Air passenger duty : recent debates & reform

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Air passenger duty (APD) is charged on all passenger flights from UK airports. The rate of tax varies according to passenger destination and the class of passenger travel. The tax is estimated to raise £3.0 billion in 2013/14.[1]

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.[2] 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.[3]

During the election campaign both the Conservatives and the Liberal Democrats argued for reforming APD, and in its first Budget on 22 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."[4] In the 2011 Budget the Government announced that it would not proceed with a per-plane duty "given concerns over the legality and feasibility of this approach".[5] It published a consultation paper setting out options for simplifying the rate structure as well as proposals to extend the scope of the tax to flights on business jets to create "a simple tax system for air transport services in the UK, which does not hamper growth, which ensures a fair contribution toward the public finances from the sector and which is consistent with the Government's determination to reduce emissions across all parts of the economy."[6] At this time the Government also said that while it was assumed that duty rates should go up each year in line with inflation, the rates of duty would be frozen for twelve months, with the increase for 2011/12 deferred until April 2012.[7]

1 Office of Budget Responsibility, *Economic and fiscal outlook* Cm 8820, March 2014 p104 (Table 4.5)
2 HC Deb 24 November 2008 c499
3 For more details see, *Air passenger duty : the approach of the Labour Government* Library standard note SN6426, 19 September 2012. A second note discusses the introduction of the tax: *Air passenger duty : introduction*, SN413, 19 September 2012.
4 *Budget 2010* HC 61 June 2010 p36
5 *Budget 2011* HC 836 March 2011 para 1.152-3
6 HM Treasury, *Reform of Air Passenger Duty: a consultation*, March 2011 para 1.4
7 HM Treasury, *Budget 2011 policy costings*, March 2011 p41. This measure would be at a one-off cost of £145m in 2011/12 (HC 836 March 2011 : Table 2.1-item 36).

In December 2011 the Government announced that it would proceed with extending the tax to business aviation, with effect from 1 April 2013, but that it would *retain* the current banding structure.[8] The Government also confirmed that duty rates would rise in April 2012, fully reflecting the rise in inflation over the past two years.[9] There has been a long-running campaign against APD lead by travel organisations and airlines, though to date the Government has opposed cutting tax rates or abolishing the tax on grounds of cost;[10] rather, duty rates were increased in line with inflation for both 2013-14 and 2014-15.[11] However in his 2014 Budget the Chancellor, George Osborne, announced that from April 2015 the 4-band structure of the tax would be replaced with 2-bands, with all long-haul flights charged the rate of tax. In addition the rate of tax on private jets would be substantially increased.[12] This reform is estimated to cost £215m in 2015/16, rising to £250m by 2018/19.[13]

This note looks at the recent debate on taxing aviation, in the context of these developments. Guidance on the operation of the tax, and statistical data on its receipts, is published by HM Revenue & Customs.[14]

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1 The rise in aviation emissions

The *Pre-Budget Report* in December 2006 noted the growing significance of aviation in global carbon emissions:

> Globally, carbon dioxide from aviation is responsible for around 1.6 per cent of total greenhouse gas emissions, but this level is set to increase as other sectors reduce emissions while demand for air travel rises. The UK aviation sector currently accounts for around 5.5 per cent of the UK's total carbon dioxide output and this could rise to as much as 15 per cent by 2030. Aircraft are also responsible for high-altitude emissions of nitrogen oxides (NOx), and for the formation of cirrus clouds and contrails. The total

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8 HM Treasury, *Reform of Air Passenger Duty: response to consultation*, December 2011

9 *Autumn Statement*, Cm 8231 November 2011 para 2.31

10 The Exchequer Secretary, David Gauke, set out the Government's position in an Opposition day debate on APD in October 2013: HC Deb 23 October 2013 c403.

11 Both increases were announced a year before they took effect: *Budget 2012* HC 1853, March 2012 para 2.158 & *Budget 2013* HC 1033, March 2013 para 2.157

12 HC Deb 19 March 2014 c787; *Budget 2014* HC 1104, March 2014 para 2.160-1

13 HC 1104, March 2014 p57 (Table 2.1 – item 36).

14 HM Revenue & Customs, *Customs Notice 550: Air passenger duty*, November 2013 & *Air Passenger Duty: statistical bulletin*, December 2013.

climate change effect of all aviation emissions is estimated to be at least two to four times greater than the effect of carbon dioxide emissions alone.[15]

The growth in the demand for air transport shows no sign of abating, and with that, the projected rise in aviation's share of greenhouse gas emissions. In January 2009 the Department for Transport issued updated forecasts of passenger demand and CO_2 emissions, which predicted emissions from domestic and international flights accounting for 20.6% of total UK carbon emissions in 2050.[16]

Many commentators have for some time argued that the way aviation is taxed should be reformed, to provide better incentives for passengers and airlines to counteract this trend.[17] In particular, although road fuel is charged excise duty, and represents a substantial proportion of the pump price paid by motorists, aviation kerosene (AVTUR) which is used in jet engines is *exempt* from duty, under international agreement. The exemption of airlines from national taxes and customs duties on a range of aviation-related goods, including parts, stores and fuel 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.[18]

