

[As amended by the Customs and Excise (Amendment) Agreement 1994 - August 1994]

Agreement
between the Governments of the
United Kingdom and the Isle of Man
on Customs and Excise and associated matters

Presented to Parliament by the Secretary of State for the Home Department

by Command of Her Majesty

November 1979

LONDON

HER MAJESTY'S STATIONERY OFFICE

**AGREEMENT BETWEEN THE GOVERNMENTS OF THE
UNITED KINGDOM AND THE ISLE OF MAN ON CUSTOMS
AND EXCISE AND ASSOCIATED MATTERS**

An Agreement on the establishment of an Isle of Man customs and excise service and the transfer to it of functions performed by the Commissioners of Customs and Excise.

[WHEREAS the Governments of the United Kingdom and the Isle of Man have reached an understanding that the Isle of Man Government may, in principle, charge value added tax at a lower rate than that charged in the United Kingdom on certain non-exportable services provided in the Isle of Man, subject to the relevant Community rules for the time being applicable in the United Kingdom:

AND WHEREAS the two Governments have decided in principle to bring the excise duty on beer within the revenues which are to be kept at the same rates and subject to the same conditions and reliefs in the Isle of Man as in the United Kingdom:

AND WHEREAS that understanding and decision necessitate the amendment of the Agreement between the Governments of the United Kingdom and the Isle of Man on Customs and Excise and Associated Matters dated 15th October 1979 and it is expedient at the same time to make other minor and consequential amendments to that Agreement:

1. The Governments of the United Kingdom and the Isle of Man agree to amend the Agreement on the establishment of an Isle of Man customs and excise service and the transfer to it of functions performed by the Commissioners of Customs and Excise dated 15th October 1979 (“the Agreement”) in accordance with the following paragraphs.]

2. The Governments agree to introduce legislation in the Parliament and in Tynwald respectively to implement this Agreement in time to meet the effective date of transfer.

3. Except as provided for in this Agreement or as may be otherwise agreed, the Isle of Man Government agrees to keep the law relating to the management of the Customs and Excise revenues and associated control functions correspondent with that of the United Kingdom and to legislate to maintain that correspondence whenever necessary and, in particular, when changes are made in relevant United Kingdom law.

4. The Governments agree -
 - (a) the Isle of Man customs and excise service will pay all the Customs and Excise revenues it collects to [the Treasury] and will maintain a system of accounting for such revenues which is compatible with the system used by the Commissioners;
 - (b) the Commissioners will pay to [the Treasury] each year the difference between -
 - (i) the Isle of Man's share of the total revenue from equal duties collected in the Isle of Man and the United Kingdom less the charges payable by [the Treasury] as set out in paragraph 19; and
 - (ii) the total revenue from equal duties paid to [the Treasury] by the Isle of Man customs and excise service; and
 - (c) arrangements will be made for monthly advance payments.

5. The Isle of Man Government agrees to invite the United Kingdom Comptroller and Auditor General to audit periodically the Isle of Man's accounts of the Customs and Excise revenues, to do this in the Isle of Man as far as practicable, and to submit his report to both Governments.

6. Subject to [paragraphs 7, 7A and 7B] below, the Isle of Man Government agrees to keep all Customs and Excise revenues at the same rates and subject to the same conditions and reliefs as in the United Kingdom with the following exceptions, namely -

- (a) [...]
- (b) the general betting duty; and
- [(c) value added tax on -
 - (i) takings of gaming machines,
 - (ii) the provision of meals (excluding alcoholic liquor) in hotels, holiday camps, restaurants and similar establishments, the letting on hire of private self-drive cars, the provision of hairdressing services and the provision of laundry services (including in laundrettes), and
 - (iii) accommodation provided by hotels and similar establishments, including the provision of holiday accommodation and the letting of camping sites and caravan parks, and such other non-exportable services, for the time being specified in Annex H to the 6th Council Directive of 17 May 1977 (77/388/EEC), as may be agreed between the two Governments,]

but the United Kingdom Government agrees that nothing in this Agreement will affect the right of the Isle of Man Government to allow a supplementary rebate, [not exceeding 10p per gallon or 2.2p per litre, on hydrocarbon oil used in the Isle of Man or a rebate, not exceeding 20 per cent of the excise duty chargeable on beer consumed in the Isle of Man] so long as the Isle of Man Government advises the United Kingdom of any proposed variation in the supplementary rebate [on hydrocarbon oil or rebate on beer, as the case may be].

