



HM Revenue  
& Customs

# Gaming Duty: review of accounting periods

## **Consultation document**

Publication date: 9 April 2018

Closing date for comments: 4 June 2018

<b>Subject of this consultation:</b>	Reforming the Gaming Duty accounting periods to bring the administration of Gaming Duty more into line with other gambling duties.
<b>Scope of this consultation:</b>	The government announced at Autumn Budget 2017 that it would consult on options to rationalise Gaming Duty accounting periods. This consultation seeks to gather views on whether to move to three month, six month or 12 month accounting periods; removing the requirement to make payments on account; and allowing losses to be offset against future liabilities.
<b>Who should read this:</b>	HM Revenue and Customs (HMRC) would like to hear from you if you operate a casino or represent anyone who does. You should read this if you are registered for and pay Gaming Duty.
<b>Duration:</b>	9 April – 4 June 2018
<b>Lead official:</b>	Brian O’Kane, Gambling Duties Team, Indirect Taxes, HMRC
<b>How to respond or enquire about this consultation:</b>	<a href="mailto:gambling.taxes@hmrc.gsi.gov.uk">gambling.taxes@hmrc.gsi.gov.uk</a> , or by post to:  Gaming Duty return periods: Consultation Gambling Duties Team HM Revenue & Customs 3w Ralli Quays 3 Stanley Street Salford M60 9LA  Telephone enquiries should be directed to John Waller at HM Revenue and Customs (HMRC):  John Waller 03000 588063
<b>Additional ways to be involved:</b>	As gaming is a specialist sector with a relatively small number of operators this will be a purely written exercise.
<b>After the consultation:</b>	HMRC will publish a summary of responses in the summer which will include a list of respondents. Any subsequent legislative changes will be considered as part of the Budget process.
<b>Getting to this stage:</b>	The legislation providing for Gaming Duty return periods and payments on account is contained in Finance Act 1997.
<b>Previous engagement:</b>	There has been no formal consultation on this.

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# 1. Introduction

## Background

1. The government is committed to transforming tax administration and reducing administrative burdens on businesses, so the system is more effective, efficient and simpler.
2. At Autumn Budget 2017, the government announced its intention to publish a consultation on gaming duty return periods to seek views on bringing the administration of gaming duty more into line with the other gambling duties.
3. This consultation puts forward options for changes to accounting periods and payments on account, as well as introducing provision to allow for carrying forward losses between accounting periods. It presents an opportunity for interested parties to give their views on the options put forward and whether they will reduce administrative burdens, as well as highlighting any practical implementation issues. It is also an opportunity for interested parties to inform the government of any preferred option, as well as put forward any alternative suggestions.

## 2. The current position

4. Gaming duty is paid by casino operators on their gross gaming yield (GGY) from games, where gaming takes place on premises in the UK. Liability is calculated on a per-premises basis for each accounting period and has a banded progressive structure similar to income tax, with marginal tax rates ranging from 15%-50% of each casino's GGY. Each casino's GGY is the amounts staked by customers *minus* winnings paid, plus any charges made in connection with the gaming.
5. Businesses liable to gaming duty are required to file two returns and make two payments in each six month accounting period. After the first three months of the accounting period a return form GD94 is completed and submitted to HMRC along with a "payment on account" that is calculated against the GGY for those three months. At the end of the six month accounting period the gaming duty is calculated against the GGY for the whole period, with an adjustment for the payment on account that was made after three months. The balancing payment is submitted with return form GD95.
6. Under the current system, it is possible for a casino's payment on account after three months to exceed their eventual liability after six months, for example a healthy GGY after three months could be wiped out if customers have a winning streak in the final three months of the accounting period. In those circumstances, the operator will make a claim on their six-month return to

recover the overpayment that was made part way through the accounting period. However, unlike other gambling duties, gaming duty has no provision to carry forward losses from one accounting period to another. If a casino makes a loss over a six-month period, it will have a 'nil' liability for that period, but cannot use that loss to reduce future liabilities.

7. The relevant legislation is found in the Finance Act 1997 and the Gaming Duty Regulations 1997. The Table in section 11 Finance Act 1997 sets out the current GGY bands and duty rates while Part II of the Gaming Duty Regulations (S.I. 1997/2196) sets out the requirement to make a payment on account based on the first three months of each accounting period. The relevant parts of the Finance Act 1997 and the Gaming Duty Regulations 1997 are reproduced at Annex A.

### 3. Options for change

8. The current position of six month accounting periods with two returns and a payment on account is out of line with other gambling duties. We are proposing three possible alternatives for consideration.