There are several obstacles to the Government deciding to tax aviation fuel. First, it is probable that unilateral moves by the UK to impose duty on this category of fuel would be counterproductive, as well as contrary to EU law. Second, even if agreement was reached for all Member States to charge duty, it is likely this would have only limited effect. Imposing duty on all flights - not just 'domestic' ones within the EU - would pose the threat of "tankering": carriers filling their aircraft as full as possible whenever they landed outside the EU to avoid paying tax. In turn this would worsen the problem of aviation emissions, as aircraft would be burning up extra unnecessary fuel and adding to emissions whenever they did this, given the extra weight of a full fuel tank. Finally, although there have been some moves to reach an international agreement on ending this anomaly – particularly at a European level – progress has been very slow.[19]

As a consequence, the Labour Government argued consistently that changing the way aviation was taxed did not provide the best way to tackle the growth in aviation emissions. In its white paper on aviation published in December 2003, it argued that bringing aviation within the EU emissions trading scheme represented the most effective response to the growth in emissions,[20] and in December 2007 Member States agreed that aviation would come into the scheme from 2012.[21]

This remains the current Government's approach: in its consultation on reforming the structure of APD published in March 2011, it noted:

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15 Cm 6984 December 2006 para 7.76

16 DfT, *UK air passenger demand and CO_2 forecasts*, January 2009 (Annex K). For more details see, *Air transport statistics*, Library standard note SN3760, 4 July 2011 pp 12-14.

17 For example, in July 2003, the Environment Audit Committee supported the introduction of an "emissions charge levied on flights and which is clearly displayed on travel documentation" in July 2003 (*Ninth report: Budget 2003 and aviation*, 29 July 2003 HC 672 2002-03 paras 74-77).

18 For more details see, *Taxing aviation fuel,* Library standard note SN523, 2 October 2012

19 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).

20 *The future of air transport*, Cm 6046 December 2003 para 3.40

21 Further details are given in *EU ETS: Including Aviation*, Library standard note SN5533, 23 May 2012

In the longer-term, if we are to succeed in limiting global emissions from aviation, industry and government must work together to develop efficient, market-based mechanisms for incentivising long-term investment in low-carbon technologies and the proper incorporation of environmental costs in the market pricing of air transportation. In this respect, the Government believes that the EU Emission Trading System (ETS) should be the principal mechanism for delivering on its goals for reducing the global CO_2 emissions impact of aviation.[22]

2 The June 2010 Budget

Though APD was not a major issue in the 2010 General Election, both the Conservative and Liberal Democrat mentioned the tax in their manifestoes. In their case the Conservative Party stated that it wished to, "reform Air Passenger Duty to encourage a switch to fuller and cleaner planes."[23] In their own manifesto the Liberal Democrats gave a little more detail:

> Ensuring pollution is properly taxed by replacing the per-passenger Air Passenger Duty with a per-plane duty (PPD), ensuring that air freight is taxed for the first time. We will also introduce an additional, higher rate of PPD on domestic flights if realistic alternative and less polluting travel is available.

The party estimated that this change would raise just over £3bn by 2011/12.[24]

During the election campaign, the Institute for Fiscal Studies published a series of briefing papers, and in a note looking at the parties' environmental policy, the authors commented on these proposals:

> **Aviation duty**
> The Liberal Democrats have suggested replacing air passenger duty with a per plane aviation duty. This would be charged on both passenger and freight planes and on flights to all destinations. The per plane tax would take into account emissions of nitrous oxide on take-off and landing (apparently well correlated with the per mile emissions of the plane), maximum take-off weight (MTOW) and distance travelled. The Conservatives have also proposed a reform of air passenger duty "to encourage a switch to fuller and cleaner planes", but so far their proposal remains unspecific.
>
> Under Liberal Democrat plans, there would be a supplementary tax on domestic flights in the UK in order to encourage rail travel. The cost per mile of the tax would be higher for domestic flights travelling less than 300 miles (excluding "lifeline flights", which we interpret to be flights to Scottish Islands, and flights between Northern Ireland and the rest of the UK). They aim for these two taxes to raise £3.3 billion if implemented in 2010–11. The tax would be adjusted to meet this revenue target. To avoid aeroplanes touching down in a country close by and then taking off to a further, final destination they would charge the duty to the final destination.
>
> The government has already considered and rejected a per-plane tax levied according to distance travelled and MTOW.[25] The concern was that using MTOW would not provide incentives for airlines to improve their environmental efficiency. There were also concerns that such a tax could threaten Britain's status as a transit hub for

[22] *Reform of Air Passenger Duty …*, March 2011 para 3.9. See also, HC Deb 22 October 2013 cc146-7W
[23] *Invitation to join the Government of Britain: the Conservative Manifesto*, April 2010 p23
[24] Liberal Democrats, *Liberal Democrat Manifesto 2010*, April 2010 p14, p100
[25] Pre Budget Report, HM Treasury, 2008

> international flights, if other airlines tried to avoid the tax by switching to alternative hubs on the continent.
>
> Such a tax, if implemented, would be a better targeted tax than air passenger duty is at present. The current duty is a per-passenger tax and so is not charged on freight flights, which also contribute to greenhouse gas emissions. At the moment it only varies by distance travelled through four broadly defined bands. It also provides no incentives for airlines to reduce carbon emissions per flight, or to reduce the number of total flights by carrying more passengers per plane.[26, 27]