7. The Governments agree that any proposal by the Isle of Man Government to depart from

a rate of duty or tax charged, or relief granted, in the United Kingdom will be subject to a period of 3 months' notice and to agreement by both Governments, excluding only the duties and taxes specified in [sub-paragraphs (b) and (c) of paragraph 6 above].

[7A. The Governments agree that any proposal by the Isle of Man Government to depart from the rate at which value added tax is charged, or from the conditions and reliefs to which it is subject, on any of the services specified in paragraph 6(c)(ii) or (iii) above in the United Kingdom shall be consistent with the relevant Community rules for the time being applicable in the United Kingdom and subject to agreement by both Governments.]

[7B. The Governments agree that any proposal by the Isle of Man Government to allow a rebate on beer consumed in the Isle of Man, or to modify (otherwise than in relation to the percentage of the rebate) or terminate the arrangements under which such a rebate is allowed, will be subject to a period of 3 months' notice and to agreement by both Governments.]

8. The Isle of Man Government agrees to impose import and export prohibitions and restrictions corresponding to those in force throughout the United Kingdom; and both Governments agree that any proposal by the Isle of Man Government not to apply any such import or export prohibition or restriction will be subject to the agreement of both Governments, except that nothing in this Agreement will affect the right of the Isle of Man Government to impose any prohibition or restriction on importation or exportation it may consider desirable to import in the interest of public or animal health or the protection of flora and fauna of the Isle of Man, or on the importation of wild animals.

9. Except in so far as is necessary to permit value added tax on the Island to be administered without the use of the United Kingdom's central computers and except for other variations in practice and procedure which may be agreed from time to time by exchange of letters between

the Commissioners and [the Treasury], the Isle of Man Government agrees that the Isle of Man customs and excise service will adopt practices and procedures for the management of the Customs and Excise revenues, associated control functions and agency functions corresponding to those in the United Kingdom and that, in particular, the Isle of Man customs and excise service will maintain a system of control of ships and aircraft, goods, passengers and crew similar to that in the United Kingdom and will follow the practices and procedures of the Commissioners of Customs and Excise when giving effect to legislation of the European Communities in so far as that legislation extends to the Isle of Man.

10. The United Kingdom Government agrees that the Commissioners will provide an inspection service to the Isle of Man customs and excise service and both Governments agree that the first inspection will be made within 6 months of the effective date of transfer and that the scope and terms of inspections and the frequency of subsequent inspections will be determined by agreement by exchange of letters between the Commissioners and [the Treasury]; and it is also agreed that inspection reports will be presented to the Commissioners and [the Treasury] and that [the Treasury] will take account of and liaise with the Commissioners on any recommendations made.

11. The Governments recognise the separate agreement, effected by an exchange of letters between the Commissioners and [the Treasury], on mutual assistance on all aspects of the management of the Customs and Excise revenues, the associated control functions and certain agency functions, with special reference to the prevention of fraud and the detection of offences.

12. The Governments agree to introduce arrangements (including any necessary legislation) -

- (a) for the recovery in each territory of equal duties arising in the other territory;
- (b) for the enforcement in each territory of judgements (other than judgements in criminal cases, which are, or may be, subject to appeal) in the other territory in

respect of equal duties;

- (c) for the serving and execution in one territory of processes in the case of proceedings in the other territory for offences in relation to equal duties or to prohibitions or restrictions on importation and exportation and for securing, if necessary, in the case of such proceedings the attendance of persons to be proceeded against for those offences at the appropriate court in the appropriate territory;
- (d) for the seizure and forfeiture in each territory of goods relieved wholly or in part from duty in the other territory for breach of any condition or other obligation required to be complied with in connection with such relief;
- (e) for the hearing of appeals against decisions given in any of the proceedings mentioned in sub-paragraphs (a), (b) and (d) above under the law of the territory in which the decision appealed against was given; and
- (f) for the summoning of witnesses and the production of documents and exhibits for the purposes of the matters specified in sub-paragraphs (a) to (e) above;

but no proceedings under sub-paragraph (a), (b) or (d) above shall be instituted in either territory except pursuant to the law of that territory and by, or with the consent of, the appropriate authority in that territory.

