

Treasury
Customs and Excise Division

Notice 452 MAN

Machine Games Duty



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Isle of Man
Government

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Machine Games Duty (MGD) was introduced on 1 February 2013. This guide tells you what MGD is, how it works and what you need to do if it affects you.

Importantly, where MGD is payable you do not have to pay VAT on takings from those machines.

MGD is administered as a duty of excise by the Customs and Excise Division of the Treasury.

It will still be a requirement to hold the relevant licence, certificate, exemption or other authority from the Gambling Supervision Commission (GSC).

Unless indicated to the contrary, nothing in this Notice changes the law.

1. What is Machine Games Duty?

Machine Games Duty (MGD) is charged on the playing of “dutable machine games” in the Island.

Not all machine games are dutiable. It is not payable on machines that only offer non-cash prizes, or only cash prizes that are less than the cost to play.

2. What is a “dutable machine game”?

A “machine game” is a game played on a machine for a prize.

A machine game is dutiable (and so subject to MGD) if -

- the prize - or at least one of the prizes that can be won - is cash, or includes cash; and
- at least one of the cash prizes is bigger than the smallest amount that is paid to play the game once.

The machine must be in the Island, or on certain vessels (see paragraph 9).

If more than one game can be played on a machine there needs to be a separate consideration of whether or not each game is a dutiable machine game. On a single machine there could be content that is subject to MGD and content which is outside the scope of MGD.

MGD is NOT generally payable on the takings from machines where the play is -

- in a “domestic”, non-commercial situation (see paragraph 7 below);
- at a not-for-profit event (see paragraph 10 below);
- in a tournament event (see paragraph 11 below);
- on future “real” events, such as horse racing or other sports events, and the betting involved is subject to General Betting Duty (or, Gambling Duty, when this replaces General Betting Duty); or
- for only non-cash prizes - though where any vouchers, tokens or tickets may be exchanged for cash these are treated as cash prizes.

Prize items that may be directly swapped for cash are treated as cash prizes.

The Treasury may exempt other types of machine or machine games by order. However, in all cases except where the play takes place in a domestic situation (see paragraph 7 below)

you will have to keep the appropriate records to demonstrate the entitlement to any exemption.

3. How do I value charges to play?

The value of charges to play (for example, stakes) is the amount of money paid or owed by players for machine game-play. Charges due for play in an accounting period which have not actually been paid by the player must still be included as charges to play for that accounting period.

If the precise value of a charge to play cannot be established, for example, because the charge was in the form of something with a monetary value rather than actual cash, then the value may be decided using a method which provides a just and reasonable result. It must be possible to demonstrate that method is fair otherwise further MGD may be payable, together with interest and penalties.

If a composite charge is made (that is, a charge for machine game-play and something else) it should be established how much of the charge relates to machine game-play and how much to any other thing. If it cannot be precisely established how much of the charge relates to each thing, apportionment may be made on a just and reasonable basis. It must be possible to demonstrate that apportionment is on a fair basis otherwise further MGD may be payable, together with interest and penalties.

In the case of a charge purportedly made for something other than machine game-play, if Customs and Excise believes that part or all of the charge is actually for playing machine games, then, depending on the circumstances, your declarations may be challenged. Further MGD may be payable together with interest and penalties.

Customs and Excise may ask for evidence to support how you have established the value of charges to play.

4. How do I deal with foreign currency?

Amounts included on an MGD return must be in sterling. Any amounts (charges to play or payouts) in another currency must be converted into sterling. The conversion must be carried out on the last day of each accounting period and all transactions in the accounting period involving a currency other than sterling must be treated as though they took place on the last day of the accounting period regardless of when in the period they actually took place.

To make the conversion you should use the London closing rate for sterling on the previous day (which should be the day before the last day of your accounting period).

5. What are examples of types of machine games?

The following are dutiable machine games if offered for play for a cash prize which exceeds the costs to play the game once -

- Games that are played on a gaming machine; and
- Games of skill, or games combining chance and skill played on a machine. This type of game includes quizzes and tests of coordination or manual dexterity.

6. What about fixed-odds betting terminals (FOBT)?

These are machines commonly found in licensed bookmakers' premises. Their takings are liable to MGD.

7. Domestic use and virtual machines played online

The profits from play on a domestic occasion are not subject to MGD.

Whether or not the play is in a “domestic situation” depends on the facts of the case. For example -

Play in the home would normally be a domestic situation, as would play on personal computer, laptop, smartphone etc, even where this takes place outside the home. Playing a virtual gaming machine, such as a virtual “fruit machine” offering from an online gambling operator on your own personal device which is owned by you would also normally be considered to be “domestic”.

However, the playing of a virtual machine game on a device or machine provided by someone else for commercial gain and/or on premises that requires a type of licence or certificate mentioned in paragraph 19, would not normally be considered to be “domestic”.

8. What about lottery terminals?

Lottery terminals, used for the playing of National Lottery games, are not liable to MGD.

9. What about machines on ferries and other ships?

MGD is due for dutiable machine games played when a ship is in a harbour in the Island.

It is also due for dutiable machine games played on passenger ferry journeys from the Island to the UK.

