Draft Regulations laid before the Scottish Parliament under section 42(1)(c) and (d) of the Air Departure Tax (Scotland) Act 2017, for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2026 No.

AIR DEPARTURE TAX

The Air Departure Tax (Administration) (Scotland) Amendment Regulations 2026

Made - - - -	*2026*
Coming into force - -	*1st December 2026*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 41, 42(3)(a) and 43 of the Air Departure Tax (Scotland) Act 2017(**a**) and all other powers enabling them to do so.

In accordance with section 42(1)(c) and (d) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation and commencement

1. These Regulations may be cited as the Air Departure Tax (Administration) (Scotland) Amendment Regulations 2026 and come into force on 1 December 2026.

Amendment of the Air Departure Tax (Scotland) Act 2017

2.—(1) The Air Departure Tax (Scotland) Act 2017 is amended as follows.

(2) In section 21 (duty to register for tax)—

(a) for subsection (1)(b)(i) substitute—

"(i) carries out a taxable activity, or",

(b) in subsection (1)(b)(ii), for "becoming liable to make quarterly returns under section 24" substitute "carrying out a taxable activity",

(c) after subsection (2), insert—

"(2A) Revenue Scotland may register an aircraft operator for the tax where Revenue Scotland is satisfied that a situation described in subsection (1)(b)(i) has arisen in respect of the aircraft operator and—

(a) the aircraft operator has applied to Revenue Scotland in accordance with subsection (2), or

(**a**) 2017 asp 2.

(b) the operator has not applied under subsection (2) in the period of 30 days beginning with the day on which the situation first arose.

(2B) Where Revenue Scotland registers an aircraft operator for the tax under this section, the operator's registration is to be treated as having taken effect on the day on which the situation described in subsection (1)(b)(i) arose.".

(3) In section 22 (duty to deregister for tax)—

(a) in subsection (1)(b)(i), for "be liable to make quarterly returns under section 24" substitute "carry out a taxable activity",

(b) in subsection (1)(b)(ii), for "be liable to make quarterly returns under section 24" substitute "carry out a taxable activity",

(c) after subsection (2), insert—

"(2A) Where Revenue Scotland is satisfied that an aircraft operator who is registered for the tax has ceased to carry out a taxable activity, Revenue Scotland may deregister the operator for the tax with effect from the earliest practicable time after the operator ceased to carry out a taxable activity (whether or not the operator applies to Revenue Scotland under subsection (2)).

(2B) Where—

(a) an aircraft operator who is registered for the tax applies to Revenue Scotland under subsection (2),

(b) Revenue Scotland is satisfied that the operator will not carry out a taxable activity, and

(c) Revenue Scotland is satisfied that no tax which the operator is liable to pay is unpaid,

Revenue Scotland may deregister the operator for the tax with effect from the earliest practicable time after the operator ceases to carry out a taxable activity.

(2C) Where—

(a) an aircraft operator who is registered for the tax applies to Revenue Scotland under subsection (2), and

(b) Revenue Scotland is satisfied that the operator has not carried out, is not carrying out, and will not carry out a taxable activity,

Revenue Scotland may deregister the operator for the tax with effect from the day on which the operator's registration took effect (see section 21(2B)).".

(4) In section 23 (duty to make returns and pay tax)—

(a) for subsection (2) substitute—

"(2) Where a return is made under section 24, any tax payable as a result of the return must be paid no later than 30 days after the end of the accounting period in respect of which the return is made.

(2A) Where a return made under section 24 is amended under section 83 (amendment of return by taxpayer) of the Revenue Scotland and Tax Powers Act 2014(**a**), any tax payable as a result of the amendment must be paid by whichever is the later of—

(a) the deadline specified in subsection (2), or

(**a**) 2014 asp 16.

(b) time at which the amendment is made.

(2B) Where a return is made under section 25, any tax payable as a result of the return must be paid no later than 30 days after the end of the occasional return accounting period in respect of which the return is made.

(2C) Where a return made under section 25 is amended under section 83 of the Revenue Scotland and Tax Powers Act 2014, any tax payable as a result of the amendment must be paid by whichever is the later of—

(a) the deadline specified in subsection (2B), or

(b) the time at which the amendment is made.",

(b) in subsection (3), for "For the purpose of subsection (2)" substitute "For the purposes of subsections (2) to (2C)",

(c) after subsection (3), insert—

"(4) In this section and in sections 24 and 25—

"accounting period" means, subject to subsection (5)—

(a) the period—

(i) beginning on the date on which the person becomes a taxable person, and

(ii) ending on whichever of the dates mentioned in paragraph (b) occurs next, and

(b) each subsequent period of 3 months ending on 31 March, 30 June, 30 September or 31 December,

"occasional return accounting period" means—

(a) the period—

(i) beginning on whichever is the later of—

(A) the first day, during the period beginning on 1 April 2027, on which an aircraft operator who is eligible to make occasional returns under section 25(1) carries out a taxable activity, or

(B) the day on which a taxable person is entitled to start making occasional returns in accordance with section 24(4)(b), and

(ii) ending on the last day of the month in which the applicable situation described in sub-paragraph (i) arose, and

(b) each subsequent month during which the taxable person carries out a taxable activity.

