

Gambling Tax Reform 2014 (GTR) Implementation Working Group
100 Parliament Street, London – 7 March 2014

Attendees:

Sally Beggs - chair Indirect Taxes	HMRC Deputy Director
Andy Grimsley	HMRC
Katherine Mansfield	HMRC
Annie Merrell	HMRC
Mel McDonald	HMRC
Sue Rossiter	RGA
Leslie Macleod-Miller	BACTA
Victoria Daniels	RGA
Thomas Bowey	RGA
Cherry Hosking	Bingo Association
Alasdair MacEwen	GBGA
David Farmer	ABB
Andrew Smyth	RGA
James White	RGA
Sandra Silcock	HMRC secretariat

Main points of discussion

1. Sally opened the meeting and agreed the minutes from the last meeting.

2. Action points carried forward from 18 December meeting:

18 Dec AP 1: Feedback on draft Finance Bill clauses. Only limited comments were received regarding deficiencies in the legislation. The clauses are being reviewed and amendments considered in light of comments received. **AP closed.**

18 Dec AP 2: Pooled Gambling included as agenda item for this meeting. **AP closed.**

18 Dec AP 3: "Definition of UK customer". HMRC has taken into consideration the IWG comments from the previous meeting and issued a revised version of the draft guidance in advance of the meeting and this is tabled as an agenda item. **AP closed.**

Action points carried forward from 31 January meeting:

31 Jan AP 4: Treatment of bonuses. The RGA will work with the GBGA to consider providing further information on the practical difficulties of maintaining the current rules for free-plays and bonuses within the reformed Duties. HMRC had not received anything ahead of the meeting and Sue Rossiter explained that the two issues of concern were VIP Programmes and Single Wallets. The RGA promised to send a letter to HMRC following the meeting highlighting the practical difficulty of maintaining the current treatment of bonuses in these two areas.

31 Jan AP 5: Transitional arrangements tabled as an agenda item. **AP closed.**

31 Jan AP 6: HMRC to circulate copies of the registration screens to members of the group. Copies circulated **AP closed.**

31 Jan AP 7: Members to identify any operators that are willing to help HMRC test the new online system ahead of full Go Live and forward details to HMRC.

Some volunteers have come forward to test the system in late summer. HMRC thanks all those who have volunteered. **AP closed.**

31 Jan AP 8: Group Registrations. Two questions on grouping were raised as part of the presentation at the last meeting on the new online registration service:

Will HMRC's variation service allow operators to change their gambling licence number?

Answer - Yes the variation service will allow operators to change and add a new Gambling Commission licence number

What about corporate groups that have no member with a principal place of business in the UK – would HMRC allow a group registration in these circumstances?

Answer – No. Operators can only choose to group where at least one member of the group has a principal place of business in the UK. A group registration, like any registration is for a single tax. **AP closed**

31 Jan AP 9: HMRC to include a substantive agenda item about Fiscal Rep requirements for the next meeting. This is included as agenda item for this meeting. **AP closed**

31 Jan AP 10: HMRC will invite a member of our communications team to the next meeting to provide an overview of our strategy. Mel McDonald HMRC Comms team is attending this meeting. **AP closed**

Main agenda

3. Communications

Mel McDonald briefed the group on HMRC's plans and timetable for communicating the changes externally. One factor to take into account is that HMRC plans to migrate much of its internet content to GOV.UK in summer 2014 so any existing communications material on the reforms will be moved over. Mel also explained that HMRC will make use of partnership marketing i.e. getting our messages disseminated through trade association and other

organisation's websites. The group suggested some additional organisations that HMRC could consider in this regard. Some of the communications are aimed at raising awareness that the reforms are happening and some will be more detailed guidance about what businesses need to do. The group thought that there was already a high level of awareness amongst the core community impacted. They suggested however that there may be issues getting messages to those operators outside of the UK/EU. They recommended that we push messages to other jurisdictions namely Gibraltar, Isle of Man (IOM) and Channel Islands (CI) through the Gambling Commission. They also mentioned conferences in Malta and the Isle of Man that HMRC may want to consider using for communications.

7 Mar AP 1: Communications. HMRC to provide a month by month plan itemising planned communications activity and products. This will be made available to IWG members.

Group members to consider how they can help by pushing any future comms through their networks.

4. Draft legislation review of comments

Andy Grimsley confirmed that the Finance Bill will differ slightly from the draft legislation which was exposed for consultation but there are no significant changes in policy.

The group sought clarification around how the taxes interact in terms of setting off losses across the taxes. Each tax is treated separately and losses cannot be set off across taxes.

5. Enforceable assets in the UK and representatives

HMRC had issued draft information note 3 ahead of the meeting. There was a substantive discussion about the section on Enforceable assets and representatives focussing on the options available for businesses not established in the UK.

First of all Andy Grimsley explained how the grouping rules work. An overseas company will be able to form a group with a UK company in the same corporate group providing both are liable to register. As all group members have joint and several liability for duty then the overseas business will not have to appoint a representative or to provide a security. However, operators can only group if all members operate within a single regime i.e. GBD or PBD or RGD and groups cannot be formed across the different regimes. The group commented that HMRC needed to do more to publicise the rules for groups.