13. The Governments agree that the United Kingdom and the Isle of Man shall be treated as a single tax area for the purposes of value added tax, but that each Government will continue to provide separately for the care and management of the tax and will make provision in its law that -

- (a) value added tax shall be charged as if any necessary references therein to the United Kingdom or, as the case may be, to the Isle of Man included both places;
- (b) value added tax shall not be charged in both territories in respect of the same

transaction;

- (c) persons who are taxable persons for the purposes of either territory may be treated as taxable persons for the purposes of the other territory; and
- (d) certain removals of goods between the United Kingdom and the Isle of Man shall not be treated as an importation into, or exportation from, either territory.

14. The Governments also agree to the following particular arrangements (including any necessary legislation) for value added tax -

- (a) arrangements will be made enabling traders making supplies in or to both territories, including group and divisional registrations, to be registered in either territory; and -
 - (i) the Commissioners will determine, subject to any necessary consultation with the Isle of Man customs and excise service -
 - (A) the territory of registration for traders who are liable to be registered and who make supplies in or to both territories;
 - (B) the territory of registration of any group whose members make supplies in or to both territories, and the person to be the representative member of that group; and
 - (C) the territory of registration of each division (wherever it is located) of any company registered in the divisions; and
 - (ii) those arrangements will provide for the transfer of registrations;
- (b) arrangements will be made for the customs and excise service of each territory to have the same powers, in relation to the activities in its own territory of a person registered in the other territory, as it would have if that person were registered in its own territory;

- (c) arrangements will be made by the Isle of Man customs and excise service for the pre-repayment verification in the Isle of Man of repayment claims of such a size and nature as is agreed between the Commissioners and [the Treasury] by exchange of letters and those arrangements will continue in force unless varied by further agreement;
- (d) arrangements will be made for the verification of selected transactions in either territory at the request of the Commissioners or, as the case may be, the Isle of Man customs and excise service;
- (e) arrangements will be made in both territories for verification of input tax;
- (f) special provisions may be made to prevent tax avoidance on supplies from one territory to the other if experience shows that this is desirable;
- (g) transitional arrangements will be made for the issue of returns, transfer of records and other matters arising out of the transfer of registered traders to the Isle of Man customs and excise service;
- (h) responsibility for enforcement action on returns and outstanding tax from transferred traders, including tax subsequently discovered to be outstanding, will pass to the Isle of Man customs and excise service from the effective date of transfer;
and
- [(i) the value added tax and duties tribunal which shall have jurisdiction in the Isle of Man shall be appointed by the Isle of Man Government and any person appointed as chairman of that tribunal shall be a person who is for the time being a member of a panel of chairmen, appointed under paragraph 7 of Schedule 12 to the Value Added Tax Act 1994, of the value added tax and duties tribunals having jurisdiction in the United Kingdom.]

15. [...]

16. The Governments agree to introduce arrangements (including any necessary legislation) for the free exchange of information between the Commissioners and the Isle of Man customs and excise service for ensuring the proper control and administration of the equal duties and the enforcement of prohibitions and restrictions on importation and exportation, but that the information so obtained shall, except as may be required by Community obligations (or by any other international obligations) which are binding on the Isle of Man, be used for that and no other purpose.

17. The United Kingdom Government agrees that the Commissioners will supply the Isle of Man customs and excise service with United Kingdom Customs and Excise [guidance] and with official notices and forms and the Isle of Man Government agrees that the Isle of Man customs and excise service will apply the [guidance] and adopt the format of notices and forms supplied and that any variation made by the Isle of Man customs and excise service will be the minimum necessary required by local circumstances.

18. The United Kingdom Government agrees that the Commissioners will provide advice to the Isle of Man customs and excise service and make available training facilities and the Isle of Man Government agrees that the Isle of Man customs and excise service will seek guidance and advice from the Commissioners and make such use of training facilities as is necessary to secure a common approach to the management of the Customs and Excise revenues, associated control functions and agency functions.

19. The United Kingdom Government agrees that no charge will be payable by [the Treasury] to the Commissioners for the provision of day to day advice, training facilities and the inspection service nor for the supply of specimens of United Kingdom Customs and Excise [guidance], official notices and forms and legislation and the Isle of Man Government agrees that a fair and

equitable charge will be payable by [the Treasury] to the Commissioners for the expenses of collection in the United Kingdom of the Isle of Man's share of the total revenue from equal duties collected in the United Kingdom and both Governments agree that this charge will be determined by an agreement made by an exchange of letters between the Commissioners and [the Treasury].