Note that a vessel engaged in passenger ferry journeys from the UK to the Island may also be required to register with HM Revenue and Customs in the UK and account for MGD on journeys from the UK.

However, MGD is not due for machine games played on board a vessel at sea where that vessel is arriving from, or departing to, a foreign destination (such as the Republic of Ireland), or where the vessel is only calling in at the Island as part of an ongoing journey (e.g. a visiting cruise ship).

10. Not for profit or charity events

Takings from machine game play are not subject to MGD if the play takes place at an event -

- that is promoted by, or for, a not-for-profit organisation;
- from which the net proceeds received are not for private gain; and
- the main reason for attending is something other than playing machine games.

11. Tournaments

Takings from machine game play at a tournament are not subject to MGD.

A “tournament” takes place when two or more real players compete against each other by playing a machine game for a prize. Players may have to pay a fee to enter the tournament.

However, there is not a tournament only because the machine -

- is a “compensated machine” operating “payout management” (which means that one person’s winnings may be affected by an earlier win on the same machine);
- it is a “community machine” or “linked machine” (which involves a line of similar machines physically joined by a display panel which may be described as a “top box”. Each of the machines operates independently - and the players of the machines are not playing against each other); or
- is a lottery machine.

The following are examples where there is no tournament -

- where any of the players is not real (e.g. if one player is a virtual player, or if there is the possibility that the machine itself could “win”); or
- where one of the players is a registrable person for the premises where the game is played (or represents them the registrable person, is their employee, is directed by them or is their representative).

12. What will be the rate of MGD?

There is a single rate of MGD. This is 15% and it is charged on the net takings (profit) from gaming machines on an inclusive basis, i.e. the duty is 15% of those takings and not an additional 15%.

To find the MGD-inclusive amount for any takings you can -

- Multiply the total net takings by 0.1304:
e.g. $£100 \times 0.1304 = £13.04$ (13.04% of takings)
- Multiply the total net takings by 15, then divide by 115:
e.g. $£100 \times 15 = £1500$ $£1500 \div 115 = £13.04$
- Divide the total net takings by 1.15, then subtract that result from the total net takings:
e.g. $£100 \div 1.15 = £86.96$ $£100 - £86.96 = £13.04$

On the return you may ignore any amount in pence, rounding down to the nearest £1.

13. What happens if the cash prize paid out is not as advertised?

Where a machine game appears to offer a cash prize exceeding the cost to play once but, in fact, such a prize is not available then, providing that an adult would reasonably believe that it is possible to win a cash prize that exceeds the cost to play once, then the machine game is treated as a dutiable machine game.

14. How would I deal with prize payout in tokens, vouchers, tickets or other “non-cash” way?

In determining whether or not a machine game is subject to MGD, prizes paid other than in cash are treated as cash if they can be exchanged for cash (even if they can also be exchanged for something that is not cash). MGD is due if a machine game offers a prize in tokens, vouchers or tickets which can be exchanged for cash to a value that exceeds the cost to play once. A token, voucher or ticket is treated as cash if it can be used to buy things which are on sale.

Example. If a machine pays out tokens which may be used to buy drinks at the bar then the tokens are treated as a cash prize. In the case of a dutiable machine game paying out in tokens, vouchers or tickets which may be exchanged for cash or non-cash prizes, the value of all prizes paid out (both cash and non-cash) may be offset against MGD liability. In this scenario, where a token, voucher or ticket is exchanged for a non-cash prize the value is calculated by reference to the value of the item and not by reference to any cash value for which the token, voucher or ticket could have been exchanged.

15. How do I deal with machines that are remotely credited?

'Remote crediting' describes a situation where the amount paid to play is not inserted into the machine. Payment is made, for example, at a counter and a member of staff then causes the amount paid to be 'credited' to the machine. There are no MGD implications in remote crediting. MGD will be due if the amount paid to play, by whatever means, is less than the maximum cash prize on offer. If you use remote crediting, you will need to keep records that establish a link between payments made and credits to play.

16. Do I have to pay MGD on 'prize every time' machines or vending machines?

No, unless the machine is set up so there are game-play and a prize consisting of or including cash of an amount which is more than the cost to play the game once.

It is unlikely that there would be an MGD liability for an ordinary vending machine because there is no game involved. One form of vending machine which may involve game-play is a 'prize every time machine', in which case it is unlikely that the MGD prize conditions would be satisfied because all prizes could be expected to be non-cash prizes. However, an MGD liability would exist where, for example, the amount paid was 50p and the prize every time was either a key-ring worth 5p or a £1 coin.

17. How do I treat machines that play more than one game

Where a machine allows a person to play more than one game, it must be decided for each game whether it is a dutiable machine game. If a game is not a dutiable machine game then the net takings from that game are not liable to MGD. If a game is a dutiable machine game then the net takings from that game are liable to MGD. This means that on a single machine some games can be subject to MGD and some games can be outside the scope of the duty.

Many machines which offer a choice of games will generate records which will make it possible to record the actual net takings from dutiable machine games. In the case of a machine which does not do this, then the net takings must be apportioned by using a method which provides a just and reasonable result. It must be possible to demonstrate that the method used is fair; otherwise further MGD may be payable, together with interest and penalties.

