



Finance Act 2009

2009 CHAPTER 10

PART 8

MISCELLANEOUS

Gambling

113 VAT exemption for gaming participation fees

- (1) Group 4 of Schedule 9 to VATA 1994 (exemptions: betting, gaming and lotteries) is amended as follows.
- (2) In Note (1), omit paragraph (b) (granting of right to play game of chance not exempted unless within Note (5)).
- (3) Omit Notes (5) to (11).
- (4) The Value Added Tax (Betting, Gaming and Lotteries) Order 2007 (S.I. 2007/2163) is revoked.
- (5) Omit—
 - (a) in BGDA 1981, sections 19(3)(b) and 26E(2), and
 - (b) in FA 1997, section 11(9)(a).
- (6) The amendments made by this section are treated as having come into force on 27 April 2009.

114 Gaming duty

- (1) FA 1997 is amended as follows.
- (2) Section 10 (gaming duty) is amended as follows.
- (3) For subsection (2) substitute—

“(2) Subject as follows, this section applies to—

Status: Point in time view as at 06/04/2019.

Changes to legislation: Finance Act 2009, Part 8 is up to date with all changes known to be in force on or before 25 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) casino games, and
 - (b) equal chance gaming.”
- (4) In subsection (3)(e), after “Article” insert “ 77, ”.
- (5) After subsection (3A) insert—
- “(3AA) This section does not apply to the playing of a game in respect of which bingo duty or lottery duty is chargeable or would be chargeable but for an express exception.”
- (6) In subsection (3C)(a), after “in” insert “ organising or ”.
- (7) For subsection (4) substitute—
- “(4) This section does not apply—
- (a) in Great Britain, to the playing of a game where the provision of facilities for its playing falls within section 269 of the Gambling Act 2005 (equal chance gaming at members' or commercial clubs and miners' welfare institutes), or
 - (b) in Northern Ireland, to the playing of a game to which Article 128 of the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 (certain clubs) applies.”
- (8) In subsection (5), for “add to the games mentioned in subsection (2) above” substitute “ provide that any specified game is or is not to be a casino game or equal chance gaming for the purposes of this section ”.
- (9) In subsection (6), for “this section, or in an order under subsection (5) above,” substitute “ an order under subsection (5) above ”.
- (10) Section 14 (subordinate legislation) is amended as follows.
- (11) In subsection (2), for “or 11(11) above” substitute “ providing that any game is to be a casino game or equal chance gaming or any order under section 11(11) ”.
- (12) Insert at the end—
- “(4) A statutory instrument containing an order under section 10(5) that does not provide for any game to be a casino game or equal chance gaming is subject to annulment in pursuance of a resolution of the House of Commons.”
- (13) Section 15(3) (interpretation) is amended as follows.
- (14) After the definition of “accounting period” insert—
- ““casino games” means games of chance which are not equal chance gaming (but subject to any order under section 10(5));”.
- (15) After the definition of “dutiabale gaming” insert—
- ““equal chance gaming”—
- (a) in Great Britain, means gaming which does not involve playing or staking against a bank (however described, and whether or not controlled or administered by a player) and in which the chances are equally favourable to all participants, and

Status: Point in time view as at 06/04/2019.

Changes to legislation: Finance Act 2009, Part 8 is up to date with all changes known to be in force on or before 25 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (b) in Northern Ireland, means gaming in respect of which none of the conditions specified in Article 55 of the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 is met,
(but subject to any order under section 10(5));”.
- (16) In consequence of the preceding provisions, omit—
- (a) in FA 2002, section 11, and
 - (b) in FA 2007, in Schedule 25, paragraph 17(4).
- (17) The amendments made by this section are to be treated as having come into force on 27 April 2009.
- (18) But those amendments do not give rise to a duty under paragraph 6(3)(a) of Schedule 1 to FA 1997 (requirement to notify premises) before 25 May 2009.

115 Remote bingo etc

- (1) BGDA 1981 is amended as follows.
- (2) In section 17 (bingo duty), after subsection (2) insert—
- “(2A) Bingo duty is not charged on the playing of bingo which is not licensed bingo if remote gaming duty is charged on the provision of facilities for playing it.”
- (3) In section 26H (remote gaming duty: exemptions), after subsection (2) insert—
- “(2A) Subsection (2) does not prevent remote gaming duty being charged in respect of the provision of facilities for the playing of bingo which is not licensed bingo (as to the meaning of which terms see section 20C).”
- (4) The amendments made by this section have effect in relation to games of bingo that begin to be played on or after 1 July 2009.