(5) Revenue Scotland may, where it considers it necessary to do so in relation to a taxable person—

(a) vary—

(i) the length of an accounting period,

(ii) the date on which an accounting period begins or ends,

(iii) the date by which a quarterly return must be made,

(b) allow or direct the taxable person to make a quarterly return in accordance with the accounting period and dates as varied by virtue of paragraph (a).

(6) Any taxable person to whom Revenue Scotland gives a direction under subsection (5)(b) must comply with the direction.".

(5) In section 24 (quarterly returns), omit subsection (3).

(6) In section 25 (occasional returns)—

(a) for subsection (2) substitute—

"(2) Occasional returns—

(a) are due in respect of an occasional return accounting period only if any taxable activity is carried out during that occasional return accounting period, and

(b) are due no later than 30 days after the end of the occasional return accounting period during which the taxable activity was carried out.",

(b) omit subsection (6).

(7) In section 28(1) (duty to have tax representative), for "an EEA State" substitute "the United Kingdom".

(8) In section 32(1)(a) (eligibility to be tax representative), for "an EEA State" substitute "the United Kingdom".

(9) After section 34 (duty to notify Revenue Scotland if appointment ceases to have effect), insert—

"Special Cases

34A Groups of companies

(1) Where any bodies corporate are treated as members of a group by virtue of this section, for the purposes of this Act—

(a) any liability of a member of the group to pay tax is to be taken to be a liability of the representative member,

(b) the representative member is to be taken to carry out any taxable activity which a member of the group would carry out (apart from this section) by virtue of section 18(1),

(c) all members of the group are jointly and severally liable for any tax due from the representative member.

(2) Two or more bodies corporate are eligible to be treated as members of a group if the conditions mentioned in subsection (3) are fulfilled and—

(a) one of them controls each of the others,

(b) one person (whether a body corporate or an individual) controls them all, or

(c) two or more individuals carrying on a business in partnership control them all.

(3) The conditions are that—

(a) the prospective representative member has an established place of business in the United Kingdom, and

(b) each of the bodies corporate is a taxable person to whom section 24(1) applies.

(4) Two or more bodies corporate eligible to be treated as members of a group may apply to Revenue Scotland to be so treated.

(5) An application under subsection (4) must set out which of the bodies corporate is to be the representative member.

(6) Where an application referred to in subsection (4) is made—

(a) the bodies corporate are to be treated as a group from the beginning of an accounting period, and

(b) the body corporate set out in the application is to be the representative member,

unless Revenue Scotland refuses the application.

(7) Where any bodies corporate are treated as members of a group, an application may be made to Revenue Scotland to the effect that—

(a) a further body eligible to be treated as a member of the group is to be included among the bodies treated in that way,

(b) a body corporate is to be excluded from the bodies so treated,

(c) another member of the group is to be substituted as the representative member, or

(d) the bodies corporate are no longer to be treated as members of a group.

(8) Where an application referred to in subsection (7) is made, Revenue Scotland may—

(a) grant the application with effect from such time as Revenue Scotland specifies by written notice to the members of the group, or

(b) refuse the application.

(9) Revenue Scotland may refuse an application under subsection (4) or (7) only if it appears to it necessary to do so for the protection of the revenue.

(10) An application under this section with respect to any bodies corporate—

(a) must be made by one of those bodies or by the person controlling them, and

(b) must be made—

(i) not less than 90 days before the date from which it is to take effect, or

(ii) at such later time as Revenue Scotland may allow.

(11) For the purposes of this section and section 34D (group treatment: substitution and termination)—

(a) a body corporate is to be taken to control another body corporate if—

(i) it may, by virtue of an enactment, control that body's activities, or

(ii) it is that body's holding company within the meaning of section 1159 and schedule 6 of the Companies Act 2006(**a**) (meaning of "subsidiary" etc),

(b) an individual is or individuals are to be taken to control a body corporate if the individual or individuals would be that body's holding company within the meaning of the provisions mentioned in paragraph (a)(ii), were the individual or individuals a company.