Following the Election, the new Government gave details of its approach to taxation in the Coalition agreement; this included the statement that the Government would, "reform the taxation of air travel by switching from a per-passenger to a per-plane duty, and will ensure that a proportion of any increased revenues over time will be used to help fund increases in the personal allowance."[28] The Coalition Government's first Budget was on 22 June, and in the Budget report, it stated it would "explore changes to the aviation tax system, including switching from a per-passenger to a per-plane duty, which could encourage fuller planes. Major changes will be subject to public consultation."[29]

Prior to the 2011 Budget, the Government gave no further details, although there was some speculation in the press that there had been a change of heart on introducing a per-plane tax.[30] In their 2011 *Green Budget* the Institute for Fiscal Studies touched on this issue, suggesting that "a move to a per-plane tax is … still a good idea":

> The fact that aircraft weight and distance flown are not perfect proxies for the emissions of a flight is not in itself a good reason to have rejected the change. As a possible basis for a tax, weight and distance are almost certainly more closely correlated to emissions than passenger numbers and destination.[31]

For its part the industry appears to have taken the view that higher taxes were likely, whatever changes might be made in the tax base: in March 2011 ABTA launched a 'Fair Tax on Flying' campaign, supported by many airlines, airports and travel trade associations, opposing any further rise in APD.[32]

Subsequently chief executives from British Airways, Ryanair, EasyJet and Virgin Atlantic, made a joint case for abolishing the tax, on the grounds that aviation would come within the extension of the EU Emissions Trading Scheme from January 2012.[33] To buttress its case the Association published figures showing comparing duty rates to those charged in other countries:[34]

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26 For more detail on this, see Leicester, A. and C. O'Dea (2008), "Aviation taxes" in Chote, R. et al (eds.), *IFS Green Budget 2008*

27 Paul Johnson & Peter Levell, *Environmental Policy Proposals: 2010 Election Briefing Note no.14, Institute for Fiscal Studies*, 28 April 2010 pp8-9

28 HM Government, *The Coalition: our programme for government*, 20 May 2010 p30

29 *Budget 2010* HC 61 June 2010 p36

30 "Aviation tax reform dropped", *Financial Times*, 12 March 2011

31 "Chapter 11: Environmental policy", in *IFS Green Budget 2011*, February 2011 p262

32 "2011: the most expensive year to holiday abroad", *Sunday Times*, 6 March 2011. At this time 27 Members signed an EDM supporting the campaign (EDM 1523, *Aviation taxation*, 2 March 2011).

33 "Airline chiefs demand an end to tax that 'deprives families of a holiday'", *Times*, 18 November 2011

34 ABTA, *ABTA Response to HM Treasury: Reform of Air Passenger Duty*, 16 June 2011

Table 1: Comparative aviation tax rates for a family of four

	To Europe	To the USA	To Australia
From the UK	£48	£240	£340
From Germany	£30	£90	£164
From Austria	£30	£90	£127
From Ireland	£11*	£11*	£11*
From France	£4	£14.5	£14.5
From Other European Countries	0	0	0

* The Irish Government has announced its intention to remove this taxation in due course.

The Airport Operators Association has also published comparative figures, which are reproduced in a report by the All Party Parliamentary Group for Aviation in summer 2012:[35]

Rates of UK aviation tax per person compared to other EU countries

Country	Short haul rate in economy (€)	Medium haul rate in economy (€)	Long haul rate in economy (€)	Max rate charged - any class (€)
Austria	€8.0	€20.0	€35.0	€35.0
France	€5.2	€5.2	€11.6	€47.6
Germany	€7.5	€23.4	€42.2	€42.2
Ireland	€3.0	€3.0	€3.0	€3.0
Italy	€4.5	€4.5	€4.5	€5.5
UK	**€16.0**	**€89.9**	**€113.3**	**€226.6**
Other EU average	€5.6	€11.2	€19.3	€26.7
All EU average	€7.4	€24.3	€34.9	€60.0
Ratio - UK: other EU	**2.8**	**8.0**	**5.9**	**8.5**
Ratio - UK: all EU	**2.2**	**3.7**	**3.2**	**3.8**

Source: Airport Operators Association (AOA)

In answer to PQs on airport taxes, the Government has not given comparable figures, noting that "information on the aviation taxes of other EU member states and other G20 countries is published and freely available" but that, "unlike many other countries, the UK does not apply VAT on flights and aviation fuel for commercial flights is not taxed."[36] It has also noted that the total makeup of aviation taxes will vary from country to country, and that passengers using airports in other countries may be asked to pay for "costs such as landing fees, air traffic control and airport infrastructure charges."[37]

35 House of Commons All Party Parliamentary Group for Aviation, *Inquiry into Aviation Policy and Air Passenger Duty*, August 2012 p10. More recently a report commissioned by a consortium of UK & Irish ariline operators from PriceWaterhouse Coopers (PwC), gives comparative figures for some EU countries, and selected long-haul flights across the world: *The economic impact of Air Passenger Duty*, February 2013 (pp17-19).

