of Responses**
6 July 2018

# Contents



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# 1. Introduction

1. The government is committed to reducing administrative burdens on business, so the tax system is more effective, efficient and simpler. At Autumn Budget 2017, the government announced its intention to publish a consultation to seek views on bringing the administration of gaming duty more into line with the other gambling duties.

2. HMRC launched the consultation “Gaming Duty: review of accounting periods” on 9 April 2018. The consultation sought views on options for changes to the current arrangements of six month accounting periods with payments on account, as well as introducing provision to allow for losses to be carried forward and offset against duty liabilities in future accounting periods.

3. Responses were invited from casino operators and other interested parties by 4 June 2018.

4. This document summarises the responses to that consultation and sets out the government’s response and next steps. We are grateful to all those who submitted a response or contacted us in the course of this consultation.

5. The consultation received four written responses. Of these, three were from businesses who are registered for gaming duty and one from the main casino industry representative body. A list of respondents is provided at Annex A. Some common themes were raised by respondents to the consultation. The ability to carry forward losses was welcomed by all, and the option of non-standard accounting periods was also well received. The main concern that emerged was about the need to take account of volatility of casinos’ profits when deciding on the length of accounting periods.

6. Part 2 of this document provides a summary of the responses along with the government response to each issue. Part 3 outlines the next steps.

# 2. Responses

7. Overall, the respondents were largely consistent in welcoming moves to bring the administration of gaming duty more into line with other gambling duties. The need to take account of the volatility of profits in this sector was also a common theme in their responses.

8. We proposed three options for consideration.

### Option 1: Three month accounting period

9. This was HMRC's preferred option as it would bring gaming duty more into line with the administration of other gambling duties such as machine games duty, remote gaming duty and general betting duty where the standard accounting period is 3 calendar months.

10. This option would introduce gaming duty accounting periods of three calendar months with the return and payment due by the 30th day following the end of the period. To provide some flexibility, and in line with other gambling duties, HMRC would also consider applications for non-standard quarterly accounting periods to fit with businesses accounting and reporting processes.

11. As liabilities would be brought to account more frequently under this option there would be no requirement for businesses to make any payment on account as they currently do.

12. The final element of this package was the proposal to allow casinos to carry forward losses from one accounting period to offset against their gaming yield, and reduce their duty liability in following periods, as is the norm in other gambling duties.

### Option 2: Six month accounting period

13. This option would maintain the status quo of 6 month accounting periods, starting 1 April and 1 October, but with the current requirement for payments on account after 3 months being dropped.

14. As with Option 1, alternative six month accounting periods would be considered for approval by HMRC. Again, like Option 1, this option proposed making provision for casinos to carry forward losses from one accounting period to offset against their gaming yield, and reduce their duty liability in following periods.

15. This option would not bring gaming duty precisely into line with other gambling duties. However, with the removal of payments on account and the introduction

of the ability to carry-forward losses, it would simplify the process and make the tax fairer.

## Option 3: Twelve month accounting period

16. Under this option, a standard accounting period would be 12 whole months. As with the option for six month accounting periods, this option would not bring gaming duty into line with the quarterly administration of the other gambling duties. However, to mitigate the cash flow cost to the Exchequer, it is likely that this option would require payments on account, probably quarterly, with a balancing payment at the year-end. This would retain a layer of complexity similar to current payment on account arrangements that the preferred option sought to remove.

17. Alongside these three options HMRC asked five specific questions. The responses to those questions are summarised below

**Question 1: Do you agree option 1 would bring gaming duty more into line with other gambling duties? If not, please explain why.**

18. In principle, respondents were in favour of bringing gaming duty more into line with other gambling duties and agreed that, to an extent, option 1 would deliver this.

19. In relation to the individual elements of this option, the proposals for non-standard accounting periods were welcomed, and it was noted that some already make use of this facility for their VAT and other gambling duties' returns. All respondents welcomed the proposal to allow losses to be carried forward from one period to the next subject to clarification that, like other gambling duties, any losses could be carried forward until spent. Carry-forward of losses is discussed in more detail at Question 3, below.