18. Multi-stage games

Where a machine game has several stages, it will count as a single dutiable machine game and will be liable to MGD if:

- at least one of the stages (if played on its own) would be a dutiable machine game, or
- the stages (taken together) amount to a single dutiable machine game.

19. Who needs to register for and pay MGD?

You need to register with Customs and Excise if you are approved to operate dutiable machines by the Gambling Supervision Commission (GSC), or if you need to be approved by

the GSC, or you do not need approval due to some exception or exemption from its requirements.

Thus the following persons are required to register for and pay MGD in respect of dutiable machine games -

- a. those who hold the relevant certificate or licence issued by the GSC;
- b. those required to hold such a certificate or licence (see also paragraph 12 below regarding "unlicensed" machines); or
- c. those permitted by the GSC to operate a dutiable machine game under the authority of an exception or exemption.

A "relevant certificate or licence" is one for a licensed betting office (bookmaker) or issued under the Gaming (Amendment) Act 1984 or the Casino Act 1986.

If you own or control more than one site containing machines you need only register once, but you will need to provide details of each site.

Customs and Excise recognises that, in many cases, the person responsible for the premises may not be the owner of the machine and may not even be responsible for removing any cash from the machine. However, it is the person who holds the relevant certificate or licence (or should hold one, or is permitted by the GSC not to hold one) who is responsible for accounting for the duty. This is the case even where there is an arrangement whereby the supplier of the machine empties it and pays over to the premises operator their share of any profit.

For ease of administration, Customs and Excise will allow the person who is liable to register for and pay MGD to appoint the person who owns or supplies the machine, and is responsible for removing any cash from it, as their agent to account for any MGD due.

20. What liability for MGD may attach to profit sharers?

In certain circumstances, someone who is not responsible for premises where machine games are provided for play, but who shares in the profits from machine game-play (a 'profit sharer'), may be liable to MGD. The circumstances are:

- no one is registered for the premises where the machine games are available for play; and
- Customs and Excise cannot identify anyone responsible for the premises; or
- Customs and Excise can identify someone responsible for the premises, but they are not in the Island.

In these circumstances, Customs and Excise may issue a profit sharer with a notice giving the profit sharer 30 days (or another period agreed with the profit sharer) to either:

- provide Customs and Excise with information to identify the person responsible for the premises, or
- demonstrate that when they became a profit sharer they took all reasonable steps to make sure the person responsible for the premises was registered for MGD with Customs and Excise.

If the profit sharer cannot satisfy Customs and Excise on these points within the time limit, it may assess the profit sharer for MGD on their share of the profits from machine game-play going back up to 4 years. Customs and Excise will not refund any MGD paid by the profit sharer even if the person responsible for the premises is subsequently identified (Customs and Excise will not collect any amounts paid by the profit sharer from the person responsible for the premises).

21. What is a standard accounting period?

A standard accounting period is 3 whole calendar months ending on the last day of the third month. The accounting period rules have been adapted for the circumstances of the first few months after the start of MGD - the first period being from 1 February to 31 March 2013, after which all standard periods will begin on 1 April, 1 July, 1 October and 1 January.

22. Agents

You can, if you wish, appoint someone to manage your MGD affairs. Customs and Excise would describe this person as an "agent". For example, the agent may be an accountant or, as mentioned in paragraph 19 above, could be the owner or supplier of the machines operated on your premises and with whom you have an arrangement whereby they provide and service the machines, remove any takings and give to you any amount due to you.

However, you and not the agent remain liable for paying the MGD and any penalties that might arise.

Anyone acting as an agent needs to be authorised in writing by you, otherwise Customs and Excise will be unable to discuss your affairs with them.

Unless allowed otherwise by Customs and Excise, separate returns would be required for each registrable person even if one agent was acting for more than one.

You can nominate your agent on your registration application.

An agent representing several registrations may be able to submit a bulk return containing details for all the registrations for which he or she is agent.

If you have an agent and they cease to represent you, you must tell Customs and Excise within 7 working days.

23. Overseas representatives

If you have a liability to MGD in the Island, but you are resident outside the Island, you may need to appoint an "overseas representative" who would be responsible for all your MGD affairs. This person must have agreed to both act on your behalf and to be jointly and severally liable for any MGD due.

Customs and Excise can make registration conditional on an off-Island operator appointing an overseas representative in the Island (and this being one that Customs and Excise also considers to be suitable).

Security may also be required.

If you have a representative acting for you, and they cease to do so, you must tell Customs and Excise within 7 working days.

You can nominate your representative on your registration application.

24. What about unlicensed machines?

Operators of unlicensed machines (i.e. those which you should hold an appropriate licence or certificate from the GSC), unless covered by an exemption from MGD, are also required to be registered.

The takings of unlicensed machines, unless covered by an exemption, are liable to MGD.

25. What if you do not have a licence?

Paragraph 19 above explains who Customs and Excise would normally deal with.

But, if you do not hold a licence or certificate, and any of the following apply, you may have to register and pay MGD -

- a. you are required to hold a relevant licence but you have not got one;
- b. you are the owner, lessee or occupier of premises that contain machines subject to MGD;
- c. you are responsible for the management of premises;
- d. you are responsible for controlling the use of machines on the premises which are subject to MGD; or
- e. you are responsible for controlling admission to the premises, or for providing goods and services to people who are admitted.