36 HC Deb 19 December 2011 c984W

37 HL Deb 8 March 2012 cWA434

3 Budget 2011 : consultation on reforming APD

In his 2011 Budget speech the Chancellor, George Osborne, announced that as it was likely that a per-plane charge would fall fowl of international law, the Government would consult on simplifying the structure of APD, rather than replacing the tax. As excise duties are expressed in cash terms, the general pattern is for governments to revalorise them each year – that is, increase them in line with inflation to maintain their real value. In his speech Mr Osborne confirmed that APD rates would rise in line with inflation, but this increase would be deferred for one year:

> Let me be straight with the House: we had hoped that we could replace the per passenger tax with a per plane tax. We have tried every possible option, but have reluctantly had to accept that all are currently illegal under international law. So we will work with others to try to get that law changed. In the meantime, we are consulting today on how to improve the existing and rather arbitrary bands that appear to believe that the Caribbean is further away than California. We will also seek to bring private jets, which pay no duty at all, into the scope of taxation. The wealthiest should not escape the tax that the ordinary holidaymaker has to pay. I can tell the House that with the hefty duty rise last year and with the cost pressures on families, we think it would be fair to delay this April's air passenger duty rise to next year.[38]

The Budget report confirmed that duty rates would be frozen for 2011/12 "with the RPI increase assumed in the forecast deferred to April 2012."[39]

The Government's consultation paper said relatively little on the legal impediments to a per-plane tax, simply noting that, "the UK is a signatory to the 1944 ICAO Chicago Convention and has Air Service Agreements (ASAs) with over 150 countries" and that "many stakeholders have expressed concerns about the legality and feasibility of introducing a per plane duty under current international rules."[40] The paper went on to discuss two aspects of APD that have been criticised: first, the exemptions for certain categories of flight, notably passenger transfer flights, flights on smaller planes and jets, and air freight.

In its paper the Government argued that without international action, it would be counterproductive to tax freight flights or to tax passengers using UK airports for transfers, but that the current exemption of flights on small planes should be changed, to ensure passengers on private jets paid APD:

> Aside from a number of essential services, the main exemptions from APD relate to passengers who transfer or transit through UK airports, and all passengers who travel in private or commercial aircraft which are under the current weight and passenger seat de minimis for APD (the current exemption applies to aircraft, including helicopters, under 10 tonnes authorised take-off weight or with fewer than 20 seats) …
>
> For many airlines operating in and out of the UK, transit-and-transfer passengers are crucial, as they enable services to be provided to destinations that would not otherwise be served and support higher flight frequencies to many popular destinations. The enhanced connectivity that this provides is an important benefit for UK passengers and

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38 HC Deb 23 March 2011 c963

39 HC 836 March 2011 para 1.153. In this case rates are increased by the projected RPI figure in the year to September prior to the respective change – rounded to the nearest £1: HM Treasury, *Budget 2011 policy costings*, March 2011 p69.

40 HM Treasury, *Reform of Air Passenger Duty: a consultation*, March 2011 para 4.5

> the economy as a whole. In the absence of co-ordinated international action, the Government believes that it is not appropriate to extend APD to transfer-and-transit passengers at UK airports.
>
> Taxing transit-and-transfer passengers would also unfairly impact on passengers at UK regional airports who continue their journey via another UK international airport. For similar reasons, the Government believes that it is not appropriate to extend the tax regime to dedicated freight transport services in the UK at the current time …
>
> There is a strong fairness argument for extending aviation taxation to the many thousands of private passenger flights on aircraft (including helicopters) below the present weight and passenger seat de minimis limit ('business jet flights'), which currently are not liable to APD … The Government proposes a per passenger tax for passengers aboard aircraft with an authorised take-off weight in excess of 5.7 tonnes where APD is not already payable. The proposal is to have a single rate of duty per passenger in 2012-13, irrespective of distance travelled, equivalent to the highest standard rate of APD. The precise definition of flights covered by the new tax will be determined in light of consultation evidence and responses.[41]

The paper also considered criticisms of the 4-band structure of APD, noting that many stakeholders thought this was damaging UK competitiveness and contained several anomalies – such as imposing a higher rate on Caribbean flights that flights to destinations in the USA which were further away from the UK.

The paper set out two options for reform:

- returning to the structure that had been in place before 2009, comprising two tax bands (broadly speaking, flights within Europe, and those elsewhere), and two classes of travel. In this case, the distinction between short-haul and long haul flights could be based either on distance – short-haul being up to 2,000 miles – or the boundaries of the European Common Aviation Area.

- creating a three band structure by combining the current two higher bands for flights over 4,000 miles away and, again, retaining two classes of travel.

The paper summarised both options, in terms of what duty rates would have to be to ensure a broadly revenue-neutral reform. As a reference point, the paper summarised the current duty structure, along with the rates that would apply from April 2012, assuming indexation (bracketed estimates):[42]

41 *op.cit.* paras 4.9-4.12

42 As RPI estimates have been updated since then, the rates of duty since 1 April 2012 are slightly different to those shown here: the rates for Band C and D are £81/£162 & £92/£184 respectively.

Table 4.A: The Current Four Band APD Regime

Current APD Bands	From 1 November 2010	
(Distance in miles from UK)	Reduced rate* (in lowest class of travel)	Standard rate* (in other than lowest class of travel)
Band A (0-2000)	£12 (£13)	£24 (£26)
Band B (2001-4000)	£60 (£65)	£120 (£130)
Band C (4001-6000)	£75 (£82)	£150 (£164)
Band D (over 6000)	£85 (£93)	£170 (£186)

*Bracketed estimates indicate notional APD rates effective from April 2012, assuming uprating of reduced rates by forecast RPI inflation in 2011 (deferred for 1 year) and 2012, rounded to the nearest pound (and standard rates are twice reduced rates).