116 Meaning of “gaming machine” and “gaming”

- (1) BGDA 1981 is amended as follows.
- (2) Section 25 (meaning of “amusement machine”) is amended as follows.
- (3) For subsection (1A) substitute—
- “(1A) In this Act “gaming machine” means a machine which is designed or adapted for use by individuals for gambling (whether or not it can also be used for other purposes).
- (1B) But a machine is not a gaming machine to the extent that—
- (a) it is designed or adapted for use to bet on future real events,
 - (b) it is designed or adapted for the playing of bingo and bingo duty is, or but for paragraphs 1 to 5 of Schedule 3 would be, charged under section 17 on the playing of the bingo, or
 - (c) it is designed or adapted for the playing of a real game of chance and the playing of the game is dutiable gaming for the purposes of section 10 of the Finance Act 1997, or would be dutiable gaming but for subsections (3) and (4) of that section.”
- (4) In subsection (1C), for “constructed” substitute “designed”.

Status: Point in time view as at 06/04/2019.

Changes to legislation: Finance Act 2009, Part 8 is up to date with all changes known to be in force on or before 25 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(5) Insert at the end—

“(5) For the purposes of this section—

- (a) a reference to gambling is to—
 - (i) gaming, or
 - (ii) betting,
- (b) “machine” has the same meaning as in the Gambling Act 2005 (see section 235(3)(a)),
- (c) a reference to a machine being designed or adapted for a purpose includes a reference to a machine to which anything has been done as a result of which it can reasonably be expected to be used for that purpose,
- (d) a reference to a machine being adapted includes a reference to computer software being installed on it,
- (e) “real” has the meaning given by section 353(1) of the Gambling Act 2005,
- (f) “game of chance” has the meaning given by section 6(2) of that Act, and
- (g) “bingo” includes any version of that game, whatever name it is called.

(6) The Treasury may by order amend this section.”

(6) In section 33 (interpretation)—

- (a) in subsection (1), in the definition of “gaming”, omit “within the meaning of Group 4 of Schedule 9 to the Value Added Tax Act 1994”, and
- (b) after that subsection insert—

“(1A) In the definition of “gaming” in subsection (1)—

- (a) “game of chance” has the meaning given by section 6(2) of the Gambling Act 2005,
- (b) “playing a game of chance” is to be read in accordance with section 6(3) of that Act, and
- (c) “prize” does not include the opportunity to play the game again.”

Climate change levy

117 Taxable commodities ineligible for reduced-rate supply

- (1) Schedule 6 to FA 2000 (climate change levy) is amended as follows.
- (2) In paragraph 44 (reduced rate for supplies covered by climate change agreement), after sub-paragraph (2) insert—

“(2A) The Secretary of State may—

- (a) give a certificate that includes provision specifying one or more descriptions of taxable commodity as being ineligible for reduced-rate supply,
- (b) vary a certificate so that it includes provision (or further provision) specifying one or more descriptions of taxable commodity as being ineligible for reduced-rate supply, or

Status: Point in time view as at 06/04/2019.

Changes to legislation: Finance Act 2009, Part 8 is up to date with all changes known to be in force on or before 25 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (c) vary a certificate so that it ceases to include the provision (or some of the provision) specifying one or more descriptions of taxable commodity as being ineligible for reduced-rate supply.
- (2B) A taxable supply of a taxable commodity to a facility is not a reduced-rate supply if, at the time of the supply, the commodity falls within a description that is specified (by virtue of sub-paragraph (2A)(a) or (b)) in the certificate relating to the facility.
- (2C) The Secretary of State may only include provision in a certificate by virtue of sub-paragraph (2A)(a) or (b)—
 - (a) if the Treasury consents in writing to the specification before the specification is made, and
 - (b) if, and for as long as, the result is compatible with the common market by virtue of Commission Regulation (EC) No. 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty establishing the European Community (General block exemption Regulation) (O.J. 2008 No. L214/3).
- (2D) In sub-paragraphs (2A) to (2C) “certificate” means such a certificate as is mentioned in sub-paragraph (1)(a).”
- (3) In consequence of subsection (2)—
 - (a) in paragraph 44(2), after “subject to” insert “ sub-paragraphs (2A) to (2D) and ”, and
 - (b) in paragraph 147 (general interpretation), in the definition of “reduced-rate supply”, after “subject to” insert “ paragraph 44(2A) to (2D) and ”.

118 Removal of reduced rate where targets not met

- (1) Schedule 59 contains provision for removing the reduced rate of climate change levy where the targets set by a climate change agreement have not been met.
- (2) The amendments made by that Schedule have effect where the certification period begins on or after 1 April 2009.

Other environmental taxes and duties

119 Landfill tax: prescribed landfill site activities

Schedule 60 contains provision about charging landfill tax on prescribed activities at landfill sites.

120 Requirement to destroy replaced vehicle registration documents

In section 22(1) of VERA 1994 (registration regulations), after paragraph (h) insert—
“(ha) require the destruction of a registration document where a new registration document is issued in place of it.”.