#### Option 1: Three month accounting period

9. This is the preferred option as it would bring gaming duty more into line with the administration of other gambling duties. For example, general betting duty (GBD), pool betting duty (PBD), machine games duty (MGD) and remote gaming duty (RGD) all have three month accounting periods. They also include the provision to carry forward losses to offset future liabilities, and do not require payment on account.
10. In line with those other gambling duties, this option would introduce gaming duty accounting periods of three calendar months with the return and payment due by the 30<sup>th</sup> day following the end of the period. As liabilities would be brought to account more frequently under this option there would be no requirement for a payment on account.
11. Under the current system for gaming duty, there is no provision for carrying forward losses from one accounting period to another. As part of these changes, we are considering introducing the provision to allow losses to be carried forward from one quarter to the next. This would bring gaming duty into line with other gambling duties that might broadly be described as profit-based taxes. GBD, PBD, MGD and RGD for example, all allow for the carry forward of losses from one return period to be offset against liabilities in the following period.
12. While the standard accounting period under this option would be based on calendar months, HMRC would also consider applications for non-standard quarterly accounting periods to fit with businesses accounting and reporting processes. We envisage that this would work in the same way as it does for

GBD, PBD and RGD in that the gaming provider would request an alternative pattern of four accounting periods over a 12 month period, with each period ending within 16 days of the date that would have been the standard end date. The use of non-standard periods would be subject to HMRC approval in the same way as other gambling duties.

13. The relevant legislation for non-standard accounting periods for GBD, RGD and Pool Betting Duty (PBD) can be found at s.165(3) of Finance Act 2014. The relevant part of the Finance Act 2014 is reproduced at Annex A.
14. This option would align gaming duty returns with HMRC's plans for Making Tax Digital for Business (MTDfB) which aim to help businesses get their tax right first time. Businesses using MTDfB will send summary updates to HMRC on a regular basis giving them a clearer view of their in year tax position, and providing them with greater certainty.

### **Option 2: Six month accounting period**

15. Under this option, we would retain the current six month accounting periods, beginning 1 April and 1 October, but without the requirement for a payment on account.
16. As with the three month accounting period proposal, alternative six month accounting periods may be granted on approval by HMRC.
17. Similarly, and in line with other gambling duties, we are also giving consideration to introducing provision to allow for the carry forward of losses from one six-month accounting period to the following period.
18. Effectively, this option would maintain the status quo but with the requirement for payments on account being dropped, and provision for the carry-forward of losses introduced. This would simplify the process and reduce the admin burden on business.
19. However, this option would not bring gaming duty into line with the quarterly administration of the other gambling duties, and would be out of step with businesses wider tax obligations. It could also introduce less certainty and make it more difficult for businesses to keep on top of their tax affairs.

### **Option 3: Twelve month accounting period**

20. Under this option, a standard accounting period would be 12 whole months starting on the first day of the first month and ending on the last day of the twelfth month. Businesses would have the flexibility to choose the month that their accounting period started.
21. Alternative twelve month accounting periods may be granted on approval by HMRC.

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, and would also be at odds with businesses wider tax obligations.

22. A more significant obstacle to this option however is that twelve-month accounting periods would have a cash flow cost for the Exchequer. To mitigate that cost, we would need to retain payments on account, most likely on a quarterly basis, with a balancing payment at the year-end. While this would keep gaming duty in line with the wider trend towards quarterly accounting, it is also likely to introduce additional administrative burdens, complexity and uncertainty for business.
23. Due to the nature of the businesses that are subject to gaming duty, HMRC believe it is unlikely that any casino would report a gaming 'loss' over a twelve-month period. Consequently, under this option, we would not envisage including a provision for the carry forward of losses.

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

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

**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?**

**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?**

## **Transitional arrangements**

24. No decision has been made about the commencement date of any change but it is unlikely that any changes would be implemented before April 2019. In order to minimise any disruption in the transitional period it is probable that the new arrangements would start, and the existing arrangements end, on a date that aligns with the current, standard accounting periods of 1 April and 1 October.

**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?**

## 4. Assessment of Impacts

### Summary of Impacts

<b>Exchequer impact (£m)</b>	The exchequer impact, if any, will be based on the outcome of this consultation and will be subject to scrutiny by the Office for Budget Responsibility
<b>Economic impact</b>	This measure is not expected to have any significant macroeconomic impacts
<b>Impact on individuals, households and families</b>	It will not affect the availability, price and pay-outs of casino gaming. There is no impact on family formation, stability or breakdown.
<b>Equalities impacts</b>	The measure is not expected to have different impacts on any protected equality groups.
<b>Impact on businesses and Civil Society Organisations</b>	The impact on business will depend upon the outcome of this consultation. One off costs are expected to include familiarisation with the new rules and updating systems to reflect the new accounting periods.
<b>Impact on HMRC or other public sector delivery organisations</b>	There will be no significant operational impact to HMRC or other public sector organisations.
<b>Other impacts</b>	<p>There will be no impact on climate change, air quality or fuel poverty.</p> <p>Other impacts have been considered and none have been identified.</p>

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



## 5. Summary of Consultation Questions

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

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

**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?**

**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?**

**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?**

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

## 6. The Consultation Process

This consultation is being conducted in line with the Tax Consultation Framework. There are 5 stages to tax policy development:

- Stage 1 Setting out objectives and identifying options.
- Stage 2 Determining the best option and developing a framework for implementation including detailed policy design.
- Stage 3 Drafting legislation to effect the proposed change.
- Stage 4 Implementing and monitoring the change.
- Stage 5 Reviewing and evaluating the change.