Table 4.B: Moving to Two Band APD Regime

Proposed APD Bands	From 1 April 2012	
(Distance in miles from UK)	Reduced rate* (in lowest class of travel)	Standard rate* (in other than lowest class of travel)
Band A (0-2000)	£13-£16	£26-£32
Band B (over 2000)	£65-£75	£130-£150

* Estimates indicate ranges from which rates would be set to deliver a broadly revenue neutral reform from April 2012, relative to bracketed rates in table 4.A.

Table 4.C: Moving to Three Band APD Regime

Proposed APD Bands	From 1 April 2012	
(Distance in miles from UK)	Reduced rate* (in lowest class of travel)	Standard rate* (in other than lowest class of travel)
Band A (0-2000)	£13-£16	£26-£32
Band B (2001-4000)	£60-£69	£120-£138
Band C (over 4000)	£72-£83	£144-£166

* Estimates indicate ranges from which rates would be set to deliver a broadly revenue neutral reform from April 2012, relative to bracketed rates in table 4.A.

An appendix to the paper mapped out the impact of these options, and gave a checklist of destinations. It is worth noting that these examples were based on current practice, in that banding was based on the distance from London to the *capital city* of the country concerned. This would continue to throw up some anomalies – so under a 3 band structure, flights to *all* US destinations would be in a lower band than flights to the Caribbean.

The paper also invited views on how 'premium economy' flights should be classified, whether flights from regional airports should benefit from a lower rate of duty, and whether APD should remain a UK-wide tax or should be devolved. The consultation period closed on 17 June 2011.

On the position of regional airports the consultation paper noted that "some industry stakeholders" had pointed out that "whilst airports in London and the South East operate at or near full capacity, there is persistent excess capacity at some of the UK's other main airports. As a possible remedy, some have suggested that the Government should consider setting lower rates of APD for passengers using regional airports outside London and the South East."[43] Further to this in June the *Financial Times* reported that 10 regional airports had lobbied the Government to replace APD with a congestion-tax, based on the percentage of flying slots used, as a regionally-differentiated APD might be contrary to EU state aid rules.[44] The paper published a letter from the chairman of Gatwick airport who argued the proposal was "unfair and unsubstantiated … the vast majority of international passengers … visiting the UK want to come to London. To ask them to fly into a remote regional airport and then take a train is ludicrous."[45]

The issue was also raised by Henry Smith MP in an adjournment debate in October 2011. Gatwick lies in the Member's constituency so while Mr Smith argued for simplifying the tax, unsurprisingly he argued that higher charges for airports in the South East would be "unfair, unnecessary, economically misguided and environmentally dubious."[46] The then Economic Secretary, Chloe Smith, who responded to the debate, confirmed that the Government would publish a full response to the consultation in the autumn. On the question of having regional APD rates, Ms Smith said, "It is certainly fair to say that there is no consensus on the matter. Some regional airports have asked us to consider lower APD rates for the regions, but several airlines and hon. Members have asked us to consider the opposite."[47]

The Treasury's consultation paper also touched on the question of devolving APD. In November 2010 the Government published the *Scotland Bill 2010-11* to implement the recommendations of the Calman Commission, including provisions to give the Scottish Parliament new powers to raise its own revenue – principally by means of setting a Scottish rate of income tax.[48] The Commission had argued that a number of taxes could be devolved to "provide useful additional fiscal levers to the Scottish Parliament", including APD, as they were imposed on "items which are less mobile, and so are unlikely to cause significant economic distortions."[49] While the Government agreed that the Bill should devolve two taxes from this list – stamp duty land tax and landfill tax – it decided against devolving APD, given it was still exploring whether to replace it with a per plane tax. In turn, the consultation paper asked for views on devolving the tax to Scotland, and to both Wales and Northern Ireland:

> The Government recognises that aviation is, by its very nature, a highly mobile sector, both in terms of airline operations and passenger choice. Before making a final decision, the Government would therefore like to understand the potential impact of devolving APD in Scotland. In a similar way, the Government would also like to understand the case for devolving APD in Northern Ireland and Wales.[50]

In July 2011 the Northern Ireland Affairs Committee published a report on APD in which it recommended that the tax should be abolished for flights both to and from airports in Northern Ireland, because of competition from airports in the Republic and the threat this posed to one particular transatlantic route:

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43 *Reform of Air Passenger Duty: a consultation*, March 2011 para 5.9
44 "Regional airpots call for Heathrow congestion tax", *Financial Times*, 16 June 2011
45 "Letter: Unfair imposition on London flyers", *Financial Times*, 21 June 2011
46 HC Deb 20 October 2011 c1173
47 HC Deb 20 October 2011 c1176
48 The background to the Bill is set out in *Library Research paper 11/06: Scotland Bill*, 18 January 2011.
49 Commission on Scottish Devolution*, Serving Scotland Better: Scotland and the United Kingdom in the 21st Century*, June 2009 p7
50 *Reform of Air Passenger Duty: a consultation*, March 2011 para 5.12-13