34B Notification of cessation of eligibility for group treatment or of having place of business in UK

(1) Where—

(a) two or more bodies corporate are treated as members of a group for the purposes of this Act, and

(b) any of those bodies ceases to be eligible to be so treated,

the body corporate which ceases to be so eligible must notify Revenue Scotland immediately of that fact.

(2) A body corporate which is designated as representative member in relation to any other bodies corporate must not cease to have an established place of business in the United Kingdom without first notifying Revenue Scotland of that fact.

34C Group treatment: change to application or notification

A body corporate which has made—

(a) an application under section 34A(4) or (7), or

(b) a notification under section 34B(1) or (2),

must notify Revenue Scotland immediately if any information contained in or provided in connection with that application or notification becomes inaccurate.

34D Group treatment: substitution and termination

(1) Subsection (2) applies where—

(a) a body corporate ceases as from any time to be treated as a member of a group,

(b) immediately before that time, that body was the representative member,

(c) there are two or more other bodies corporate which continue after that time to be treated as members of the group, and

(d) no application under section 34A(7)(c) in respect of any of those other members of the group has been granted by Revenue Scotland.

(2) Revenue Scotland must, by notice to whichever of the bodies corporate mentioned in subsection (1)(c) as it thinks fit, substitute that body corporate as the representative member, as from the time mentioned in subsection (1)(a).

(**a**) 2006 c. 46.

(3) Where—

(a) a body corporate is treated as a member of a group as being controlled by any person, and

(b) it appears to Revenue Scotland that it has ceased to be so controlled,

Revenue Scotland must, by notice given to that person, terminate that treatment from such date as may be specified in the notice.

(4) If it appears to Revenue Scotland necessary to do so for the protection of the revenue, it may, by notice given to any body corporate that is treated as a member of a group and to the representative member, terminate that treatment from such time as may be specified in the notice.

(5) The time specified in a notice under subsection (4) must not be a time before the day on which the notice is given to the representative member.

34E Transfer of business as a going concern

(1) Subsection (2) applies where—

(a) a taxable business is transferred as a going concern,

(b) the transferor is an aircraft operator who is registered for the tax and who has not been deregistered for the tax,

(c) as a result of the transfer of the business—

(i) the transferor is to be deregistered for the tax, and

(ii) the transferee, who is not registered for the tax, carries out a taxable activity, and

(d) an application is made in respect of the transfer by both the transferor and the transferee.

(2) Revenue Scotland may, with effect from the date of the transfer of the business—

(a) deregister the transferor for the tax,

(b) register the transferee for the tax, and

(c) allocate to the transferee the registration number previously allocated to the transferor.

(3) An application under subsection (1) is to be treated as an application by the transferor under section 22(2) (duty to deregister for tax) to deregister for the tax.

(4) Where the transferee of a business has been registered for the tax in accordance with subsection (2)—

(a) any liability of the transferor existing at the date of the transfer to make a return or pay any tax under Part 4 of this Act becomes the liability of the transferee,

(b) any entitlement of the transferor, whether or not existing at the date of the transfer, to credit becomes the entitlement of the transferee,

(c) any other provision made by or under this Act relating to the transferor's obligations under this Act which applied to the transferor before they were deregistered for the tax and any such provision which continues to apply

to the transferor after they were deregistered for the tax apply to the transferee, and

(d) any circumstances relating to the application of this Act, or of any provision made under this Act, relating to the transferor's obligations under this Act before they were deregistered for the tax (or any such circumstances which continue to apply to the transferor after they were deregistered for the tax) apply to the transferee.

(5) In addition to the provisions in subsection (4), where both subsections (6) and (7) apply, the actions referred to in subsection (7) are to be treated as having been done by the transferee.

(6) This subsection applies where the transferee of a business has been registered for the tax under subsection (2) during an accounting period or an occasional return accounting period (as applicable) subsequent to that in which the transfer took place (but with effect from the date of the transfer).

(7) This subsection applies where either the transferor or the transferee has done any of the following—

(a) made a tax return in accordance with section 24 (quarterly returns) or section 25 (occasional returns),

(b) made arrangements satisfactory to Revenue Scotland for payment of the tax, or

(c) claimed an entitlement to credit.

(8) In this section—

"deregistered for the tax" means, in relation to an aircraft operator, that Revenue Scotland has removed the operator's details from the ADT register,

"registered for the tax" means, in relation to an aircraft operator, that Revenue Scotland has included the operator's details in the ADT register,

"taxable business" means a business, or part of a business, in the course of which any taxable activity is carried out.".

(10) In section 44(1) (interpretation)—

(a) omit the definitions of "EEA agreement" and "EEA State",

(b) after the definition of "kerosene", insert—

""member" and "representative member", in relation to a group, are to be construed in accordance with section 34A,".

