



BRIEFING PAPER

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Air passenger duty: the approach of the Labour Government (2007-10)

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Summary

Air passenger duty (APD) is charged on all passenger flights from UK airports. The rate of duty varies according to passenger destination and the class of passenger travel.¹ APD is estimated to raise £3.7 billion in 2018/19.²

The tax was introduced in the November 1993 Budget and came into effect on 1 November 1994. Initially APD was charged at the rate of £5 on flights within the UK and to other countries in the European Economic Area (EEA), and £10 on flights elsewhere. These rates were increased to £10 and £20 respectively from 1 November 1997.

The structure of the tax was reformed in April 2001, with a lower rate of duty for economy fares. Initially economy fares were charged duty at £5 for flights within the EEA and £20 to other countries. First class and club class flights were charged £10 for EEA flights and £40 for flights elsewhere.³ Duty rates remained frozen for over five years, despite concerns about the environmental impact of aviation, though in December 2006, the then Chancellor, Gordon Brown, announced that all duty rates would be doubled from 1 February 2007.⁴

Some commentators have argued that APD should be charged on planes rather than passengers, to provide better incentives for passengers and airlines to cut carbon emissions from aviation. In January 2008 the Labour Government launched a consultation on just such a change, but in November that year the then Chancellor Alistair Darling announced that instead of a per-plane duty, APD would be restructured: the tax would be based on four geographical bands set at intervals of 2,000 miles, so that travellers flying farther would pay a higher rate of duty. There would be two rates of duty within each band: a standard rate, and a reduced rate to apply to the lowest class of travel.⁵ The new structure took effect from 1 November 2009, despite concerns about the impact of the new system for passengers making long haul flights, particularly those making journeys to the Caribbean. This note discusses these developments; a companion note discusses the introduction of APD and the first years of its operation.⁶

During the 2010 General Election campaign both the Conservatives and the Liberal Democrats argued for reforming APD. In its first Budget in June 2010 the new Coalition Government stated that it would “explore changes to the aviation tax system, including switching from a per-passenger to a per-plane duty.”⁷ In the 2011 Budget the Government stated it would not proceed with a per-plane duty “given concerns over the legality and feasibility of this approach”⁸ but it would consult on options for simplifying the rate structure as well as proposals to extend the scope of the tax to flights on business jets.⁹ In December 2011 the Government confirmed that a new higher rate of duty would apply to business flights from 1 April 2013, but the 4-band structure would be retained.¹⁰ Over this period travel organisations and airlines campaigned consistently for APD to be

¹ HM Revenue & Customs, [Rates for air passenger duty: guidance](#), May 2018

² Office for Budget Responsibility, [Economic and Fiscal Outlook, Cm 9713, October 2018 \(Table 4.6\)](#)

³ HC Deb 21 March 2000 c869; HM Customs & Excise Budget press notice C&E4, 21 March 2000.

⁴ HC Deb 6 December 2006 c310

⁵ [HC Deb 24 November 2008 c499](#); [HMT Pre-Budget Report press notice PBR08/2, 24 November 2008](#)

⁶ [Air passenger duty: introduction, Commons Briefing paper CBP413](#), 14 February 2019

⁷ [Budget 2010 HC 61, June 2010](#) p36

⁸ [Budget 2011 HC 836, March 2011](#) para 1.152-3

⁹ HM Treasury, [Reform of Air Passenger Duty: a consultation](#), March 2011 para 1.4

¹⁰ HM Treasury, [Reform of Air Passenger Duty: response to consultation](#), December 2011

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scrapped, though Ministers opposed cutting duty rates or abolishing the tax on grounds of cost.¹¹

In his 2014 Budget the then Chancellor, George Osborne, announced that from April 2015 the 4-band structure of the tax would be replaced with 2-bands: Band A for short haul flights, and Band B for all long-haul flights. Mr Osborne also proposed that the higher rates of duty for flights on private jets would be substantially increased.¹² This reform was estimated to cost £215m in 2015/16, rising to £250m by 2018/19.¹³ Subsequently in his Autumn Statement that year the Chancellor announced that APD on economy flights would be scrapped for children in two stages: first, from 1 May 2015 for children under 12, and then from 1 March 2016 for children under 16.¹⁴ No further changes have been made to the structure of APD since then. These later developments are examined in a third briefing paper.¹⁵

¹¹ For example, see comments by Treasury Minister David Gauke in an Opposition day debate on APD in October 2013 ([HC Deb 23 October 2013 c403](#)).

¹² HC Deb 19 March 2014 c787; [Budget 2014, HC1104, March 2014](#) para 2.160-1

¹³ [Budget 2014](#), HC1104, March 2014 p57 (Table 2.1 – item 36).

¹⁴ HC Deb 3 December 2014 c312. This was estimated to cost £45m in 2016/17, and £85m in 2017/18: [Budget 2015](#), HC1093, March 2015 ([Table 2.2 – item c](#)).

¹⁵ [Air passenger duty: recent debates and reform, Commons Briefing paper CBP5094](#), 14 February 2019

1. Consultation on a new 'per plane' tax (2007-2008)

In its 2007 Budget the Labour Government indicated that it would consider reforming the structure of APD, given the growing significance of aviation in global carbon emissions, and wider concerns over the pace of global warming:

7.85 The Government believes that air passenger duty plays a valuable role in ensuring that passengers understand and acknowledge the environmental costs of their actions. The resultant behaviour change can deliver significant climate change benefits: the decision announced in the 2006 Pre-Budget Report to increase the rates of air passenger duty from 1 February 2007 will deliver climate change savings equivalent to around 0.75 MtC per year by 2010-11.