> The one direct transatlantic flight from Belfast to the US, carrying 100,000 passengers a year to New York is currently at risk due to increases in the Air Passenger Duty — adding near £60 per passenger to the US compared to €3 rate in the Republic, although recent reports indicate that the Irish Government is preparing to scrap even this small amount as part of a package of measures being introduced to encourage tourists to the Republic … If Belfast and Northern Ireland are going to compete with Dublin and the Republic of Ireland for investment from the US then it is important that the direct service is not lost …
>
> The Continental Airlines transatlantic route from Belfast International to Newark Airport … is a vital link between Northern Ireland and North America … In order to support the route, Continental Airlines has been paying the APD itself, expecting to pay some £3.2 million out of its own income in the current year [Q172] Asked whether the company would be able to continue to pay the APD for a further year, two senior representatives of the airline, Mr Bob Schumacher and Mr Conor McAuliffe, gave evidence to the Committee that a required solution was "more immediate than that "[Q199].[51]

In September 2011 the Chancellor announced that to maintain this route, the Government would cut the rate of APD on long haul flights using airports in Northern Ireland; from 1 November 2011 the rate would be cut from £60 to £12 for economy passengers, and from £120 to £24 for business-class passengers.[52] The Government's reasons for doing this were set out in a written statement some days later:

> From 1 November 2011, the rate of air passenger duty (APD) for direct long-haul passengers departing from airports in Northern Ireland will be cut to the short-haul rate, which is currently £12 in economy and £24 in business and first class. This measure is a response to the unique challenge facing Northern Ireland and is designed to ensure local airports remain competitive, demonstrating the Government's commitment to stimulating and rebalancing the Northern Ireland economy. In parallel the Government are launching a process for the devolution of aspects of APD to the Northern Ireland Assembly to provide a lasting solution to the unique circumstances Northern Ireland faces. Devolution of APD to Northern Ireland will require primary legislation. The precise scope of devolution will be agreed in close consultation with the Northern Ireland Executive.[53]

4 Subsequent debates on the burden of APD

In his Autumn Statement on 29 November 2011 the Chancellor confirmed that APD would be extended to cover business flights. The measure was estimated to raise £5m a year. Furthermore the rise in duty rates set for April 2012 would go ahead.[54] The Government's response to the consultation on APD was published a few days later, alongside draft legislation for much of the Finance Bill 2012.[55] In its response to the consultation on APD, the Government confirmed the change in treatment of business flights, but it did not propose

51 *Second report: Air Passenger Duty*, 8 July 2011 HC 1227 2010-12 paras 5, 18-19

52 HM Treasury press notice 107/11, 27 September 2011. See also, "N Ireland plans to cut duty on long-haul route", *Financial Times*, 28 September 2011.

53 HC Deb 19 October 2011 c964W. This was projected to cost £5m a year from 2013/14: Cm 8231, November 2011, p46 (Table 2.1 : item 4)

54 *Autumn Statement* Cm 8231, November 2011 para 1.137, Table 2.1 (item 11) p46, para 2.31. The projected yield from taxing business flights remains £5m pa (HC 1033, March 2013 : Table 2.2 – item al).

55 HC Deb 6 December 2011 c11-12WS. For more details see: *Air Passenger Duty: Business Jets* (TIIN708) & *Air Passenger Duty: Cut in Northern Ireland Rate* (TIIN876), December 2011

any changes to the tax's banding structure, to the way different classes of flight are taxed, or to the application of APD to the regions.[56]

On business flights, the Government proposed that APD apply to flights on all aircraft above 5.7 tonnes, and that a higher rate will apply to more luxurious jets, with certain exemptions:

> All flights aboard aircraft of less than 20 tonnes or with 19 seats or more, will be subject to the same distance banding structure and rates of APD that apply to passengers aboard commercial flights. As with commercial flights, seat pitch will be used to determine whether the reduced or standard rate of APD will apply. As part of the consultation process, industry stakeholders provided evidence of the range of services offered by business aviation. This highlighted the fact that aircraft of 20 tonnes or more, with fewer than 19 seats, generally provide a higher class of service. To reflect this, duty rates equivalent to double the standard APD rate in each respective distance band will apply to all flights in this category …
>
> The Government will exempt emergency flights, research and training flights, and helicopters from APD. Where appropriate it will also extend the current exemptions from APD.[57]

Initially it had been thought that this change would apply from the 2012/13 tax year, but, in view of the fact that this would bring a substantial number of new operators into the APD regime, and would require the introduction of special rules tailored to business aviation, the Government proposed delaying implementation until 1 April 2013.[58] Further to this, in December 2012 the Treasury announced that special accounting schemes would be introduced for operators of business jets and small aircraft; provision to this effect would be made in secondary legislation.[59]

On the vexed question of banding structure, the Government took the view that further changes would create other anomalies:

> In weighing up the case for reform, the Government recognises that no banding structure will be entirely free of anomalies. Moreover, a revenue neutral change to the current APD distance bandings would inevitably require some passengers to pay more. A move to a two band structure would require passengers travelling within the UK and Europe, and those travelling to band B destinations (including the United States), to pay more in order to ensure overall revenue neutrality. In addition, any change to the banding structure would have some transitional costs for industry and HMRC.
>
> Having considered the impacts of moving to fewer bands, the Government has decided on balance to retain the current banding structure of APD.[60]