If no-one registers, then all of the people listed above who are involved with the premises may be jointly and severally liable for paying any MGD that is due.

If no-one registers, and Customs and Excise cannot establish who should be registered, then everyone who is entitled to a share in the profits from the machines may have to pay the duty on their share.

If the dutiable machine games are on a stall at a travelling fair then either the stallholder or the person in charge of the fair must register for and pay MGD. If neither of them registers then both may be responsible for paying MGD due.

However, the Treasury would only collect any MGD due once, generally from the person who eventually registers.

26. How do I register for MGD?

If you have dutiable machine games you will need to register for MGD with Customs and Excise.

You will need to do this before any machines are available to be played.

Applications will be required to be made to Customs and Excise.

The information you will need to hand before you register will be -

- the type of business you run;
- the number of machines you have;

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- a correspondence address; and
 - other references, for example National Insurance number or VAT Registration Number (VRN), where appropriate.

Customs and Excise will need details of all the premises that you want to register for.

If you own or control more than one site containing machines you need only register once, but must provide details of each site.

Once Customs and Excise has accepted and processed your application, you will be placed on the MGD register, and receive your MGD registration number.

You must submit your application at least 14 working days before any games are made available for play, but you may apply for registration up to 3 months before it is expected machine games will be made available for play.

The prescribed application form, MGD 1 MAN, is contained in Notice 999 MAN, available to download from the [website](#), or can be obtained from the Advice Centre at Custom House.

27. What were the arrangements where dutiable games would be played on 1 February 2013?

Where machine games would be played on premises on 1 February 2013 the operator for those premises had to be registered before that date - that is before MGD itself started.

Registration applications were accepted by Customs and Excise from 1 December 2012. There was no requirement to apply to register where it was expected that all of the takings from games would be exempt from MGD.

28. Will security be required?

Depending on your circumstances, Customs and Excise may ask for security. It may do this where -

- you have failed to comply with any obligations to Customs and Excise in your previous or current business;
- your business is run by disqualified directors or undischarged bankrupts;
- you have previously been prosecuted or penalised for an offence relating to indirect tax; or
- other persons concerned in the current registration of your business are connected with past failures to pay any indirect tax due.

These are only examples of situations where Customs and Excise may ask you to provide security to ensure any MGD is paid in full and on time. There may also be other circumstances that would lead to Customs and Excise believing that there is a risk of non-payment, or that payment may not be made on time.

29. What warning will I receive that Customs and Excise requires security?

Customs and Excise will tell you that security is required by issuing a Notice of Requirement of Security.

Customs and Excise will always try to give you reasonable time to provide the security before

your registration is refused or cancelled. However, it may only give you a limited amount of time if immediate steps are required to prevent a serious risk to revenue.

30. How much security will be required from me?

Customs and Excise bases the amount of security required on a standard formula which reflects the minimum time it would take to recover the debt if, in future, you do not pay the MGD you owe. Customs and Excise calculate the amount of security using the most accurate information available at the time. This information may include the tax declared on MGD returns from:

- your current business;
- your previous business;
- businesses of a similar size, with similar customers and in the same trade class.

Customs and Excise may also add any outstanding duty from your current MGD registered business to the calculation, before issuing a Notice of Requirement of Security in respect of that business.

Generally, the amount of security required will be based on the amount of MGD it is estimated you would owe over 6 months.

31. What forms of security will Customs and Excise accept?

Customs and Excise will normally accept security in the following forms:

- cash or banker's draft;
- a performance bond from an approved financial institution which is payable on demand.

Performance bond must be signed and witnessed by an authorised person on behalf of the financial institution and an officer of Customs and Excise.

32. When will I have to provide the security?

The Notice of Requirement of Security will tell you by when you need to provide security. Please contact Customs and Excise if you need more time to make the necessary arrangements.

33. What will happen if I do not provide the security?

If you do not provide the security by the time specified in the Notice of Requirement of Security, Customs and Excise will not register you for MGD. If you are already registered, it will cancel your registration (but you will still owe any duty due).

Under the law, you cannot provide dutiable machine games for play on premises unless those premises are subject to an MGD registration (unless it is expected that all the takings will be MGD-exempt). The maximum penalty is 100% of the revenue lost as a result of the failure to register. Machines can also be seized and forfeited. In these circumstances you might also commit an offence.

34. How long will you hold the security for?

Where Customs and Excise has required a person to provide security it will review this

requirement every 2 years. If Customs and Excise consider that there is no longer a risk to the revenue, then the security will be returned. You should contact Customs and Excise if you have any information that you feel may cause it to decide that there is no longer a risk to the revenue. In this case, Customs and Excise will review the requirement for security if it is appropriate to do so.

35. When will you use the security?

If you fall behind with payment of MGD, Customs and Excise may offset any security you have provided against the MGD you owe. Customs and Excise will write to you to let you know of any such offset, and may then ask you to provide a further amount of security. If you do not provide the further security required it may cancel your registration.

36. What if the operator of machines in the Island is not in the Island?

If you are located outside the Island, Customs and Excise might not accept your registration unless you have a representative in the Island for MGD purposes.