The aviation industry has suggested to Government that the way in which air passenger duty defines different classes of travel may not always send the appropriate environmental signal and may cause market distortions, for example for "business class only" flights and "premium economy"-type seats. The Government is open to introducing changes to the definition, but only if it can be done on a broadly revenue neutral basis. The Government will discuss further with industry how this can be achieved.¹⁶

A consultation paper was issued in May 2007 on the second of these issues – the correct classification of flights for the standard duty rate.¹⁷ In the 2007 Pre-Budget Report the Labour Government announced that the scope of standard rate would be amended, so that single class flights offering only a business class service would no longer qualify for the reduced rate.¹⁸

Notably, the case for reforming the structure of the tax was raised by two Members during the second reading of the Finance Bill in April. In his speech John Redwood said:

I agree with those who say that if we are to use tax as a means of trying to reduce air passenger journeys at the margin—it will reduce the growth rate rather than cut it—we need to look into ways of trying to capture what is meant to be the mischief here, which is people travelling on planes with not many people on them or travelling on old or dirty planes or a combination of the two. Clearly, there is a green case to be made there.¹⁹

Speaking for the Liberal Democrats, Julia Goldsworthy said, "one of the other frustrations about the increases in air passenger duty is that they bear no relation to how busy the flight is, to the aeroplane's emissions or to its fuel-efficient. We must therefore question what impact they can have on changing behaviour."²⁰

¹⁶ HC 342 March 2007 p186

¹⁷ HC Deb 1 May 2007 c37WS

¹⁸ HM Revenue & Customs Pre Budget Notice PBRN24, 9 October 2007. Provision was made by s153 of *Finance Act 2008* – with effect from 1 November 2008.

¹⁹ HC Deb 23 April 2007 c729

²⁰ HC Deb 23 April 2007 c686

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In his Pre-Budget statement on 9 October 2007, the then Chancellor Alistair Darling announced consultation on replacing APD, from 1 November 2009:

Air travel accounts for a growing share of carbon emissions, so it is right that aircraft emissions should be part of the EU emissions trading scheme. I also propose that aviation makes a greater contribution in respect of its environmental impact. For that to be as environmentally effective as possible, I intend from 2009 to levy the duty not on individual passengers but on flights, to encourage greater and more efficient use of planes.²¹

Speaking for the Conservatives George Osborne was critical that proposals to reform the tax had not been made before, while Vincent Cable, for the Liberal Democrats, congratulated the Chancellor “on adopting our long-standing policy on aviation taxation.”²² Nevertheless, the statement was generally welcomed, both by the industry and environmental groups.²³

The Government published its consultation paper on 31 January 2008, inviting responses by 24 April;²⁴ the paper set out a number of principles which would underpin any reform:

These [principles] are, in so far as they are practically possible to:

- ensure the industry makes a greater contribution towards its environmental costs and to ensure that the aviation sector continues to contribute fairly and equitably towards the funding of public services;
- have a fairer duty more in line with the environmental impacts of flights, including the distance travelled, and which takes account of any social or economic impacts including market distortions;
- provide incentives for the more efficient use of planes by taxing similarly sized aircraft the same, no matter how full the plane;
- as a starting assumption, apply aviation duty to all flights taking off from the UK, as all aircraft produce emissions;
- have a simple, transparent and coherent duty which imposes minimal administrative burdens on industry and Government and minimises the capacity for non-compliance and for artificial tax-motivated behaviour which does not deliver environmental benefits; and
- ensure that it is compatible with the UK’s commitments under international law, including the Chicago Convention, bilateral agreements and EU law.²⁵

One major obstacle to reforming the taxation of aviation is international law, which provides for the exemption of airlines from national taxes and customs duties on a range of aviation-related goods, including

²¹ HC Deb 9 October 2007 c172. At this time the Government announced that in advance of this reform, the rates of APD would be frozen for 2008/09 (*Pre-Budget Report*, Cm 7227 October 2007 para 7.56).

²² HC Deb 9 October 2007 c175, c179

²³ “Freight flights and private jets to pay new aircraft tax”, *Times*, 10 October 2007

²⁴ HC Deb 31 January 2008 c22WS

²⁵ HMT/HMRC, *Aviation duty – a consultation*, January 2008 para 1.17

parts, stores and fuel. This is a standard element of the network of bilateral 'Air Service Agreements' (ASAs) between individual countries, following the principles of the 'Chicago Convention', the fundamental treaty on international civil aviation. As a result aviation kerosene, used in jet engines, is exempt from excise duty – and any new tax that was based, in effect, on the amount of fuel used by a plane, would be illegal.²⁶ There have been some moves to reach an international agreement on ending this anomaly but progress has been glacial.²⁷

Given the legal restrictions on the direct or indirect taxation of the quantity of fuel used on international flights, the discussion paper made three suggestions for the basis of a new tax: Maximum Take-Off Weight, NOx emissions during landing and take-off (LTO), and CO2 emissions during LTO. Of these three the Government's preference was for Maximum Take-Off Weight (MTOW) – that is, the heaviest weight at which an aircraft has been shown to meet all the airworthiness requirements applicable to it. There were two main reasons for this choice:

- MTOW is a standard measure of an aircraft that is recorded by all manufacturers and operators. This measure is already in use for determining some airport charges and would therefore provide a minimal administrative burden to business...
- MTOW provides a reasonable proxy for the environmental impact of a flight [as there is] ... a reasonably good relationship between MTOW and emissions per cruise km.²⁸

For its part the Labour Government suggested that MTOW would be *combined* with a distance factor to determine the basis of the new duty, given that "one of the key objectives behind the reform of aviation taxation is to make it better correlated to distance travelled, in order to align it more closely with actual environmental costs." Using the actual distance flown by any aircraft would not be simple: "Each flight may deviate from the most direct route planned for a number of reasons including airspace permissions, weather, and time spent in holding patterns."²⁹

The paper discussed two possible measures: "great circle distance" – the shortest distance between landing and take-off points measured along a path on the surface of the globe – or, banding of distances – that is, placing destinations from the UK in one of three geographical bands. The Government took the view that banding was a preferable measure:

[Great circle distance] is commonly used as a navigational method. Examples of approximate great circle distances are:

- London – Paris – 210 miles

²⁶ For more background see, [Taxing aviation fuel](#), Commons Briefing paper CBP523, 2 October 2012.

²⁷ As noted by the Labour Government in its response to the Environmental Audit Committee's report on the 2008 PBR (*Fourth special report*, 8 June 2009 HC 563 2008-09 p9).