(11) In schedule 2 (minor and consequential modifications to Revenue Scotland and Tax Powers Act 2014), in the table at paragraph 9(2), in the row numbered 3 relating to Air Departure Tax, in the third column, for "section 23(2)" substitute "section 23(2) or (2B)".

(12) In the table in schedule 3 (index of defined expressions)—

(a) in the entry for "accounting period", for "24(3)" substitute "23(4)",

(b) omit the entry for "EEA agreement",

(c) omit the entry for "EEA State",

(d) after the entry for "maximum take-off weight", insert—

"member and representative member	section 34A",

(e) after the entry for "occasional return", insert—

"occasional return accounting period	section 23(4)",

(f) after the entry for "taxable activity", insert—

"taxable business	section 34E(8)".

Name
A member of the Scottish Government

St Andrew's House,
Edinburgh
Date

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the provisions concerning the administration of Air Departure Tax ("ADT") in Part 4 (Payment, collection and management of tax) of the Air Departure Tax (Scotland) Act 2017 ("the 2017 Act"). In addition, these Regulations make amendments to section 44 (interpretation) and schedules 2 (minor and consequential modifications to Revenue Scotland and Tax Powers Act 2014) and 3 (index of defined expressions) of the 2017 Act, which are consequential upon the amendments made to Part 4.

Regulation 2(2) amends section 21 (duty to register for tax) of the 2017 Act to amend the circumstances in which section 21 applies to an aircraft operator and specify the circumstances in which Revenue Scotland may include an aircraft operator's details in the ADT register, as well as the day on which an aircraft operator's registration in the register takes effect. Regulation 2(3) amends section 22 (duty to deregister for tax) of the 2017 Act to amend the circumstances in which section 22(2) applies to an aircraft operator and specify the circumstances in which Revenue Scotland may remove an aircraft operator's details from the ADT register, as well as the point from which the removal of an operator's details from the register takes effect in each of those circumstances.

Regulation 2(4) amends section 23 (duty to make returns and pay tax) of the 2017 Act in connection with the deadlines for paying any ADT due as a result of making a tax return under section 24 (quarterly returns) and section 25 (occasional returns) of the 2017 Act and as a result of amending either type of tax return under section 83 (amendment of return by taxpayer) of the Revenue Scotland and Tax Powers Act 2014 ("the 2014 Act"). Regulation 2(4) amends section 23(3) to clarify that the provision which section 23(3) makes in connection with when ADT "is treated as paid" applies for the purposes of each of these deadlines. As a consequence of those amendments, regulation 2(11) makes a consequential amendment to paragraph 9(2) of schedule 2 (minor and consequential modifications to the 2014 Act) of the 2017 Act. In addition, regulation 2(4) inserts a definition at subsection (4), which replicates the existing definition of an "accounting period" (which is moved from section 24(3) on quarterly returns) and inserts a new defined term for "an occasional return accounting period". These definitions apply in sections 23, 24 and 25.

Regulation 2(4) also confers powers on Revenue Scotland to, in relation to a taxable person, vary the length, start date or end date of an accounting period, or any date by which a quarterly return must be made, and to allow or direct a taxable person to make a quarterly return in accordance with the accounting period and dates as varied. Additionally, it imposes a duty on a taxable person to comply with any such direction given to them by Revenue Scotland.

Regulation 2(6) amends section 25 (occasional returns) to clarify the circumstances in which an occasional return is due and impose a new deadline for making occasional returns with reference to an occasional return accounting period.

Regulation 2(7) and (8) amend section 28(1) and section 32(1)(a) of the 2017 Act, respectively, in connection with the appointment of, and eligibility to be, a tax representative. As amended, section 28(1)(a) provides that, unless a taxable person is making occasional returns under section 25, they must have a tax representative where they do not have a business establishment or other fixed establishment in the United Kingdom ("the UK"). As amended, section 32(1)(a) provides that one of the criteria which must be met in order for a person to be eligible to be a tax representative for ADT purposes is that the person has a business establishment or other fixed

establishment in the UK. Regulation 2(10)(a) makes consequential amendments to section 44(1) (interpretation).

Regulation 2(9) inserts five new sections (34A to 34E) into Part 4 of the 2017 Act. Sections 34A to 34D make provision in connection with group registrations of companies for ADT purposes. Regulation 2(10)(b) makes a consequential amendment to section 44(1) (interpretation). Section 34E makes provision in connection with the transfer of a taxable business as a going concern for ADT purposes.

Regulation 2(12) makes consequential amendments to the Index of Defined Expressions in schedule 3 of the 2017 Act.

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