

2012 No. 1900

EXCISE

**The Remote Gambling (Double Taxation Relief) Regulations
2012**

<i>Made</i>	- - - -	<i>18th July 2012</i>
<i>Laid before the House of Commons</i>		<i>19th July 2012</i>
<i>Coming into force</i>	- -	<i>9th August 2012</i>

The Commissioners for Her Majesty's Revenue and Customs(a), in exercise of the powers conferred by section 261C of and paragraphs 2(5) and 2A(4) of Schedule 1 to the Betting and Gaming Duties Act 1981(b), make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Remote Gambling (Double Taxation Relief) Regulations 2012 and come into force on 9th August 2012.

Interpretation

2. In these Regulations—

“the Act” means the Betting and Gaming Duties Act 1981;

“the Commissioners” means the Commissioners for Her Majesty's Revenue and Customs;

“qualifying foreign tax” has the meaning given by section 10A or 261B of the Act (definition of qualifying foreign tax)(c) as appropriate;

“relevant claim” means a claim under sections 5E, 8ZA or 261A, (double taxation relief), of the Act; and “claimant” shall be construed accordingly(d).

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- (a) Section 33(1) of the Betting and Gaming Duties Act 1981 (c. 63) provides that in that Act “the Commissioners” means the Commissioners of Customs and Excise. Section 261C of and paragraphs 2(5) and 2A(4) of Schedule 1 to that Act confer upon those Commissioners the power to make regulations. The functions of those Commissioners were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5(2) of the Commissioners for Revenue and Customs Act 2005 (c. 11). Section 50(1) of the latter Act provides that a reference to the Commissioners of Customs and Excise shall be taken as a reference to the Commissioners for Her Majesty's Revenue and Customs.
- (b) 1981 c. 63; amendments of and relating to Part 1 (betting duties) and Part 2 (gaming duties), providing for relief from double taxation of remote gambling, were made having effect in relation to accounting periods ending on or after 1st April 2012 by Schedule 25 to the Finance Act 2012 (c. 14). Section 261C was inserted by paragraph 5 of Schedule 25 to the Finance Act 2012; paragraphs 2(5) and 2A(4) of Schedule 1 were inserted respectively by paragraphs 8(2) and 8(3) of Schedule 25 to the Finance Act 2012.
- (c) Section 10A was inserted by paragraph 4 of Schedule 25 to the Finance Act 2012; section 261B was inserted by paragraph 5 of Schedule 25 to that Act.
- (d) Sections 5E, 8ZA and 261A were inserted respectively by paragraphs 2, 3 and 5 of Schedule 25 to the Finance Act 2012.

Amount and form of relief

3.—(1) In relation to any relevant claim, the amount of relief shall be calculated in accordance with the provisions of Schedule A1 or Schedule 4B to the Act (rules for determining whether credit is allowed for qualifying foreign tax)(a).

(2) Relief claimed under these Regulations shall be in the form of a repayment by the Commissioners to the claimant.

Claim periods

4.—(1) A relevant claim can only be made in relation to—

- (a) quarterly accounting periods,
- (b) in the case of a person who accounts for duty under the Act on a monthly basis, periods of 3 months in which a relevant claim arises, or
- (c) in the case of a person who accounts for duty under the Act on any other basis, periods of such number of accounting periods as would produce a claim period as near as possible to 91 days.

(2) In any case falling within paragraph (1), the first accounting period for which a claim can be made is the accounting period ending on or after 1st April 2012.

Application for relief

5.—(1) Any relevant claim must—

- (a) by reference to such documentary evidence as is in the possession of the claimant, state the amount of the claim and the method by which that amount was calculated, and
- (b) contain evidence of payment of the qualifying foreign tax giving rise to that claim.

(2) Any relevant claim must—

- (a) be made on a form specified by the Commissioners for the purpose, and
- (b) contain the information specified in that form.

(3) The claimant must sign and date the form and declare that the information provided on it is true and complete.

Time limit for claim

6. A relevant claim must be made within one year of the later of—

- (a) the end of the accounting period in which the entitlement to make that claim arose, or
- (b) the date on which the qualifying foreign tax was paid.

Payment of claim

7. A repayment under regulation 3(2) must be made—

- (a) within 30 days of the later of—
 - (i) the receipt by the Commissioners of a relevant claim, or
 - (ii) the receipt of such evidence or information as may be required under regulation 8;
- (b) by electronic means.

(a) Schedule A1 was inserted by paragraph 7 of Schedule 25 to the Finance act 2012; Schedule 4B was inserted by paragraph 9 of Schedule 25 to that Act.

Further evidence and information

8. Every claimant must furnish such certificates, documents, information and evidence in connection with the claim, or any question arising out of it, as may be required by the Commissioners and shall do so within 30 days of being required to do so or such longer period as the Commissioners may consider reasonable.

Mike Eland
Dave Hartnett

18th July 2012

Two of the Commissioners for Her Majesty's Revenue and Customs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 9th August 2012, provide for relief from double taxation in relation to general betting duty, pool betting duty and remote gaming duty. They provide a framework for making a claim under the provisions introduced by Schedule 25 to the Finance Act 2012 (“the main Schedule”) which inserts new provisions in the Betting and Gaming Duties Act 1981. The relief is available on a claim being made where a person is liable to pay a qualifying foreign tax in respect of bets and is also liable to pay general betting duty or pool betting duty in respect of the same bets; or where a person is liable to pay remote gaming duty and is also liable to pay a qualifying foreign tax in respect of remote gaming.

A qualifying foreign tax is a foreign tax which is specified in a notice published by the Commissioners for Her Majesty’s Revenue and Customs. The notice may be revised or replaced from time to time.

Regulation 2 defines expressions used in these Regulations. It defines “relevant claim” in terms of provisions in the main Schedule which introduce the relief.

Regulation 3 provides that the amount of relief shall be calculated in accordance with new Schedules A1 or 4B inserted by the main Schedule. It also states that the relief shall be in the form of a repayment by the Commissioners.

Regulation 4 provides that a relevant claim can only be made in relation to a prescribed accounting period.

Regulation 5 provides that a relevant claim must be made on a specified form, and that the claim must be made by reference to documentary evidence held by the claimant. The claim must also contain evidence that the qualifying foreign tax has been paid.

Regulation 6 provides that a relevant claim must be made within the later of one year of the end of the accounting period in which the entitlement to make that claim arose, or the date on which the qualifying foreign tax for that accounting period was paid.

Regulation 7 provides that the Commissioners must make a payment within 30 days of receipt of a claim, or the receipt of further documentary evidence requested by the Commissioners, whichever is later. The regulation also requires payment to be made by electronic means.

Regulation 8 provides that in certain cases, the Commissioners may request further documentary evidence to support claims. A claimant must provide this within one month or such other period as agreed by the Commissioners.

The commencement to the main Schedule provides for double taxation relief to have effect in relation to accounting periods ending on or after 1 April 2012 and to this extent these Regulations have retrospective effect.

A Tax Information and Impact Note covering this instrument will be published on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm>.

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£4.00

E4062 07/2012 124062T 19585

ISBN 978-0-11-152750-4



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