7 Mar AP 2: HMRC to review its communication material on grouping to make it as clear as possible and ensure key messages are easily accessible and report back at the next meeting.

Andy also advised that they will not require operators based within countries where the UK has agreements in place as part of the Mutual Assistance in the Recovery of Debt agreement (MARD) to appoint a representative. Gibraltar is part of the UK for the purposes of MARD but because of this Gibraltar is not compelled to enforce a UK debt as it would be for say, a German debt. The UK Authorities are already in discussion with both the Gibraltar and the Isle of Man Authorities about reaching an agreement for the enforcement of UK gambling duty debts. Similar principles may apply to the Channel Islands (CI). As yet, no final agreements and arrangements are in place.

7 Mar AP 3: HMRC to report back on the discussions about possible arrangements for named territories above.

Two options will be available for those operators outside the UK who are not covered by any of the arrangements above. They can either appoint a UK fiscal representative who is jointly and severally liable for any debts or they can appoint an administrative representative but in the latter case they will also need to provide a security in the form of cash or e.g. a performance bond. There will be criteria for approving fiscal representatives and lesser criteria for admin representatives. There was also discussion about the security in the form of a joint account.

7 Mar AP 4: HMRC to report back to a later meeting on the criteria and process for approving fiscal and administrative representatives.

7 Mar AP 5: HMRC to clarify whether a security in the form of a joint account with HMRC needs to be with a UK bank and to clarify who gets the interest on the account.

A question was raised about the direct tax implications of these rules.

7 Mar AP6: HMRC to clarify whether appointing a fiscal or administrative representative for gambling tax reform would constitute a permanent establishment for direct tax purposes.

6. Definition of UK customer - redrafted guidance

HMRC presented their revised guidance about how businesses determine whether a customer is in the UK or not. There was positive feedback that the group's previous concerns had been addressed comprehensively in the revised draft. The group confirmed that they were happy to sign off the revised draft as a final version.

7. Transitional arrangements

Andy talked the group through Section 4 of the draft Information Note on transitional arrangements covering both policy and administrative transitional arrangements.

The basic rule is that where duty is accounted for on stakes received prior to 1 December 2014, then winnings can be deducted for the purposes of the duty provided they are paid out and included in an accounting period which ends on or before 30 November 2018. However, in addition, operators based overseas can deduct winnings in respect of UK customers and in respect of stakes received before 1 December 2014, provided the winnings are paid out and included in an accounting period which ends on or before 30 November 2018.

The basic rule will apply to UK based businesses and for both UK and non-UK customers. The additional rule will apply to operators based outside the UK who pay out winnings to UK customers on or after 1 December where the stake was received before that date.

HMRC will transfer existing operators (already registered in the UK for one of the 3 affected taxes) over to the new system and we will be writing to this population in the summer seeking some additional information and to offer the facility to submit future returns online.

7 Mar AP 7: HMRC to share with the group the details about the additional information that operators already registered for the affected taxes will have to provide.

The group raised the issue of Double Taxation Relief (DTR) and HMRC confirmed that this will come to an end in 2015. The question was re-clarified as one about whether there will be any transitional arrangements for cases where DTR applies.

7 Mar AP 8: HMRC to clarify the transitional arrangements for DTR

8. Pools and peer to peer gaming – treatment of ‘top ups’/ ‘added prizes’
The group raised the question of what treatment should be taken with progressive slots and progressive jackpots.

7 Mar AP 9: The RGA (Sue Rossiter) will get back to us with practical issues around top ups and added prizes and will provide more information about how pooled bets work.

A further question arose around pooled bets taken by an agent who just takes a commission, for example a ‘Tote’ bet with regards to who holds the operating licence.

7 Mar AP 10: The RGA (Sue Rossiter) to write in with the query on Tote gambling.

AOB

Andy raised two items for AOB:

- 1) A possible measure to counter avoidance by gambling operators setting up non UK corporates and inviting UK high rollers to gamble by taking an interest in the corporate. The approach could be to treat the non UK corporate as a UK person where the operator knows or could reasonably know that a beneficiary of the gambling was a UK person.

A query was raised around the extent to which such a rule would oblige an operator to take action to establish facts. The response was that the operator would not be expected to do anything in addition to what it currently does. It would though, be required to act on the information held.

The majority of those present said that they do not have corporates as customers and therefore this rule would not be a concern.

Update: 8 April. The Finance Bill does include such a provision

- 2) Betting exchanges: A scheme will be introduced which will require a betting exchange to provide information on demand to bookmakers using the exchange. The exchange will be required to provide the bookmaker with a high level profits figure. The figure will show the total profit due to the bookmaker from UK persons over the period of time specified by the bookmaker. This information will enable bookmakers using exchanges to complete their duty returns.

The feedback was that such a scheme will be helpful.

Next meeting planned for 25 April agenda and details to be issued early April.

Agenda items for next meeting include:

Implications of Budget 2014
Update on IOM, Gibraltar and CI
Online returns process