This consultation is taking place during stage 2 of the process. The purpose of the consultation is to seek views on the policy design and any suitable possible alternatives.

### How to respond

A summary of the questions in this consultation is included at chapter 5.

Responses should be sent by 4 June 2018, by e-mail to: [gambling.taxes@hmrc.gsi.gov.uk](mailto:gambling.taxes@hmrc.gsi.gov.uk), or by post to:

Gaming Duty return periods: Consultation  
Gambling Duties Team  
HM Revenue & Customs  
3w Ralli Quays  
3 Stanley Street  
Salford M60 9LA

Telephone enquiries should be directed to John Waller at HM Revenue and Customs (HMRC):

John Waller 03000 588063

(from a text phone prefix this number with 18001)

**Please do not send consultation responses to the Consultation Coordinator.**

Paper copies of this document or copies in Welsh and alternative formats (large print, audio and Braille) may be obtained free of charge from the above address. This document can also be accessed from [HMRC's GOV.UK pages](#). All responses will be acknowledged, but it will not be possible to give substantive replies to individual representations.

When responding please say if you are a business, individual or representative body. In the case of representative bodies, please provide information on the number and nature of people you represent.

## Confidentiality

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.

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 with, amongst other things, 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 Revenue and Customs (HMRC).

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.

## Consultation Principles

This consultation is being run in accordance with the government's Consultation Principles.

The Consultation Principles are available on the Cabinet Office website: <http://www.cabinetoffice.gov.uk/resource-library/consultation-principles-guidance>

If you have any comments or complaints about the consultation process please contact:

John Pay, Consultation Coordinator, Budget Team, HM Revenue & Customs, 100 Parliament Street, London, SW1A 2BQ.

Email: [hmrc-consultation.co-ordinator@hmrc.gsi.gov.uk](mailto:hmrc-consultation.co-ordinator@hmrc.gsi.gov.uk)

**Please do not send responses to the consultation to this address.**

# Annex A: Relevant Legislation

## Finance Act 1997 section 11(1) - (2)

### **Rate of gaming duty.**

(1) Gaming duty shall be charged on premises for every accounting period which contains a time when dutiable gaming takes place on those premises.

(2) Subject to subsection (3) below, the amount of gaming duty which is charged on any premises for any accounting period shall be calculated, in accordance with the following Table, by—

(a) applying the rates specified in that Table to the parts so specified of the gross gaming yield in that period from the premises; and

(b) aggregating the results.

#### TABLE

<b>Part of gross gaming yield</b>	<b>Rate</b>
<i>The first £2,423,500</i>	<i>15 per cent.</i>
<i>The next £1,670,500</i>	<i>20 per cent.</i>
<i>The next £2,925,500</i>	<i>30 per cent.</i>
<i>The next £6,175,500</i>	<i>40 per cent.</i>
<i>The remainder</i>	<i>50 per cent.</i>

Regulations covering gaming duty payments on account can be found at Part 2 of the Gaming Duty Regulations 1997 S.I. 1997/2196 (as amended by the Gaming Duty Regulations 2017) starting at section 3

#### PART II

#### **PAYMENTS ON ACCOUNT**

#### **Application of Part II**

3. *The obligations imposed by this Part of these Regulations apply to any person who is a registered provider.*

**The obligation to make payments on account**

4. *For every quarter, every registered provider shall make a payment on account of the duty that is likely to be chargeable on any premises of which he is the provider.*

**The amount**

5.—(1) *Subject to regulation 6 below, the amount of any payment on account of duty shall be calculated in accordance with this regulation.*

(2) *The gross gaming yield for the quarter shall be calculated, treating the quarter as an accounting period.*

(3) *The rates specified in the following Table shall be applied to the parts so specified of the gross gaming yield in that quarter from the premises and the results shall be aggregated.*

(4) *That aggregate shall be the amount of the payment on account.*

**TABLE**

<i>Part of gross gaming yield</i>	<i>Rate</i>
<i>The first £1,211,750</i>	<i>15 per cent.</i>
<i>The next £835,250</i>	<i>20 per cent.</i>
<i>The next £1,462,750</i>	<i>30 per cent.</i>
<i>The next £3,087,750</i>	<i>40 per cent.</i>
<i>The remainder</i>	<i>50 per cent.</i>

**Finance Act 2014 s.165(3)**

(3) *The Commissioners may agree with a person to make either or both of the following changes for the purposes of that person's liability to general betting duty, pool betting duty or remote gaming duty—*

(a) *to treat specified periods (whether longer or shorter than 3 months) as accounting periods;*

*(b) to begin accounting periods on days other than those applying by virtue of subsection (2).*