Status: Point in time view as at 06/04/2019.

Changes to legislation: Finance Act 2009, Part 8 is up to date with all changes known to be in force on or before 25 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

121 Hydrocarbon oil duties: minor amendments

- (1) HODA 1979 is amended as follows.
- (2) In section 11(1) (rebate on heavy oil), omit “12”.
- (3) In section 14D(2) (civil penalty for supplying biodiesel or bioblend intending that it will be put to prohibited use), for “intending” substitute “having reason to believe”.
- (4) The amendment made by subsection (3) has effect in relation to supplies on or after the day on which this Act is passed.

Other matters

122 Inheritance tax: agricultural property and woodlands relief for EEA land

- (1) Part 5 of IHTA 1984 (miscellaneous reliefs) is amended as follows.
- (2) In section 115 (agricultural property relief: preliminary), in subsection (3), insert at the end “(or, in the case of property outside the United Kingdom, the Channel Islands and the Isle of Man, if it were subject to provisions equivalent in effect to such a covenant).”
- (3) For subsection (5) of that section substitute—
 - “(5) This Chapter applies to agricultural property only if it is in—
 - (a) the United Kingdom, the Channel Islands or the Isle of Man, or
 - (b) a state, other than the United Kingdom, which is an EEA state (within the meaning given by Schedule 1 to the Interpretation Act 1978) at the time of the transfer of value in question.”
- (4) In section 116 (agricultural property relief: the relief), insert at the end—
 - “(8) In its application to property outside the United Kingdom, the Channel Islands and the Isle of Man, this section has effect as if any reference to a right or obligation under the law of any part of the United Kingdom were a reference to an equivalent right or obligation under the law governing dispositions of that property.”
- (5) In section 125 (woodlands relief), in paragraph (a) of subsection (1), omit “in the United Kingdom”.
- (6) After that subsection insert—
 - “(1A) But this section applies only if the land is in the United Kingdom or another state which is an EEA state (within the meaning given by Schedule 1 to the Interpretation Act 1978) at the time of the person's death.”
- (7) The amendments made by this section have effect in relation to transfers of value where the tax payable but for this section (or, in the case of tax payable by instalments, the last instalment of that tax)—
 - (a) would have been due on or after 22 April 2009, or
 - (b) was paid or due on or after 23 April 2003.

Status: Point in time view as at 06/04/2019.

Changes to legislation: Finance Act 2009, Part 8 is up to date with all changes known to be in force on or before 25 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (8) Where tax falling within subsection (7) has been paid, Her Majesty's Revenue and Customs must repay the tax (together with interest under section 235(1) of IHTA 1984) if, but only if, a claim for repayment is made on or before—
- (a) the date determined under section 241(1) of that Act as the last date on which the claim may be made, or
 - (b) 21 April 2010,
- whichever is later.
- (9) Where, by virtue of the amendments made by subsections (5) and (6), an election is made under section 125 of IHTA 1984, that election must be made on or before—
- (a) the date determined under section 125(3) as the last date on which the election may be made, or
 - (b) 21 April 2010,
- whichever is later.

123 Alternative finance investment bonds

Schedule 61 contains provision about the taxation of chargeable gains, stamp duty land tax and capital allowances for and in connection with arrangements [^{F1}to which section 564G of ITA 2007 or section 151N of TCGA 1992 (investment bond arrangements) applies].

Textual Amendments

- F1** Words in s. 123 substituted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 8 para. 228](#) (with [Sch. 9 paras. 1-9, 22](#))

124 Mutual societies: tax consequences of transfers of business etc

- (1) The Treasury may by regulations make provision for and in connection with—
- (a) the tax consequences of a transfer of all or part of the business or engagements of a mutual society,
 - (b) the tax consequences of an amalgamation of mutual societies, and
 - (c) the tax consequences of the conversion of a mutual society into a company.
- (2) “Mutual society” means—
- (a) a building society incorporated (or deemed to be incorporated) under the Building Societies Act 1986,
 - (b) a friendly society within the meaning of the Friendly Societies Act 1992, or
 - [^{F2}(c) a registered society within the meaning of the Co-operative and Community Benefit Societies Act 2014.]
- (3) Regulations under this section may, in particular, make provision about—
- (a) relief from tax in respect of losses,
 - (b) capital allowances,
 - (c) the taxation of chargeable gains (including provision conferring relief for specified transfers and amalgamations),
 - (d) the treatment of intangible fixed assets and goodwill,

Status: Point in time view as at 06/04/2019.