²⁸ *Aviation duty*, January 2008 para 2.7

²⁹ *Aviation duty*, January 2008 para 2.24-5

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- Edinburgh – New York – 3,250 miles
- Manchester – Dubai – 3,520 miles
- Birmingham – Cape Town – 6,075 miles
- London – Singapore – 6,750 miles

While this is a transparent method, the above figures show how it could potentially result in large differentials in the duty between short and long haul flights. Having too great a differential could potentially lead to market distortion through both operator and passenger changes in behaviour, for example through passengers choosing to fly to a destination through an intermediate hub ...

Air passenger duty is charged based on destination and distinguishes between European and non-European destinations. In light of the difficulties involving great circle distance, it makes sense to consider a version of this system for aviation duty. This could consist of the current EEA/non-EEA split or could be extended to include a number of different bandings. Banding would be a less exact measure of the actual distance travelled by an aircraft, however, it would reduce the potential for market distortions and provide significantly increased simplicity.³⁰

The Institute for Fiscal Studies looked at the various options for reforming APD in its Green Budget in January 2008. The authors noted that “the taxation of air travel is now considered by the government to be an environmental tax”, although APD had not been seen as such when first introduced. Given this, APD suffered from “three key disadvantages that a per-flight tax could help overcome”:

- First, the link between the passenger and the externality is weak. APD varies only loosely by destination and seat class: someone flying standard class to Turkey will pay the same tax as someone flying standard class domestically despite the much longer distance travelled and the greater total emissions generated. Of course, APD could be reformed to correlate more closely with emissions, and the move to a per-flight tax should be used to consider a wholesale reform of the factors that influence the tax rate to help improve the environmental targeting. However, there is a clear trade-off between effective externality targeting and administrative simplicity ...
- Second, APD (and per-passenger taxes in general) do not provide any additional incentive for airlines to operate their aircraft at greater capacity. Noise and emissions depend only very marginally on the degree to which the plane is full – environmentally, it would be much better to fly one plane fully loaded than two planes at half capacity ...
- Third, APD and passenger taxes cannot be generalised straightforwardly to freight-only flights. This is clearly not the case when the tax base is the flight itself. At present, freight flights are untaxed in the UK but clearly they still generate noise and environmental emissions and there are no really convincing economic arguments for excluding them from any environmental tax regime. Indeed, exempting freight-only flights from any reformed aviation duty could create perverse incentives for airlines to operate

³⁰ *Aviation duty*, January 2008 paras 2.27-9. The paper gave two worked examples of how the tax might work in practice at pp 19-20.

two small aircraft, one for passengers and one for freight, rather than one larger aircraft carrying both passengers and freight.³¹

The authors went on to observe that moving to a flight-based tax would make it much harder to provide tax relief to certain categories of passenger:

Whilst there may be obvious advantages to a flight-based tax over a passenger-based tax, one possible problem is that flight taxes make it harder to exempt certain categories of individuals from incurring a liability than do passenger taxes. At the moment, transfer and transit passengers are exempt from APD, presumably so as not to damage the position of the UK as an international hub for air travel. In moving to a flight tax, it becomes a little more complex to exempt such passengers, though one can imagine a rebate (or discount) system that could operate to reduce the liability of planes that carry transfer passengers. However, this would come at the cost of making the tax more complex.³²

Paving legislation was introduced in the *Finance Act 2008* to allow the department to incur expenditure on the development of the new tax.³³ When debated at the Committee stage of the Bill, the then Economic Secretary, Kitty Ussher, stated that the Government were determined to “understand the effects [of a new charge] on industry as much as possible ... [which] is why we have not already set out the design.” Speaking for the Conservatives, Justine Greening noted that the Opposition “support this mutual per plane charge, because it is a much better structure for the tax.”³⁴

During this period, the industry were quite critical of the proposed reform;³⁵ a columnist in the *Financial Times* noted that basing the tax charge on take-off weight “will provide no incentive [for airlines] to use more efficient aircraft ... there is also the practical problem of how airlines will pass this tax on to customers.”³⁶ Other concerns raised were that passengers, and freight companies, would use non-UK hubs to avoid the tax – especially transit passengers who are currently exempt from APD.³⁷ It was also reported that similar criticisms were made by the US Government, in private correspondence with the Treasury.³⁸

In June Sir Nicholas Winterton laid an EDM critical of the new tax, arguing it would “achieve none of the environmental benefits intended”; the motion was signed by 16 Members.³⁹ 30 Members signed a second EDM in October opposing the new charge, focusing on the impact it would have on the industry and on regional

³¹ [“Aviation taxes”](#), in *Green Budget 2008*, IFS January 2008 pp205-6

³² *Green Budget 2008*, January 2008 p206

³³ specifically, s152 of *Finance Act 2008* (HM Revenue & Customs Budget Note BN72, 19 March 2008). The use of paving legislation of this type is not particularly common, though generally it is not controversial.

³⁴ Public Bill Committee (Finance Bill), 12 June 2008 cc715-6

³⁵ eg, “Airlines warn Treasury over duty reforms”, *Financial Times*, 25 April 2008

³⁶ “The world needs a workable air travel tax”, *Financial Times*, 6 May 2008

³⁷ “Treasury hints at retreat on aviation tax reform”, *Financial Times*, 7 June 2008

³⁸ “US fury over ‘stealth tax’ on airlines”, *Daily Telegraph*, 7 June 2008

³⁹ EDM 1713 of 2007-08, 5 June 2008

development.⁴⁰ Graham Stringer raised all three objections to the reform in a debate in Westminster Hall at this time; in his speech, the Member suggested the basis of the tax would create the wrong incentives for airlines, and its collection would pose serious problems for airports:

If the basis of taxation is both distance and the maximum take-off weight, there is no incentive, when there should be, for airlines using old planes to invest in new ones with less environmental or noise impact. We have a perverse incentive to keep using the old aircraft, in which an investment has already been made, instead of moving to newer ones. Let us compare the carbon dioxide emitted by similar airplanes of different generations—the Boeing 737-200 compared with the Airbus A319. The Airbus is a heavier plane, but gives off approximately 25 per cent. less carbon dioxide, both in flight and at take-off. We should want to incentivise people to use that plane, but on the basis of the proposals before us doing so would cost more in tax, which is not sensible ... Administratively, air passenger duty is collected by the airlines, and the collection system is very efficient—it costs a few pence per £100 to collect the duty. Transferring responsibility to airports would result in an inefficient system; the set-up and administrative costs would be large, and there would be difficulties if an airline was diverted—say from Manchester to East Midlands—over who would collect the tax.⁴¹

In response the then Exchequer Secretary, Angela Eagle, confirmed that the Government were “still of the opinion that maximum take-off weight is probably about the best proxy for emissions that we have at the moment”:

Charging for emissions on routes has already been deemed illegal in the European courts, so it is dubious in the extreme whether we could charge a tax purely on emissions for those purposes, given our international agreements. We therefore have to find a proxy. We consulted on maximum take-off weight, and heard about some of the problems that have been raised in today’s debate. We are happy to listen to other observations about whether we could use nitrate emissions and various other things, but the key to levying a tax is that it has to be simple enough for people to understand in advance what their liability is likely to be, robust enough not to vary between different flights by the same aircraft, and stable enough.⁴²

⁴⁰ EDM 2168 of 2007-08, 6 October 2008

⁴¹ HC Deb 8 October 2008 cc112-3WH

⁴² HC Deb 8 October 2008 c128WH

2. Reforming the structure of APD (2008-2009)

2.1 The new four-band tax (Pre-Budget Report 2008)

In his Pre-Budget statement on 24 November 2008, the then Chancellor, Alistair Darling, announced that the Government would *not* go ahead with this reform:

Last year, there was cross-party support for a reform of air passenger duty and converting it to a tax per plane. Much as I am in favour of a bipartisan approach, it seems in this case not to have reached the right conclusion. I believe that this proposal could harm the aviation industry at a time when it is facing huge problems. So instead, I have decided to reform air passenger duty into a four-band tax system, ensuring that those who travel further and have a larger environmental impact meet the cost. I believe that this will be a better and effective way of reducing emissions from aviation.⁴³

Details of the new structure for APD were given the *Pre-Budget Report*.

7.56 From 1 November 2009, APD will be structured around four distance bands, set at intervals of 2,000 miles from London. This reform will ensure that those flying farther, and therefore contributing more to emissions from aviation, will pay more.

Table 7.2 provides details of the reformed APD rates.

Table 7.2: Air passenger duty rates

Band and approximate distance in miles from the UK	In the lowest class of travel (reduced rate) from:		In other than the lowest class of travel (standard rate) from:	
	1 November 2009	1 November 2010	1 November 2009	1 November 2010
Band A (0-2000)	£11	£12	£22	£24
Band B (2001-4000)	£45	£60	£90	£120
Band C (4001- 6000)	£50	£75	£100	£150
Band D (over 6000)	£55	£85	£110	£170

* If only one class of travel is available and that class provides for seating in excess of 40* then the standard (rather than the reduced) rate of APD applies.

7.57 Reforming APD takes account of the need in the present economic circumstances, to mitigate the potential impact on the air-freight sector, the impact on employment in this sector, and the wider business community which relies on air-freight services; as well as mitigating the potential regional employment and connectivity impacts.

7.58 Recognising the short-term economic pressures and consequential reduction in demand for air travel, revenues from the aviation industry have also been revised in the short term from Budget 2008 forecasts. The Government estimates the carbon dioxide impacts of this reform of APD to be 0.6 MtCO₂ in 2011-12, and when a radiative forcing factor is applied, this rises to 1.2 MtCO₂.¹⁵ Coupled with savings from the doubling of APD rates

⁴³ HC Deb 24 November 2008 c499

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in 2007, this will achieve a combined reduction of 2.4 MtCO₂ in 2011-12.⁴⁴

A few more details on the design of the new distance bands, and the date at which they would take effect, was given in a Pre-Budget notice:

[Under the new structure of the tax] destinations will be categorised into four geographical bands based on distance from London to the capital city of the destination country/territory (with the exception of the Russian Federation which is split east and west of the Urals). Each band will have two rates, one for standard class of travel and one for other classes of travel ... Distances are based on the distance between London and the capital city of the destination country/territory ...

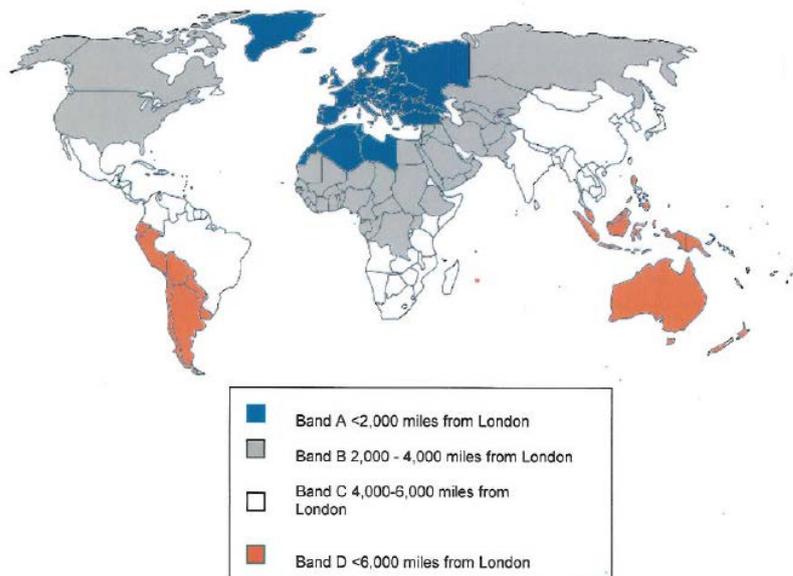
Changes will have effect in relation to any carriage of a passenger which begins on or after 1 November 2009, irrespective of when the ticket for travel was booked or purchased. APD is a tax on the airlines and, although they are not legally obliged to, many choose to pass on this charge to the passenger in the form of a business charge. For convenience this is usually done at the time of the ticket sale, although the tax itself is not due until the aircraft takes off. Whether or not the airline chooses to pass on this latest rate increase is consequently a business decision and outside the remit of HM Revenue & Customs (HMRC).⁴⁵