Customs and Excise can make registration conditional on an off-Island operator appointing a representative (and being one that it considers suitable) with responsibility for discharging any liability to pay MGD.

If you have a representative on the Island to act on your behalf for MGD purposes, they must notify Customs and Excise within 7 days of ceasing to act for you.

37. Will the MGD Register be public?

The register will not be publicly available in the Isle of Man.

38. What if I do not register?

If you do not register for MGD, and Customs and Excise believes that you should be registered in respect of premises, it can issue a registration notice.

If you do not agree, you can ask Customs and Excise to reconsider its decision. You also have the right to appeal within 30 days of the registration notice (see paragraph 67).

If you cannot prove to Customs and Excise that you do not need to register, or you do not appeal within the time limit, Customs and Excise can register you from the date of the registration notice.

There are penalties for failure to register at the correct time (see paragraph 58).

39. Will there be group registration?

A group is an arrangement for simplifying how MGD is accounted for and administered. Only one return would be required to cover all members of the group for each period.

Two or more corporate bodies, businesses or organisations (“entities”) can ask to be registered as a group. This would normally be allowed if -

- all the members wanting to be in the group are corporate bodies, and are registrable persons in their own right;
- they have a controller in common - for example, a holding company for the other businesses or group members;

-
- are in the Island or have a place of business in the Island;
 - have all agreed to be part of the group (with this confirmed in writing);
 - any security that is required for the group's liability is provided; and
 - one member agrees to take on the role of group representative member (GRM).

It is the GRM which will make the application for group registration and deal subsequently with Customs and Excise.

All members of a group are "jointly and severally liable" for any MGD which is due. This means that Customs and Excise can ask any one member of the group to pay MGD that is due, although this is only likely should the GRM not pay.

Any changes to an application, or inaccuracies discovered, must be notified to Customs and Excise in writing by the GRM within 7 working days of becoming aware of the change or inaccuracy. Additional information may be required in such cases and, in any event, all group members must agree in writing to any changes made.

Customs and Excise may refuse group registration if it appears necessary for the protection of the revenue.

40. Do I have to notify any changes of details?

If your details change, such as a change of premises, address, group members; or you stop trading or turn off or sell your machines, you must tell Customs and Excise within 14 business days.

41. Can I cancel my MGD registration?

Yes, if you cease to be a registrable person because you:

- cease trading, and/or
- no longer provide dutiable machine games for play, or
- you wish to join a group or a partnership,

you will need to advise Customs and Excise as soon as possible.

You may notify Customs and Excise up to 3 months before your chosen date of deregistration takes effect. If you are a seasonal trader you do not need to deregister at the end of each season. However, you must still submit nil returns for the periods when you are not operating.

You must include in your deregistration notification the following information:

- the MGD registration number;
- that you are not (or will not at the time of deregistration) a registrable person in respect of the premises concerned, or that you wish to join a group or partnership; and
- the date from which deregistration should take effect.

Important note: Customs and Excise will issue a return for any whole or part accounting

period immediately prior to deregistration for which a return has not been received. This return must be completed and any duty liability paid.

42. What about record keeping?

You will need to keep certain records for MGD, and you will need to show that the amount of MGD you have paid is the right amount.

More information about the records you will be required to keep and the length of time you'll need to keep them for will be published on the Customs and Excise website.

43. How do I calculate MGD on mixed games etc?

If the machine offers a "mixed game" and you can win both cash and non-cash prizes, then it is the size of the cash prize that decides whether MGD is due or not.

If the cost to play the game is less than any cash prize that could be won then MGD is due.

If the machine offers several games, some of which are mixed games and some of which are not dutiable (for example, because you cannot win a cash prize), then MGD will be due on the mixed games but not on the non-dutiable games. The non-dutiable games may be subject to VAT.

Machines will not be affected by MGD so long as the only prizes offered are non-cash prizes; and redemption machines won't be affected by MGD so long as the redemption tickets cannot be exchanged for cash, and no cash prizes are on offer from the machine alongside redemption tickets. However, all of these machines will still be subject to VAT.

44. On what takings is MGD due?

MGD is due on the total net takings from the playing of all dutiable machine games. Net takings means what is charged to play the games less the amount paid out as winnings.

You will be able to net off losses across all the machines that one person is registered for.

If you have machines offering "mixed games" then you can take away both the cash prizes and the value of non-cash prizes for those mixed games from the gross takings when you work out your net takings. The value of non-cash prizes that can be taken away will include any VAT that you paid when you bought the prize. You cannot take away the value of non-cash prizes until they are actually given out to the winners.

If you do not have exact records of the amounts used, perhaps because you have a single stock of non-cash prizes and you use some for dutiable games and some for non-dutiable games, then you may be able to use a reasonable estimate.

If a machine offers both dutiable machine games and other activities, like "just for fun" games that do not offer a prize, the net takings from the playing of the dutiable machine games will be subject to MGD and the remainder subject to VAT.

Everything that is a "free play" will not be included in the calculation of net takings. When you are working out your net takings you can still take away winnings from these plays.

See paragraph 12 above for how to calculate MGD on takings.