20. However, there were concerns that this shortened accounting period could lead to an increase in liability, because the volatile nature of gaming revenues could push a casino's liability in some accounting periods into a higher duty band.

**The government's response**

21. The government welcomes the acknowledgment that Option 1 would bring the administrative arrangements for gaming duty more into line with other gambling duties.

22. However, the government also recognises that the structure of gaming duty is sufficiently different from the structure of other gambling duties to justify longer accounting periods. This is in part because gaming duty is charged on a premises by premises basis at progressive marginal rates against individual casinos' gross gaming yield. As the element of chance inherent in casino games creates high volatility in gaming revenues over short periods of time, we

agree this approach could push some casinos into a higher duty band in one period and lead to unpredictable duty revenues over short periods.

23. As well as bringing the administration of gaming duty more into line with other gambling duties, the purpose of the consultation is to make changes that will simplify the administrative process and make the tax fairer. We now better appreciate that Option 1 would not achieve that outcome.

**Question 2: Are there any reasons why you would prefer an alternative option?**

24. In answer to this question respondents reiterated their concerns about the inherent volatility and unpredictability of revenues over ‘short’ periods. To smooth out the fluctuations and deliver a fairer result, most respondents suggested that accounting periods needed to be longer than three months.

25. As an alternative to straightforward 3 month accounting periods in Option 1, there were proposals for 3 month periods “with an annual adjustment to true-up the quarterly returns to an annual position based on the gross gaming yield for a 12-month period”. As a variation on this, there was also support for an amended Option 3, that would allow for 12 month accounting periods with payments on account, but with the added ability to carry-forward losses.

26. Respondents felt that either of these ‘12 month options’ would “get to the same fair position which is better aligned with the other gaming taxes”. In support of these alternatives, it was commented that the concept of an annual adjustment of quarterly returns is already used for partially exempt businesses in VAT. It is clear from the responses that there is a preference for longer accounting periods, “Specifically because it would significantly level out the volatility” in the casino sector. However, there was also some acknowledgement that 12 months is an arbitrary period and that it could just as well take 18 or 24 months for fluctuations in a casino’s gaming yield to even out.

27. Other than the ‘12 month options’ above, respondents also gave views on the 6 month accounting periods that were set out in Option 2 in the consultation. Views on this option can be summarised as, “ [while we would prefer 12-month accounting], we also note that Option 2 would be preferred over Option 1” or “If it is not possible to use GGY for a 12-month period, then [we] would prefer 6-monthly returns with GGY based on 6-month periods.”.

28. While not the preferred option of respondents, it was acknowledged that 6 month returns under Option 2 would ensure there was no increased volatility in comparison to the current position, “A 6 month period is more representative than a 3 month period and thus, will reduce accounting volatility”. Added to this, respondents also noted the benefits from removal of the need for payments on account, and the introduction of carry-forward of losses under Option 2. Together these would reduce pressures on casinos’ capital requirements and would better reflect individual casinos’ true performance over the longer term.

**The government's response**

29. Having considered the respondents' views the government now accepts that Option 1 is not the appropriate choice and that an alternative should be considered. Taken together with the inherent risks in games of chance, the current structure of gaming duty can lead to fluctuating liabilities in the short term. Under a scheme of 3 month accounting periods, the peaks and troughs of a casino's fortunes could see it with liabilities at higher duty rates in one period while in the next its gaming yield may be too low to move beyond the lowest rate[1] . Compared with the current arrangements, this could result in an overall increase in a casino's duty liability

30. A longer accounting period would help to spread a casino's gross gaming yield more evenly across the duty bands. The purpose of this consultation is to explore options to bring the administration of gaming duty more into line with other gambling taxes, and to simplify the process where possible. The government is not seeking to change the length of return periods with a view to changing casino operators' tax liabilities. Just as shortened accounting periods under Option 1 may lead to an increase in the amount of duty payable, so an accounting period of greater than 6 months may lead to a reduction in the duty payable when compared with the current arrangements.