The Government also confirmed that the existing scope of, and exemptions from, APD would remain in place, including the exemption for the Highlands and Islands of Scotland.⁴⁶

An indication of the four new bands is provided in the map below, produced by the Treasury:⁴⁷

Map of Air Passenger Duty geographical bandings

NB: INDICATIVE ONLY - FOR ILLUSTRATIVE PURPOSES



⁴⁴ *Pre-Budget Report*, Cm 7484 November 2008 pp138-9

⁴⁵ HM Revenue & Customs Pre-Budget Note PBRN20, 24 November 2008

⁴⁶ HC Deb 8 December 2008 c12W

⁴⁷ HM Treasury, *Letter from Kitty Ussher MP to Mark Hoban MP regarding the Finance Bill 2008-09*, Commons Deposited paper DEP2009-1707, 16 June 2009 p3

This reform was estimated to cost the Exchequer £70 million in 2009/10, rising to £190 million in 2010/11.⁴⁸ This compared with the £1.9bn which the tax rose in 2008/09.⁴⁹

The Government published a summary of the responses it had to its consultation document, alongside the 2008 PBR, which shed some light on its decision; an extract is copied below:

Basing a tax on emissions en route is not possible under international agreements. Therefore the Government proposed what it considered the best alternative and legal method for the basis of the tax, which was a measure of the aircraft combined with a distance measure.

The Government's lead option for the aircraft measure was Maximum Take-Off Weight (MTOW). The airline industry and airports did not support this measure as they felt it did not reflect environmental performance or incentivise environmental efficiency - a view shared by environmental groups. The freight industry and manufacturers were also opposed, claiming aircraft rarely operate at MTOW and so would be unfairly taxed. Two alternative options were considered but most respondents shared the Government's initial view that the data for these options were not sufficiently robust to be the basis of the tax.

Distance A key objective of aviation taxation reform was to make the tax take greater account of distance travelled, in order better to reflect the environmental impact. Therefore, the Government's lead option was that a distance measure should be used in conjunction with an aircraft measure in order to determine the basis of aviation duty. Overall respondents agreed that some measure of distance should be applied in determining the basis of the tax. However, some felt that a distance measure combined with MTOW would not be appropriate and any distance system based on first destination could create a strong incentive for passengers and freight with long-haul destinations to hub outside the UK. This could potentially increase overall emissions with a greater number of landing and take-offs, or simply displace CO₂ emissions from the UK to alternative hub airports. A great many respondents suggested that any banding system should have more than three distance bands and that the tax should be levied on final destination ...

Consistent with the Government's objectives to provide additional support to businesses and individuals in the short-term and maintain action on climate change, **the Government has decided not to proceed with a per-plane tax. Instead the Government has decided to reform the APD regime.** The main element of the reform of APD is to double the number of distance bands from two to four. From 1 November 2009, APD will be structured around four equi-distant bands, set at intervals of 2,000 miles from London. This reform will ensure that those

⁴⁸ HC 407 April 2009 p154 (Table A2). A footnote to this table adds, "the APD costings are measured against a baseline that assumes the introduction of aviation duty as announced in Budget 2008. As the Budget 2009 air passenger duty rates result in a lower exchequer yield, the resulting costings are negative." *Budget 2008* estimated that aviation duty would raise £110m in 2009-10, rising to £520m in 2010-11 (HC 388 March 2008 p112, Table A2).

⁴⁹ *Budget 2010* HC 451 March 2010 p193

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flying farther, and therefore contributing more to emissions from aviation, will pay more.⁵⁰

However, the announcement was strongly criticised, both from environmental groups, on the grounds that the tax had not been reformed, and from the industry, on the grounds that APD rates on long distance flights were to rise so strongly.⁵¹

In evidence before the Treasury Committee after the PBR, Edward Troup (Director, Business and Indirect Tax, HM Treasury) acknowledged concerns that the new higher bands might encourage passengers to use Continental airports for long-distances flights, but argued that this effect would be more pronounced with a per plane tax:

We are actually making it more difficult to fragment flights [book flights via hub airports in separate components] because it does require passengers actually to buy two separate tickets. So, to the extent that there is a problem of diversion, it is actually a greater problem under a per plane tax than it is under a reformed, banded APD. While, as I say, we recognise that there is a risk of diversion fragmentation, actually these reforms carry a lesser risk and unless we are to give up on any attempt to band APD and air passenger taxation to try and ensure a proper contribution with a greater degree of proportionality to emissions, I think that problem will always exist.⁵²

The Committee were not convinced by this line of reasoning:

We note that Air Passenger Duty excludes freight flights and imposes comparatively low charges on private planes, maintaining an inconsistent handling of aviation emissions. We further note the risk that distance based bands of APD will encourage travellers to fly via European hubs. We are of the view that the disparity in fare level will indeed encourage passengers to fly via European hubs. We recommend that the Government monitors the impact of the introduction of higher banding Air Passenger Duty in order to ascertain the impact of APD on UK hubs, passenger preferences, and the financial consequences for airlines. If the recovery from recession is to be a 'green recovery', as the Pre-Budget Report has stated, this rhetoric has to be supported by an appropriate taxation strategy.⁵³

In its response the Labour Government confirmed that it would monitor the impact of the new banding structure, and carry out a 'post implementation review' within three years. It also addressed the question of whether the new rates would encourage significant numbers of passengers to use European hubs instead of UK airports:

Although APD is due on all flights departing from UK airports, a transit and transfer exemption exists, which exempts the second leg of a connected flight from APD. This means that for flights originating from outside the UK but which connect at a UK hub before flying onwards, no APD is due. Similarly, for those flights that originate from a regional UK airport, and then transfer in

⁵⁰ HM Treasury, *Aviation duty: response to consultation*, November 2008 pp5-6, p8

⁵¹ for example, "Flight taxes to rise as reform dropped", *Financial Times*, & "Environment duty on long haul flights", *Guardian*, 25 November 2008

⁵² *Second report: Pre-Budget Report 2008*, 28 January 2008 HC 27 2008-09 Ev33 Q190

⁵³ *op.cit.* para 153

London, APD is paid only once, according to the final destination. These arrangements remain in place under reformed APD.