45. What if you cannot work out your MGD?

In certain circumstances, if you cannot give exact figures, Customs and Excise may be able to

accept an apportionment so long as it has been based on a reasonable method, and one that Customs and Excise can check.

Reasons for apportionment Customs and Excise might accept are -

- the rate of duty changed during the accounting period and you cannot work out what the takings were before and after the change;
- there is a good reason that you cannot work out exactly which takings came from dutiable machine games and non-dutiable activities;
- you cannot work out exactly the value of a non-cash prize (for example, because you bought prizes in bulk and some were used in non-dutiable machines); and
- one amount of money is paid for several "turns" on a machine game and you cannot work out exactly how much each individual turn cost.

46. What about returns of MGD?

Once you are registered for MGD you will need to send Customs and Excise regular returns and payments.

MGD group registrations only need to send in one return to cover all the group members.

The standard return period will be quarterly.

Your MGD return and payment of any MGD due must be with Customs and Excise within 30 days after the end of the return period.

There will be a special form of return for agents to use where they are responsible for more than one registered operator.

The format of the returns is specified in Notice 999 MAN (which is available on the Customs and Excise [website](#)).

47. How do I notify and correct errors?

If you discover an error in an MGD return which resulted in your liability to MGD being understated and no more than 4 years have elapsed since the date on which that return was due, you may include the amount of any understated MGD on your next return if -

- (a) the amount does not exceed £10,000; or
- (b) the amount does not exceed £50,000, and does not exceed 1% of the total net takings from dutiable machine games in the accounting period during which the understatement was discovered.

If you discover any error in accounting for MGD or in any MGD return, and the foregoing does not apply, and no more than 4 years have elapsed since the date on which the MGD involved was due to be paid, you must inform Customs and Excise of the error within 7 business days of discovering it.

You may also use this method instead of correcting the error on your next return. You may then be given an assessment of the MGD due, and notified of any interest or penalty that may be imposed.

48. Under-declarations or understated duty

As soon as you find an error, you should make a note in your records and record the correct position or you could become liable to a penalty.

You may find it useful to keep a separate error record in your MGD account (that is, keeping separate details of any errors discovered). An error record should:

- show the date the error was discovered,
- show the accounting period in which the error occurred,
- identify any related documentation.

You should normally wait until the end of the current accounting period before deciding which method to use. However, if an individual error is so large that it will inevitably be outside the limits above, you should make an error correction report to Customs and Excise in writing as soon as possible.

If you have made an error which has resulted in an under-declaration you may be charged interest and penalties (including if you make a correction on your return). You will be liable to a penalty if the errors are careless or deliberate.

If a registrable person (RP) discovers a non-careless error, Customs and Excise expects that they will take steps to correct it. If the RP does not take steps to correct it, the inaccuracy will be treated as careless and a penalty will be due. Correction of deliberate under-declarations must, however, always be notified in writing.

Any penalty may be reduced to reflect the circumstances of the error and the fact that you have corrected it. In order for Customs and Excise to consider any reduction to a penalty, you should tell it if you have made a careless error or deliberate inaccuracy regardless of its size or value.

Correcting errors using the return is not a disclosure for the purpose of the penalties rules. If you consider that the error corrected was a result of careless conduct you will not be able to gain the maximum reduction of the penalty unless you also notify Customs and Excise separately in writing. You should set out what the error is and your grounds for seeking a reduction to the penalty. This will be an unprompted or prompted disclosure depending on the circumstances.

The majority of such errors will not be careless or deliberate so no penalty will be due. People make mistakes and we do not expect perfection. When considering whether an error was careless, Customs and Excise is simply seeking to establish whether the RP has taken the care and attention that could be expected from a reasonable person taking reasonable care in similar circumstances.

If Customs and Excise find under-declarations of MGD on your MGD returns it will assess for the duty due and may charge interest. You may also be liable to a penalty.

49. Over-declarations or overstated duty

If you have made an error on a previous MGD return which has resulted in you paying too much duty, you may be entitled to be repaid the amount of your overpayment. Under the law overpayments of MGD can only be claimed by writing to Customs and Excise.

Any claim must include all relevant information. There is no specific form for making claims but claims must be made in writing and include the following information:

- amount of the claim,
- method used to calculate the claim,
- reason(s) why you think you/we have made an error,
- details of any documents you have to support your claim (Customs and Excise may ask to see these later).

You should keep all documentary evidence to support a claim, including documents showing how and when the error arose.

50. What records must I keep?

People liable to MGD are 'revenue traders'. Revenue traders must keep certain records.

A profit sharer is a revenue trader if no one is registered for MGD in respect of premises at which dutiable machine games are provided for play and a registrable person cannot be identified.

The record-keeping requirements for revenue traders are explained in Notice 206: Revenue Traders Records.

The law relating to revenue traders and record keeping is the Revenue Traders (Accounts and Records) Regulations 1993. This covers:

- the records revenue traders must keep,
- the time at which records must be made,
- the period for which records must be kept.

Important note: separate record keeping rules apply for VAT purposes which are explained in VAT guidance including Notice 700: The VAT Guide and Notice 706: Partial Exemption.

If you are registered for VAT, your records may contain information also required for MGD purposes. Providing your records are cross-referenced and the audit trail is clear and easy to follow, you are not expected to duplicate your records.