20. [...]

21. The Isle of Man Government agrees that the Isle of Man customs and excise service will provide in such form and at such intervals as may from time to time be agreed by exchange of letters between the Commissioners and [the Treasury] such information as may be required by the Commissioners for the management of the Customs and Excise revenues, import and export prohibitions and restrictions, other associated control functions and agency functions, and the provision of trade statistics and that in particular, the Isle of Man customs and excise service will supply the following information -

- (a) particulars of the Isle of Man's external trade;
- (b) statistics and other information required as a result of the United Kingdom's membership of the European Communities or as a result of any international agreement to which the United Kingdom is party;
- (c) the information needed to calculate the Isle of Man's share of revenue from equal duties, including details of such revenues collected in the Isle of Man with a breakdown of the value added tax collected under certain trade classifications; and
- (d) details of importation of particular dutiable goods in the Isle of Man required for the purposes of the Decennial Test.

22. This Agreement is subject to review or, on the giving of 6 months' notice by either Government, to termination.

23. In this Agreement -

“agency functions” means any activities carried out by the Commissioners, whether under legislative authority or otherwise, on behalf of another organisation and in respect of which the powers required to control those activities are not derived from the customs and excise Acts;

“associated control functions” means -

- (a) the control of goods the importation into, or exportation from, the Isle of Man of which is for the time being prohibited or restricted by or under any law having effect in the Isle of Man [...]; and
- (b) the control of means of conveyance, persons and goods entering or leaving the Isle of Man,

in respect of which the powers under which such control is carried out are contained in the customs and excise Acts as they have effect in the Isle of Man[, provided that for the purposes of paragraph 3 of this Agreement any reference to the customs and excise Acts shall be construed as a reference to the customs and excise Acts within the meaning of the Customs and Excise Management Act 1986 (an Act of Tynwald)];

“the Commissioners” means the Commissioners of Customs and Excise and, unless the context otherwise requires, includes their officers and other persons employed by them;

“Community obligations” has the same meaning as in the European Communities (Isle of Man) Act 1973 (an Act of Tynwald);

“the customs and excise Acts” has the same meaning as in the Customs and Excise Management Act 1979 (an Act of Parliament);

“the Customs and Excise revenues” means customs duties, excise duties, [...] [and value

added tax];

“customs duty” means any duty imposed as a duty of customs and includes import duties (being Community customs duties, agricultural levies of the Communities and charges having equivalent effect);

“equal duties” means customs duties and excise duties chargeable at the same rate in both territories and value added tax chargeable at the same rate or, by virtue of paragraph 6(c)(ii) or (iii), a different rate in both territories, but does not include any duty or tax mentioned in paragraph 6(b) or (c)(i);

“excise duty” means any duty imposed as a duty of excise other than [Air Passenger Duty or] an excise duty which at the date of this Agreement is collected in the Isle of Man by persons other than the Commissioners;

“judgement” means a judgement of the Supreme Court of Judicature, the High Court of Judiciary, the Supreme Court of Judicature of Northern Ireland and the High Court of Justice of the Isle of Man and includes any order made by any of those Courts under which a sum of money is payable;

“management” -

- (a) in relation to any of the Customs and Excise revenues, includes the administration, control, collection and enforcement of each particular revenue; and
- (b) in relation to associated control functions and agency functions includes the administration, control and enforcement of those controls, or, as the case may be, activities (and, where appropriate, the collections of any sums due);

“person” has the same meaning as in the Interpretation Act 1976 (an Act of Tynwald);

“relief” includes exemption;

“revenue functions” means the collecting and accounting for, and otherwise managing of, the Customs and Excise revenues;

[...]

24. This Agreement supersedes the Agreement between the Governments of the United Kingdom and the Isle of Man regarding Customs and other matters dated 30 October 1957, but nothing in this Agreement affects the existing arrangements for the sharing of equal duties or of any other revenues.

25. This Agreement shall be called the Customs and Excise Agreement 1979.

This 15th day of October One thousand Nine Hundred and Seventy Nine.

FOR THE GOVERNMENT
OF THE UNITED KINGDOM
W WHITELAW

FOR THE GOVERNMENT
OF THE ISLE OF MAN
P RADCLIFFE