A passenger's decision to reduce their APD liability by taking a separate flight to the near continent and then a further flight from there, is a personal one and is influenced by a number of factors, of which price is but one. Although travelling on disconnected flights may be a means for passengers to reduce airlines' charges for APD, there are a number of practical as well as financial consequences of such travel arrangements. A passenger with two unconnected tickets for travel will need to 'land' himself at the first destination airport, and then check back in for the second flight. By doing so not only will he be subject to any taxes or charges due for that country, but both airlines will incur handling charges for processing the passenger, which are likely to be passed on.⁵⁴

For its part, the Environmental Audit Committee was strongly critical of the decision, in its report on the PBR published in March 2009:

We are unconvinced by the reasoning behind the Government's decision not to go ahead with a per plane charge, the arguments for which the Treasury had formerly accepted. We are extremely concerned that the Government is abandoning a proposal that by its own admission would send better environmental signals and better represent the environmental costs. The decision to backtrack on this commitment means that air freight will continue to be entirely untaxed—in direct conflict with the Treasury's endorsement of the 'polluter pays' principle.⁵⁵

The Committee was also doubtful that the new rates of APD would reduce the growth in aviation emissions:

Even though the rates of Air Passenger Duty are set to increase in each of the next two years, in real terms the Band A reduced rate in 2010-11 will still be 5% lower than in 1997. Equally, we doubt that the highest rate (from 2010-11) of £170 for Band D flights will do much to affect the number of such journeys, given it will add only 2.5%⁵⁶ to an average business class return from London to Sydney, costing around £6,640.⁵⁷

Unsurprisingly the Labour Government resisted the Committee's argument that a per plane tax should still be introduced, and said a little as to how it thought the new 4 band structure would discourage 'unnecessary air travel':

The reform will ensure that those flying further, and therefore contributing more to emissions from aviation, will pay more. In setting the rates for each band, we have sought to improve the correlation with the environmental damage of each journey. For instance, a passenger travelling to Band D will emit on average, around 14 times as much carbon dioxide as one travelling to a Band A destination. This reform will also result in savings of 0.6 MtCO₂ in 2011/12.⁵⁸

⁵⁴ *Third special report*, 1 May 2009 HC 431 2008-09 p10

⁵⁵ *Pre-Budget Report 2008*, 16 March 2009, HC 202 of 2008-09 para 49

⁵⁶ Based on a fully flexible business class return from London to Sydney, quoted at £6,642 for February 2009

⁵⁷ HC 202 2008-09 para 51

⁵⁸ *Fourth special report*, 8 June 2009 HC 563 2008-09 p8

2.2 Legislation to reform APD (Finance Act 2009)

Provision for the new banding structure for APD is made in the *Finance Act 2009* (section 17 & schedule 5). When these provisions were debated in Committee, Greg Hands, speaking for the Conservatives, was critical of the new structure for APD; in particular, flights of quite different lengths – say, flights to Boston and Hawaii – would be charged the same rate of duty, because the two destinations were in the same country. In his speech Mr Hands specifically mentioned the impact of the new structure on flights to the Caribbean:

Many people are concerned that the Caribbean, which is most dependent on tourism, will be included in the part 3 territories. A family of four will pay £300 in APD from November 2010 for a return flight to the Caribbean, which is a lot of money for a family holiday. Caribbean Governments have reacted furiously to that proposal—I happen to know that because some of their high commissions are located in my constituency and around 10 per cent. of my constituents are of Caribbean origin. Under the bands, Florida would be in part 2, but the whole of the Caribbean would be in part 3. I have read in the *Travel Trade Gazette* that the Governments of those countries have drawn up lists of UK parliamentary constituencies where their voices can make a big difference. The Jamaican tourism Minister, Ed Bartlett, speaking at a reception here in the Palace of Westminster in April said: “The Caribbean communities in the UK are beginning to understand this will hurt them” ...

[The tax] has been split into bands—rather imperfectly, if I may say so, but the point about dividing it up remains good none the less. Within the US, of course, the distances are massive, but the US is far easier to define in terms of where in the US one could be based—for example, in any of the 50 states. It is much easier to define than Russia, which is one continuous country. Although Russia is a federation, most of the component parts are very small republics. However, a flight from London to Boston will attract the same APD as one to Honolulu, despite covering less than half the distance. Can it be right that a flight from London to Honolulu, which might be competing with the flights to the Caribbean that I talked about earlier, will be subject to significantly less APD than a flight to Jamaica? I think that the schedule is somewhat flawed in that regard.⁵⁹

Mr Hands also noted that the rate of tax on the longest flights would rise by over 110%. He went on to argue that designing an effective per plane tax was still possible:

There are certainly difficulties in drawing up an all-encompassing system and, to be fair, in launching the consultation the Government were aware of at least a few of them; however, they have backed down through a combination of a lack of will and poor starting points ... if the Government did not want to extend taxation to other parts of the industry, such as freight operators, at this time, why did they not introduce a per-plane tax for commercial passenger aircraft only, which would only affect

⁵⁹ Public Bill Committee (Finance Bill), 2 June 2009 c150, c158. This anomaly was the subject of an EDM at the time, which 47 Members signed (EDM 1761 of 2008-09, 29 June 2009).

flights that already pay APD? The commercial aviation sector favoured the existing operator-HMRC collection model. The move would have solved the administrative problem as well. Most of all, it would have introduced a disincentive to fly empty planes, which everyone regards as sensible and which will still be lacking now that APD is to be reformed and not replaced.⁶⁰

Speaking for the Liberal Democrats, Jeremy Browne was also supportive of shifting to a per plane tax:

To have an environmental component to taxation, and to make the effort to tax flying, seems to be a sensible measure. That is our starting point: we are not hostile to the concept. However, I am very pleased that the Conservative party has seen the wisdom of the Liberal Democrats' proposals to levy such taxes on aircraft, rather than on passengers. Levying a tax on passengers is a rather blunt and crude instrument. For a start, it gives airlines no tax incentive, beyond their commercial incentive, to run planes at full capacity. A further tax incentive to do so would clearly be beneficial to the environment. We even have the situation, which has been reported in the media, where so-called phantom planes fly around to make sure that the airlines have their planes in the right places for all of their flights. There is no incentive, apart from the obvious commercial incentive, to put passengers on those flights. Given the environmental impact of flying, it seems sensible to my party to incentivise airlines to carry passengers. That would be more easily achieved by taxing the flights themselves, rather than the passengers who are travelling on those flights.⁶¹

In response to the debate, the then Exchequer Secretary, Angela Eagle, acknowledged that there were anomalies in the new 4 band structure, but that the 'rough and ready' approach taken in its design "makes the system quicker, easier and less complicated to administer." She noted the concerns expressed about flights to the Caribbean, but did not make any commitment to alter the tax structure:

[The new] banding structure simply makes the system easier to administer for all concerned, including those airlines that have to calculate and pay the tax. That does not mean to say that anomalies do not arise from a rough-and-ready rather than an absolute approach. We have gone for the rough-and-ready approach. I understand the points that are being made about some of the anomalies with capital cities, particularly Washington in relation to destinations in other US states and in Caribbean countries. However, I suppose that a rough-and-ready calculation is precisely that, and one can always find anomalies ... If absolutely every last mile of distance has to be calculated, that leads to a different structure for the tax. That would be a different way of doing it and it would not be rough and ready ...

[Mr Hands] mentioned Caribbean communities. We are aware of their circumstances and we are listening to their representations. Clearly, it mainly involves the anomaly of Hawaii. One can either shift the bands around and have large numbers of bands to incorporate a whole range of issues, such as countries that are close to the edge of bands or countries that are far away, or one

⁶⁰ PBC 2 June 2009 cc155-6

⁶¹ PBC 2 June 2009 cc160-1

can say, "This is the system and we have to live with it and the way in which it works."⁶²

The Minister went on to discuss some of the difficulties to designing a per plane charge, which resulted in the Government's policy reversal:

[During the consultation process] we were particularly struck by the difficulties of developing a per-plane tax, not least because of its effect on freight and the great practical difficulties in trying to incorporate freight into the system. Although I am not allowed to look at the papers of previous Administrations, I suspect that that was why freight was not included in earlier stages when the tax was originally developed. It is difficult to include freight ...

We were particularly worried about the regional impact when we had a closer look at that following representations from the freight industry and airlines, particularly regional airlines, and not only in the south of the country, but in other areas where we were worried about the potential effect on employment. It is difficult to develop a policy for an industry that is relatively untaxed, as we know, because of the Chicago convention and the way in which the airline industry has developed, and actually it is very mobile by definition. Therefore, there always has to be a balance between trying to have a tax system that is legal—because of the issues relating to the Chicago convention ... —and trying to have one that does not cause perverse incentives or have the unintended effect of driving business offshore.⁶³

The Minister also addressed the question of why the Government had not decided to introduce a per plane tax on commercial passenger transport:

Given the economic situation that developed between PBR 2008 and 2009, the timing was not correct for the disruption that would be caused by moving to a completely new tax in that area. We were worried about some of the issues with hubbing, too [as] ... a per-plane tax would make the situation more difficult. Overall, it is best to stick with the existing system and to implement the reforms in clause 17.⁶⁴

The Committee divided, but the provisions were adopted, unamended, by 16 votes to 8.

The House debated these issues a second time at the Report stage of the Bill on 8 July, when the Opposition put down an amendment, to require the Government to prepare a report on reforming APD into a per plane tax. Speaking for the Conservatives, Greg Hands repeated concerns about the impact of the new duty structure on flights to the Caribbean, and set out his party's proposals for a new charge:

First, we want the duty to be linked to the pollutant—the plane—rather than directly to the passenger. Secondly, empty or near-empty aircraft should be taxed at the same rate as full ones. Thirdly, the tax should logically be extended to transfer passengers, who fly in and out of a UK airport. There is no logic to a system whereby the only passengers who fly in and out of the UK tax-free are those who do not live, work or visit here. Fourthly, the Government's four-band system must be axed. It is arbitrary

⁶² PBC, 2 June 2009 c65, c167

⁶³ PBC 2 June 2009 c167-8

⁶⁴ PBC 2 June 2009 cc169-70

and discriminates against important UK partners such as India and the Caribbean for no good economic or environmental reason. Fifthly, other forms of polluting aviation need to be brought into the air duty regime, notably corporate jets, parcel services and other freight. Finally, the tax should encourage a move to cleaner aircraft. Ironically, higher APD will probably make that less likely as airlines become even more cash-strapped, and less able to invest because more of their money goes towards APD. Most of all, we argue that if there is to be a big hike in the tax take from the sector, now is the time not to postpone reform but to make it happen.⁶⁵

Speaking for the Liberal Democrats, Jeremy Brown, suggested that if APD was retained, the Government could keep a banding structure, but apply it to flights on an individual basis:

In an era in which anyone with a computer can put in the names of two cities and find out precisely, to the nearest metre, the distance between them, it seems strange that we need to base the system on capital cities. It would be perfectly feasible to base it on the actual distance of each flight. We could have a tax system that charged a number of pence per mile, for example. Or, if that were too complicated to administer, we could have a banding system in which the bands applied to each individual flight, rather than to the country that was being visited and to the location of the capital city in that country.⁶⁶

In response to the debate the then Exchequer Secretary, Sarah McCarthy-Fry, reiterated the Government's reasons for not proceeding with a per plane tax:

The Government proposed a per-plane tax in a very different economic climate, before the global economic downturn had really begun and before agreement was reached to include aviation in the EU emissions trading scheme. The decision to reform APD rather than proceed with a per-plane tax was taken after considering the potential impacts on regional connectivity and on air freight and the knock-on effects on employment, as well as the need to ensure greater stability in tax policy in times of economic uncertainty and to avoid the disruption and costs associated with the transition to a new tax.⁶⁷

The Minister underlined the point that linking the tax charge too closely to fuel consumption could be illegal, but went on to say, when challenged by Andy Slaughter about the position of the Caribbean, that the department were continuing to look this issue:

[If the tax related directly to distance travelled] the distance link might be so closely tied to fuel consumption as to raise questions about legality ... The Government continue actively to support international action at the International Civil Aviation Organisation ... The UK and other like-minded states believe that the current practice [under the Chicago Convention] of exempting aviation from fuel taxation is anomalous and we have succeeded in increasing our focus on the environment, but it has not yet been possible to reach consensus in the ICAO on specific economic instruments. I assure all hon. Members that we are committed to

⁶⁵ HC Deb 8 July 2009 c999

⁶⁶ *op.cit.* c1004

⁶⁷ *op.cit.* c1015

engaging actively, together with our European partners, to press for greater action on the environmental impacts of aviation.

There will be instances in any banding system where a capital falls either just within or just outside a band, or a territory covers a large area. Calls for exceptions to be made for a specific country or group of countries can generally not be met without breaking international law principles of uniform treatment. Making changes in the banding system to change the impact on one group of countries in particular could reduce the revenue from APD, thus requiring the money to be found elsewhere. It could also undermine the environmental signals from the tax and, in addition to legal considerations, it could raise distortion issues with comparable destinations.

Mr. Slaughter: My hon. Friend makes some good negative points about why the Opposition proposals may not work or why, in the case of the per-plane tax, they may even be more expensive. However, she must understand that the anomalies need to be corrected. When my hon. Friend the Member for Hackney, North and Stoke Newington (Ms Abbott) and I saw the Chancellor earlier this week on the matter, he said that it would be re-examined to see whether some of the anomalies, such as those relating to the Caribbean, could be addressed. Will the Minister suggest how that might be done?

Sarah McCarthy-Fry: I was about to come to that. I have asked my officials to consider the matter further. Although my hon. Friend said that my points appear to be negative, I was trying to explain the difficulties and why we have not been able to introduce the proposal until now. That does not mean to say that we are not still looking at it.⁶⁸

In the event Mr Hands withdrew the amendment, noting that “several hon. Members raised serious concerns about the particulars and the generality of the Government’s proposals, and we would urge a rethink before it is too late.”⁶⁹

⁶⁸ HC Deb 8 July 2009 cc1015-6

⁶⁹ HC Deb 8 July 2009 c1017

3. Further debate on APD (2009-2010)

The reforms introduced by the Labour Government to the structure of APD continued to attract criticism,⁷⁰ without any indication on the part of the Labour Government that it would rethink its position.⁷¹

In a short debate on the issue in the Lords on 12 October 2009, the then Financial Services Secretary, Lord Myners, confirmed that Treasury officials were continuing to consider the impact of this reform on the Caribbean, and the outcome of this review would be announced “prior to 1 November.” As part of his answer, Lord Myners noted that, “any carve-out for the Caribbean with respect to this tax, such as a specific exemption or provisions, could raise questions about both legality and potential distortions between comparable destinations.”⁷² However, no formal review was published.

In a debate in Westminster Hall in January 2010, the then Exchequer Secretary, Sarah McCarthy-Fry, said that she and the Chancellor were “commitment to continue considering the issue”, before going on to list a series of obstacles to any reform:

Given the fiscal situation, the Government cannot accept options, such as just decreasing APD rates, that would reduce the APD revenue expected. We also cannot move the Caribbean countries alone to another tax band without objective justification. The Chicago convention on international aviation requires us to treat other countries equally ... Putting Commonwealth countries into a separate band ... would be illegal under European Community law, as well as discriminatory and thus contrary to the Chicago convention. The Government have considered basing the tax or tax band on the exact distance of flights, rather than the distance to the capital. However, that would be illegal under the Chicago convention, to which the UK is a signatory. Some have suggested that moving to a per plane tax would help, but there is no reason to assume that moving to such a tax would result in less tax on flights to the Caribbean. In fact, implementing a per plane tax, as consulted on in 2008, would have resulted in more tax being paid on flights to the Caribbean than the reformed APD ...

We have not yet found a solution within the constraints of the law. The area is not straightforward; it is a very complex area of European and international law. All that I can say is that we shall continue to look for a solution.⁷³

The then Chancellor, Alistair Darling, did not discuss APD in his Budget statement on 24 March, though the Government confirmed at the time

⁷⁰ For example, “Airline cut flights in tax-hike protest”, *Independent*, 22 July 2009; “Air operators call on the Government to drop new tax”, *Daily Telegraph*, 5 December 2009

⁷¹ A summary of the Government’s position was given to a PQ in July (HL Deb 21 July 2009 cWA301)

⁷² HL Deb 12 October 2009 c10-11. See also, HL Deb 3 December 2009 c797

⁷³ HC Deb 26 January 2010 c238-9WH

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that the new APD rates would rise, from 1 November 2010, as initially planned:⁷⁴

There are currently eight rates of APD. These, and the new rates to be applied to flights departing on or after 1 November 2010, are contained in the following table:

Destination band, and approximate distance in miles from London	In the lowest class of travel (reduced rate)		In other than the lowest class of travel* (standard rate)	
	Current	From 1 Nov 2010	Current	From 1 Nov 2010
Band A (0 – 2000)	£11	£12	£22	£24
Band B (2001 – 4000)	£45	£60	£90	£120
Band C (4001 – 6000)	£50	£75	£100	£150
Band D (over 6000)	£55	£85	£110	£170

* (However, if only one class of travel is available and that class provides for seating with a seat pitch in excess of 40" then the standard (rather than the reduced) rate of APD applies.)

Provision for this increase was made prior to the 2010 General Election (under s14 of the *Finance Act 2010*).

⁷⁴ HM Revenue & Customs Budget Notice BN59, 24 March 2010

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