

Tax Representation



TAXREP 55/09

Taxation of gaming machines: consultation on a gross profits tax

Memorandum submitted in October 2009 by the Tax Faculty of the Institute of Chartered Accountants in England and Wales in response to a consultation document published in July 2009 by HM Treasury.

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INTRODUCTION

1. We welcome the opportunity to respond to the Consultation Document published in July 2009.
2. Details about the Institute of Chartered Accountants in England and Wales and the Tax Faculty are set out in Annex A. Our Ten Tenets for a Better Tax System by which we benchmark proposals to change the tax system are summarised at Annex B.

COMMENTS

3. One of our Ten Tenets is that the tax system should be kept under regular review so that changes are made when these are necessary and appropriate. We appreciate that following the earlier review in 2003 the decision was taken to retain the amusement machine licence duty (AMLDD) until uncertainty created by the forthcoming Gambling Act 2005 had been implemented (in autumn 2007) and the uncertainties caused by that forthcoming change in the law had been determined.
4. The proposed changes have caused very considerable concern amongst those affected in an adverse way by the changes. We are sure that the responses to the consultation will demonstrate those parts of the industry that believe that they will be badly affected, financially, under any proposed new gross profits tax (GPT). We are aware that the operators of arcades, in particular, feel that the GPT proposal represents a *de facto* tax increase as far as their activities are concerned.
5. So, while we believe that from a pure policy perspective point of view a gross profits tax has much to recommend it and could be a good tax when it is in place it could create difficult transitional problems for many parts of the industry. The Government will need to be clear about the potential impact on the different parts of the industry and plan the transition to the new regime to take account of the differing impacts.
6. The majority of the questions seek information about the impact of the proposed changes on the particular respondent. The more general question is set out at paragraph 6.4 in relation to the move to GPT in principle. As we have stated above we believe that a well designed GPT with an appropriate rate would be a good tax regime as long as the transitional regime takes account of the negative impact on some businesses and there is a sufficient time delay before the new regime becomes fully operational.

IKY
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ICAEW AND THE TAX FACULTY: WHO WE ARE

1. The Institute of Chartered Accountants in England and Wales (ICAEW) is the largest accountancy body in Europe, with more than 128,000 members. Three thousand new members qualify each year. The prestigious qualifications offered by the Institute are recognised around the world and allow members to call themselves Chartered Accountants and to use the designatory letters ACA or FCA.
2. The Institute operates under a Royal Charter, working in the public interest. It is regulated by the Department for Business, Enterprise and Regulatory Reform through the Financial Reporting Council. Its primary objectives are to educate and train Chartered Accountants, to maintain high standards for professional conduct among members, to provide services to its members and students, and to advance the theory and practice of accountancy, including taxation.
3. The Tax Faculty is the focus for tax within the Institute. It is responsible for tax representations on behalf of the Institute as a whole and it also provides various tax services including the monthly newsletter *TAXline* to more than 10,000 members of the ICAEW who pay an additional subscription.
4. To find out more about the Tax Faculty and ICAEW including how to become a member, please call us on 020 7920 8646 or email us at taxfac@icaew.com or write to us at Chartered Accountants' Hall, PO Box 433, Moorgate Place, London EC2P 2BJ.

THE TAX FACULTY'S TEN TENETS FOR A BETTER TAX SYSTEM

The tax system should be:

1. **Statutory:** tax legislation should be enacted by statute and subject to proper democratic scrutiny by Parliament.
2. **Certain:** in virtually all circumstances the application of the tax rules should be certain. It should not normally be necessary for anyone to resort to the courts in order to resolve how the rules operate in relation to his or her tax affairs.
3. **Simple:** the tax rules should aim to be simple, understandable and clear in their objectives.
4. **Easy to collect and to calculate:** a person's tax liability should be easy to calculate and straightforward and cheap to collect.
5. **Properly targeted:** when anti-avoidance legislation is passed, due regard should be had to maintaining the simplicity and certainty of the tax system by targeting it to close specific loopholes.
6. **Constant:** Changes to the underlying rules should be kept to a minimum. There should be a justifiable economic and/or social basis for any change to the tax rules and this justification should be made public and the underlying policy made clear.
7. **Subject to proper consultation:** other than in exceptional circumstances, the Government should allow adequate time for both the drafting of tax legislation and full consultation on it.
8. **Regularly reviewed:** the tax rules should be subject to a regular public review to determine their continuing relevance and whether their original justification has been realised. If a tax rule is no longer relevant, then it should be repealed.
9. **Fair and reasonable:** the revenue authorities have a duty to exercise their powers reasonably. There should be a right of appeal to an independent tribunal against all their decisions.
10. **Competitive:** tax rules and rates should be framed so as to encourage investment, capital and trade in and with the UK.

These are explained in more detail in our discussion document published in October 1999 as **TAXGUIDE 4/99**; see <http://www.icaew.co.uk/index.cfm?route=128518>.