MGD Duty Account

The law requires that all MGD Registered Persons must keep an Excise Duty Account. This must show all the information needed to complete each MGD return and how the figures on the return have been calculated. Customs and Excise does not require that you keep your records in any particular way but they must contain all the relevant information which you have used to complete your returns. You may face penalties if you do not keep adequate records. In addition, if you keep good records Customs and Excise will find that checking them is more straightforward and efficient, which will also be beneficial for you.

What additional records must I keep?

Customs and Excise has the power to direct you to keep specific additional records. For more information see the Revenue Traders (Accounts and Records) Regulations 1993 and Notice 206: Revenue Traders Records.

The following additional records are required as a minimum to demonstrate that the figures

you declare on your MGD return are correct.

(a) Dates and times when your machines are in use

Those responsible for premises on which machine games are provided for play must keep a record of when each machine was:

- brought into use,
- taken out of use temporarily, and
- taken out of use completely.

These records must be supported by relevant contracts and invoices.

(b) Details of any changes to your machines

Those responsible for premises on which machine games are provided for play must keep a record of:

- changes to the software or games on a machine, and
- changes to the percentage level of the prize payout from the machines.

(c) Details of third party arrangements

Those responsible for premises on which machine games are provided for play must keep a record of arrangements with third parties to:

- supply,
- maintain, or
- upgrade machines

(including records of arrangements with third parties to make the changes described below).

(d) Accounting for cash in and out of machines

Those responsible for premises on which machine games are provided for play must record cash in and cash out in an accounting period. These records must cover activities which may affect the cash balance of a machine, such as:

- floats including details of 'top ups',
- non-cash credits to machines such as free plays, and
- for machines subject to MGD which pay out non-cash prizes (including redemption machines), the VAT inclusive amounts paid for prizes.

(e) Other payouts to customers

Those responsible for premises on which machine games are provided for play must record all payouts made in respect of machine game-play other than through a machine.

(f) Storage of records, documents and accounts

Those responsible for premises on which machine games are provided for play must keep:

- trading and profit and loss accounts,
- balance sheets,
- bank statements,
- records used for the purpose of completing MGD returns, and
- any additional records and documents relevant to the business of providing dutiable machine games for play.

Records must be kept for **4 years** in a readily accessible form and manner.

Customs and Excise will review the minimum record keeping requirements on a regular basis in light of experience.

Customs and Excise recommends that you have a clear and robust system for identifying each machine and its location. For example, give each machine an identification number (such as the machine serial number) and a location reference. This will help you keep track of each machine and its profits.

Customs and Excise can also direct you to keep additional records in individual cases (for example, your meter readings of takings and payouts for individual machines) where it is proving difficult to check your MGD affairs.

If you have strong internal controls (for example, modern machines with auditing software and good audit trails) and Customs and Excise can see that these controls work, and then it may be able to rely on them to check your MGD affairs. This could speed up processes and reduce your administrative burden. If you do make use of this auditing software, you are required by law to keep these additional records.

If you have a problem with record storage, you can write to Customs and Excise and ask for a dispensation to keep some of your records for a period shorter than 4 years.

51. Where do I have to keep the records?

Books, accounts and returns for a business are usually kept at the principal place of business. However, you can keep these records elsewhere if you wish.

Customs and Excise can require that you make records available for inspection at your principal place of business or registered premises.

52. Does Customs and Excise have the right to see my records?

Yes. It has the legal right to check your duty calculations and take copies of any books, accounts, records or other documents relating to the business.

53. How does MGD affect VAT?

Machine games that you pay MGD on will be exempt from VAT, and businesses registered for VAT might become either fully-exempt or partially-exempt. This means you may not be able to claim all or some of the input tax on your purchases.

If you are registered for VAT, you should read the published guidance relating to VAT and exemption as your VAT calculations may be affected. Customs and Excise will also be able to advise you.

VAT will continue to be due on amusement machines and machines where playing does not involve MGD.

If you are currently VAT-registered, but think that you may not be required to do so after MGD is introduced, or will become partially-exempt for VAT purposes, you should contact Customs and Excise. Public Notice 706 provides more information on partial exemption.

Businesses will also need to consider any adjustments that may be required where they already have capital items subject to the Capital Goods Scheme (CGS) and/or make future purchases of assets subject to CGS. CGS adjustments would be required in respect of changes to national VAT liability legislation. Public Notice 706/2 provides more information on CGS.

54. I am VAT-registered in the UK: how will HMRC regard MGD charged in the Isle of Man?

HM Revenue and Customs in the UK will, for VAT purposes, regard supplies subject to MGD in the Isle of Man in the same way as if liable to MGD in the UK. In other words, if supplies are subject to MGD then they are VAT-exempt regardless of whether liable to the UK or Isle of Man forms of MGD.

55. What about licence or certificate fees paid to the GSC?

The current "interim duty" payable to the GSC for premises in which gaming machines may be used is to be abolished.

However, as this requires further legislation, there may be a period of time when both MGD and the interim duty is paid.