Changes to legislation: Finance Act 2009, Part 8 is up to date with all changes known to be in force on or before 25 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (e) the treatment of loan relationships (and matters treated as loan relationships),
 - (f) the treatment of derivative contracts (and contracts treated as derivative contracts),
 - (g) exemption or other relief from stamp duty, stamp duty reserve tax or stamp duty land tax, and
 - (h) the treatment of arrangements the purpose, or one of the main purposes, of which is to secure a tax advantage.
- (4) Regulations under this section may, in particular—
- (a) modify enactments and instruments relating to tax (whenever passed or made),
 - (b) make different provision for different cases or different purposes, and
 - (c) make incidental, consequential or transitional provision (including provision modifying enactments and instruments, whenever passed or made).
- (5) Regulations under this section may include provision having effect in relation to any time before they are made if the provision does not increase any person's liability to tax.
- (6) Regulations under this section are to be made by statutory instrument.
- (7) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of the House of Commons.
- (8) In this section—
- “arrangements” includes any arrangements, scheme or understanding of any kind, whether or not legally enforceable and whether involving a single transaction or two or more transactions;
 - “company” means a company formed and registered under the Companies Act 2006 (or treated as formed and registered under that Act);
 - “derivative contract” has the same meaning as in Part 7 of CTA 2009 (see section 576 of that Act);
 - “goodwill” and “intangible fixed asset” have the same meaning as in Part 8 of CTA 2009 (see sections 713 and 715 of that Act);
 - “loan relationship” has the same meaning as in the Corporation Tax Acts (see section 302(1) and (2) of CTA 2009);
 - “modify” includes amend, repeal or revoke;
 - “tax” includes stamp duty;
 - “tax advantage” means—
 - (a) a relief from tax (including a tax credit) or increased relief from tax,
 - (b) a repayment of tax or increased repayment of tax,
 - (c) the avoidance, reduction or delay of a charge to tax or an assessment to tax, or
 - (d) the avoidance of a possible assessment to tax.

Textual Amendments

- F2** S. 124(2)(c) substituted (1.8.2014) by [Co-operative and Community Benefit Societies Act 2014](#) (c. 14), s. 154, [Sch. 4 para. 147](#) (with [Sch. 5](#))

Status: Point in time view as at 06/04/2019.

Changes to legislation: Finance Act 2009, Part 8 is up to date with all changes known to be in force on or before 25 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

125 National Savings ordinary accounts: surplus funds

- (1) As soon as practicable after the passing of this Act—
 - (a) the Director of Savings and the Commissioners must prepare a statement showing the relevant surplus, and
 - (b) the Commissioners must pay the relevant surplus into the Consolidated Fund.
- (2) The relevant surplus is the amount held by the Commissioners by virtue of section 17 of the 1971 Act (including any such amount held in investments), less the aggregate of—
 - (a) such sums as the Treasury may determine to be equal to those expended by the Director of Savings in connection with ordinary accounts,
 - (b) such sums as are necessary to defray the expenses incurred by the Commissioners in connection with ordinary accounts, and
 - (c) such sums as are required to be paid into the Consolidated Fund by virtue of section 20 of the 1971 Act.
- (3) The Commissioners—
 - (a) must pay into the Consolidated Fund the sums determined in accordance with subsection (2)(a), and
 - (b) may retain the sums determined in accordance with subsection (2)(b).
- (4) As soon as practicable after preparing a statement under subsection (1), the Director of Savings and the Commissioners must transmit the statement to the Comptroller and Auditor General who must—
 - (a) examine, certify and make a report on it, and
 - (b) lay copies of the statement, together with copies of that report, before Parliament.
- (5) The Treasury may by order repeal or otherwise amend any enactment if the repeal or amendment appears to the Treasury to be necessary or expedient in consequence of—
 - (a) the closure of ordinary accounts and the transfer of their balances to other accounts (see, in particular, regulations 2B to 2BB of the National Savings Bank Regulations 1972 (S.I. 1972/764)), or
 - (b) this section.
- (6) An order under subsection (5) is to be made by statutory instrument.
- (7) No order may be made under subsection (5) unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, the House of Commons.
- (8) In this section—
 - (a) a reference to sums expended or expenses incurred in connection with ordinary accounts includes a reference to sums expended or expenses incurred in connection with the holding of amounts by virtue of section 17 of the 1971 Act (including their holding in investments), and
 - (b) expressions used in this section and in the 1971 Act have the same meaning in this section as in that Act.
- (9) In this section—

“the 1971 Act” means the National Savings Bank Act 1971;

“enactment” includes—

Status: Point in time view as at 06/04/2019.

Changes to legislation: Finance Act 2009, Part 8 is up to date with all changes known to be in force on or before 25 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) an enactment contained in the 1971 Act, and
- (b) subordinate legislation (which has the same meaning as in the Interpretation Act 1978).

Status:

Point in time view as at 06/04/2019.

Changes to legislation:

Finance Act 2009, Part 8 is up to date with all changes known to be in force on or before 25 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.