31. Having considered these points the government has decided to make the changes proposed at Option 2. The 6 month accounting period option will ensure no increased volatility in comparison to the current position. The ability to carry-forward losses also makes the tax fairer, and the removal of payments on accounts simplifies the process and helps casinos' capital management. In addition, Option 2 aligns better with the operation of HMRC's digital accounting platform than the present arrangements, or any similar proposals that include variations on payment on account. Moving away from these standardised processes is likely to incur disproportionate costs.

**Question 3: What is your view of the proposals to introduce the provision to carry forward losses to offset future liabilities? Do you envisage any practical difficulties or administrative burdens with this proposal?**

32. This proposal was welcomed by all respondents. The general view is summarised well in one response: "as well as bringing gaming duty more into line with the administration of other gambling duties, the provision to carry forward losses to offset future liabilities makes gaming duty a more equitable tax".

33. No-one identified difficulties or burdens with this proposal.

[1] Gaming duty is charged on a casino's gross gaming yield for each accounting period. The Table of rates is at Annex B.

**The government's response**

34. The government welcomes the acknowledgement that this proposal will bring some benefits to the casino sector, and that it will not create additional administrative burdens. It is also recognised that the ability to carry forward losses may have a negligible negative impact on public finances.

**Question 4: How many quarters in the previous 24 months have ended with gaming duty losses that, under the proposed system, would be carried over? What was the average size of any loss?**

35. All respondents reported loss-making periods to various degrees over the past 24 months. In the two years to March 2018, losses were reported by at least one operator in four of the eight quarters.

**The government's response**

36. The government thanks respondents for providing this information, which confirms that it is appropriate to bring gaming duty more into line with other gambling duties and allow for the carry-forward of losses.

**Question 5: Do you have any views on how best to manage the final period in the current scheme, and the first period under the new arrangements?**

37. There was general consensus that would be helpful to align the start of any new arrangements with what would be the start date of a standard accounting period under the current arrangements (1 April or 1 October). Additionally, it was felt that there should be sufficient flexibility that will allow businesses to adopt a shorter first accounting period, if necessary, before settling into their new pattern. In such cases the legislation should allow for the duty bands to be apportioned against the shorter period.

**The government's response**

38. The government will seek to minimise the administrative burdens associated with the changeover from one scheme to another and welcomes respondents' contributions on this point.

**Question 6: Do you have any comments on the summary of impacts?**

39. There were no significant comments on the summary of impacts that was included in the consultation document. It is expected that any additional compliance burdens that may arise will be manageable.

**The government's response**

40. The government thanks all respondents for considering the summary of impacts.

# 3. Next steps

41. Draft legislation will be published on 6 July 2018, together with a tax information and impact notice.

42. The government intends to introduce final legislation in the Finance Bill 2018 to amend the gaming duty provisions in Part I of the Finance Act 1997, and implement the changes to the administration of gaming duty from 1 October 2019.

43. HMRC will consult with stakeholders about the draft legislation to ensure it delivers the intended effect.

# Annexe A: List of stakeholders consulted

Genting Casinos United Kingdom
National Casino Forum (Association of British Casinos)
Rank Group Plc
The Ritz Hotel Casino Limited

# Annexe B:

Table for 3 month payments on account

| *Part of gross gaming yield* | *Rate* |
|---|---|
| The first £1,211,750 | 15% |
| The next £835,250 | 20% |
| The next £1,462,750 | 30% |
| The next £3,087,750 | 40% |
| The remainder | 50% |

Table for 6 month accounting period

| *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% |

Each casino calculates its gaming duty against its gross gaming yield after the first three months of an accounting period and makes a payment on account to HMRC.

At the end of the six month accounting period each casino calculates its gaming duty against its gross gaming yield for the six months and makes a payment to HMRC, net of any amount paid on account.