56. Will I still require a licence or certificate from the GSC?

Yes. There will remain a requirement for a certificate or licence under the Gaming (Amendment) Act 1986 or the Casino Act 1986, for premises where gaming machines are located. Bookmakers' offices will also remain subject to licensing control by GSC.

57. Where is the law?

A series of orders, approved by Tynwald, apply in Island law Schedule 24 to the Finance Act 2012 (of Parliament), and the amendments required to other, existing legislation by that Schedule. The amendments include changes made to the Value Added Tax Act 1996 to remove the VAT liability from machines which became liable to MGD.

The Machine Games Duty Regulations 2012 contain details of the implementation and operation of MGD.

A Machine Games Duty (Exemption) Order 2012 exempts from MGD the playing of machine games in a charity event or tournament (as defined in the Order).

Copies of this legislation will be available from Customs and Excise.

58. What penalties will there be for non-payment or other non-compliance?

The same range of civil penalties that are available for VAT and other excise duties will apply for MGD, including for failure to register, non-submission of returns and non-payment of duty.

59. How can I avoid a penalty?

You can avoid a financial penalty by making sure that you give complete and correct information on your returns. Also make sure that returns are received by Customs and Excise and payments cleared by the due dates.

Remember, Customs and Excise can charge a penalty if:

- your return or other tax document is not correct so that you do not pay enough duty, or
- you do not tell Customs and Excise if it has sent you a duty assessment that is too low.

If there is a penalty due, Customs and Excise may be able to reduce it depending on the circumstances. Some penalties may be reduced to zero.

60. What other legal powers does Customs and Excise have?

Customs and Excise officers have a responsibility, both to the Government and to taxpayers, to make sure that the right amount of MGD is paid. In order to fulfil this responsibility they may, for example, visit premises to look at records, accounting systems and business practices. Customs and Excise may also ask for additional information to evidence declarations made on returns.

Customs and Excise will normally make an appointment in advance to visit you. However, it may also make unannounced visits.

Under the law, Customs and Excise has powers to:

- Issue an assessment in the case of under-declarations of duty or returns not being submitted.
- Enter any premises where machine games are available for play, or where an officer has reasonable cause to suspect that a business offering machine games for play has been, or is being, promoted or operated. In this case, an officer may remain on the premises so long as there remains reasonable cause to suspect that the premises may be used for the purposes of carrying on the business.
- Require specific records to be kept.
- Require any person concerned with the management of the premises or any promoter, to provide information about their machine games provided for play.
- Inspect business records that Customs and Excise has directed must be kept and any other books, records, accounts or other documents including business bank accounts and annual accounts.
- Take copies of any books, records, accounts or other documents relating to MGD.

61. Civil penalties - in what circumstances might I get a penalty?

The following penalties may be applied for failures to comply with MGD obligations.

(a) Errors in returns

If you make an error in an MGD return you may be liable to a penalty under Schedule 24 of the Finance Act 2007 (as it has effect in the Island).

(b) Failure to make returns

If you are required to make an MGD return and fail to do so on or before the filing date then you may be liable to a penalty under Schedule 55 to the Finance Act 2009 (as it has effect in the Island).

(c) Failure to register

A penalty under Schedule 41 to the Finance Act 2008 (as it has effect in the Island), may be applied to anyone making a dutiable machine game available for play on premises not subject to an MGD registration.

(d) Failure to make payments on time

If you fail to pay the amount of MGD that you owe by the due date then you may be liable to a penalty under Schedule 56 of the Finance Act 2009 (as it has effect in the Island).

62. Are there any factsheets about penalties?

Yes. Factsheets about penalties for errors in returns and failures to register can be obtained from Customs and Excise on request.

63. Can Customs and Excise seize machines?

Yes, although Customs and Excise will not normally seize machines. It can seize a machine if an officer finds it on premises and is satisfied that:

- it is being, has been, or is about to be made available for playing dutiable machine games, and
- no-one has registered in respect of the premises, and there is a serious risk that MGD will not be paid, or
- MGD is due in respect of play on the machine but has not been paid.

A machine seized by Customs and Excise may be forfeit.

64. What offences apply to MGD?

It is a criminal offence for a person or a body corporate to knowingly be concerned in or to take steps with a view to the fraudulent evasion of duty. The penalties include imprisonment.

65. What if I fail to pay the duty that is due?

If you fail to pay MGD that you owe, whether in full or in part, Customs and Excise may commence civil proceedings to recover the debt. In serious cases, it may ask the Gambling Supervision Commission to review any certificate or licence.

66. What if you need further help and support?

If you have any questions about MGD, you can contact the Customs and Excise Advice Centre, or email your question to customs@gov.im

67. How do I ask for a decision to be reviewed or make an appeal?

If you do not agree with an officer's decision relating to MGD you can ask for the decision to be reviewed by another officer who was not connected with your case.

You also have the right to appeal to the independent VAT and Duties Tribunal.

Please see Public Notice Appeal 1 MAN (What to do if you don't agree with a Customs and Excise decision involving indirect tax), which is available on the Customs and Excise [website](#).

Contact Details

Customs and Excise Division

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PO Box 6
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IM99 1AG

Tel: (01624) 648100

Email: customs@gov.im

Website: <http://www.gov.im/categories/tax,-vat-and-your-money/customs-and-excise/>

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