The paper went on to set out the Government's case for leaving the treatment of premium economy and regional flights unchanged:

> It is clear from responses to the consultation and further discussion with the industry that premium economy products vary significantly between airlines. Any attempt to

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56 HM Treasury, *Reform of Air Passenger Duty: response to consultation*, December 2011
57 *op.cit.* paras 2.19-20, 2.22. Annex C to the document gives a full list of these planned exemptions.
58 *op.cit.* para 2.23. see also, HL Deb 25 January 2012 cc 1043-4
59 HMT, *Overview of Legislation in Draft*, December 2012 para 1.58. This provision is made under SI 2013/493.
60 *Reform of Air Passenger Duty: response to consultation*, December 2011 paras 3.7-8

define premium economy for taxation purposes would therefore increase the complexity of the tax. This would also lead to greater administrative burdens for both the industry and HMRC. In addition, the Government notes that any attempt to define premium economy by seat pitch would inevitably discriminate between similar products offered by different airlines, including some and excluding others. On balance, to maintain the simplicity of the tax and avoid additional burdens, the Government has decided that no changes will be made to the class of travel distinction in APD …

The Government is committed to rebalancing the UK economy across the regions. As made clear in the National Infrastructure Plan 2011[61], the Government is also committed to maintaining the status of the UK as an international hub for aviation, with excellent connectivity to both developed and emerging markets. The Government will continue to work with stakeholders to examine the role of the tax system in support of these objectives. The Department for Transport is also considering regional connectivity and regional airports policy as part of its development of a sustainable framework for UK aviation, which will be issued for public consultation in March 2012.[62]

A written answer given subsequently gives more detail on the Government's decision to leave the banding structure unchanged – an extract is given below:

Miss Chloe Smith: The Government decided not to change the air passenger duty (APD) bands as doing so would lead to an increase in APD for 91% of passengers. The APD consultation received 136 responses to the question on banding structure. Of this total, 77 supported a move to two distance bands, eight supported retaining the existing four-band structure and a further eight advocated moving to a three-band structure. A further 43 discussed the question and suggested other alternatives. Supporters of the two-band option argued that it would generate fewer anomalies and be simpler for passengers to understand and airlines to administer. Those in favour of the current four-bands or a system based on more distance bands argued that it would be fairer. However, there was no agreement on the composition of these bands.

The APD consultation received 70 responses to the question on class of travel. Of this total, 54 supported a reclassification of premium economy while 11 favoured retaining the existing rules. A further five respondents discussed the issue but offered no clear preference. Most of those who wanted premium economy to be taxed at the reduced rate advocated the use of a 40-inch seat pitch definition.

The Government considered this evidence carefully. A revenue neutral change to the current banding structure would have required those flying to band A and band B destinations (91% of passengers) to pay more. The Government therefore decided to retain the existing four APD distance bands.

It was clear from consultation responses on class of travel that premium economy products vary significantly between airlines. Any attempt to define premium economy for taxation purposes would increase the complexity of the tax, increasing the burdens for both industry and HMRC. A definition based on seat pitch would inevitably discriminate between similar products offered by different airlines.[63]

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61 National Infrastructure Plan 2011, HM Treasury and Infrastructure UK

62 *Reform of Air Passenger Duty: response to consultation*, December 2011 paras 3.24-5, 3.31

63 HC Deb 13 December 2011 cc 682-3W. see also, HL Deb 23 January 2012 cc795-7

Turning back to the response paper, on the question of devolution, the Government stated that while the tax would be devolved to Northern Ireland, it would continue to examine case for devolving APD to Scotland and Wales.[64]

While the campaign to have the rates of APD cut, or the tax abolished continued,[65] the Government gave no indication that it was willing to change its approach. In February 2012 the Government confirmed that provision in the upcoming Finance Bill would devolve APD to the Northern Ireland Assembly:

> **The Economic Secretary to the Treasury (Miss Chloe Smith):** Last September the Government announced measures to support air travel to and from Northern Ireland. From 1 November 2011 APD for passengers travelling on direct long-haul routes departing from airports in Northern Ireland was cut to the lower short-haul rate. To provide a lasting solution, the Government launched a further process to devolve aspects of APD to the Northern Ireland Assembly.
>
> Today, I can announce that the power to set APD rates for direct long-haul flights departing from Northern Ireland will be devolved to the Northern Ireland Assembly and provided for in the Finance Bill 2012. Following devolution, it will be for the Assembly to determine what level of APD will apply to direct long-haul flights. The rates set by the Assembly will apply to the carriage of passengers on and from a day to be appointed by order, irrespective of when the ticket for the flight was booked or purchased.[66]

The Chancellor did not mention APD in his 2012 Budget speech, though the Budget report confirmed the rise in duty rates from 1 April 2012, adding that rates for 2013/14 would be increased in line with inflation from 1 April 2013.[67] The report noted that the forthcoming Finance Bill would also contain the previously-announced measures relating to business jets and the rates in Northern Ireland;[68] in each case the draft legislation as initially published in December 2011 would be introduced without any major changes.[69] These provisions were the subject of a short debate by the Committee of the Whole House on 18 April, when the then Economic Secretary, Chloe Smith, set out the Government's position on duty rates:

> Hon. Members will know that the Government were able to freeze APD for a year in March 2011. At the high cost to the Exchequer of £140 million, I think people will appreciate that this was not easy. Looking to the future, if we are to stay on course with our deficit reduction plans, it is necessary for APD rates to rise. The fact of the matter is that, over the two years 2011-12 and 2012-13, the increase in APD rates equates to a rise of no more than inflation. Indeed, most passengers will pay only £1 more on their flights. That increase is necessary. To provide greater certainty, we have also set out in this Budget the APD rates for two years up to 2013-14.[70]

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64 *Reform of Air Passenger Duty …,* December 2011 paras 3.37-8

65 For example, EDM 2591 of 2010-12, 11 January 2012; World Trade and Tourism Council press notice, *Air tax – doing substantial damage to the UK economy*, 12 March 2012

66 HC Deb 21 February 2012 c71WS

67 *Budget 2012* HC 1853 March 2012 para 2.158; HM Treasury/HM Revenue & Customs, *Overview of tax legislation and rates*, March 2012 para 2.44

68 HC 1853 March 2012 paras 2.159-160

69 *Overview of tax legislation and rates*, March 2012 p14. Provision to enact these measures was made by s190 & schedule 23 of *Finance Act 2012*. Consequential changes were made by Order (SI 2012/3017).

70 HC Deb 18 April 2012 cc469-70

In turn in autumn 2012 the Northern Ireland Executive introduced legislation to abolish APD on direct long haul flights from Northern Ireland from 1 January 2013.[71]

In June 2012 Graham Stringer MP put down an EDM arguing that the tax is "acting as a deterrent to both inward investment and inbound tourism" and calling on the Treasury to "commission a comprehensive study into the full economic effects of aviation tax in the UK, including its impact on employment, reporting in advance of the 2013 Budget."[72] At this time the All Party Parliamentary Group for Aviation published a report on aviation policy and APD in August 2012, in which they acknowledged the industry's concerns and suggested duty increases appear to have been imposed "simply because it is a 'successful means for the Government to raise much needed revenue." The Committee argued that there should be an evaluation of the impact of duty rates on travellers, and more widely on the impact of the tax on the economy.[73] In early 2013 a consortium of UK and Irish airlines published a study, commissioned from PricewaterhouseCooopers (PwC), which claimed that scrapping APD could pay for itself, thanks to the associated boost in exports and tourism.[74]

However, the Government consistently opposed launching a further formal review,[75] and, when it was cited, took issue with the analysis in the PwC report, as the Exchequer Secretary, David Gauke, did at the end of an Opposition day debate on APD in October:

> Contrary to the claims of the PricewaterhouseCoopers report, which has been cited frequently, scrapping APD would not be costless; it would result in a significant loss to the Exchequer. Unless we were to give up on our fiscal goals … the lost revenue would therefore need to be found elsewhere, either by increasing other taxes or by further reducing our public spending. In the course of the debate, I have heard few realistic proposals as to how that could be done. Not only would scrapping APD create substantial costs to the Exchequer, but the benefits of such a step would be small compared with those of the policies that the Government have already put in place.[76]

The Chancellor, George Osborne, did not mention APD in his Budget speech on 20 March 2013, though in the Budget report, the Government announced that for 2014/15, rates would rise in line with inflation (RPI) from 1 April 2014.[77] Provision to increase duty rates from 1 April 2013 was made by the *Finance Act 2013*. The reduced and standard rates of APD to Band A destinations were unchanged. Reduced rates to all other destinations bands went up

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71 Under the *Air Passenger Duty (Setting of Rate) Act (Northern Ireland) 2012*. Details on the scrutiny of this legislation by the Assembly is on its site. See also, HMRC, *Air Passenger Duty update - Northern Ireland rates*

72 EDM 174 of 2012-13, 12 June 2012 (105 Members signed this motion). See also, EDM 685 of 2012-13, 5 November 2012

73 House of Commons All Party Parliamentary Group for Aviation, *Inquiry into Aviation Policy and Air Passenger Duty*, August 2012 pp20-21

74 "Scrap flight tax to boost economy, say airlines", *Guardian*, 4 February 2013; PriceWaterhouseCoopers (PWC), *The economic impact of Air Passenger Duty*, February 2013.

75 HC Deb 19 October 2012 c536W. The Minister reiterated this position in his response to a back bench debate on APD the next month (HC Deb 1 November 2012 cc442-483).

76 HC Deb 23 October 2013 c403. Speaking for the Opposition on this occasion Catherine McKinnell did not make any specific proposal for changing duty rates or scrapping the tax, but, supporting the devolution of APD to Northern Ireland, was critical of the Government's "piecemeal approach" (*op.cit.* c382).

77 The report also noted that the Government had "no plans to vary APD rates by levels of airport congestion" (*Budget 2013* HC 1033, March 2013 para 2.157).

by £2, and standard rates by £4.[78] This was debated and approved without amendment, at the Committee stage of the Bill on 18 April 2013. On this occasion the House debated new clauses put down by the SNP, and Plaid Cymru, for the devolution of APD to the Scottish and Welsh governments respectively. In response to the debate the Economic Secretary, Sajid Javid, set out the Government's reasons for only devolving APD to Northern Ireland:

> The decision to devolve direct long-haul rates to Northern Ireland was a reflection of the unique challenges faced there … Northern Ireland is the only part of the UK to share a land border with another EU member state with a lower rate of aviation tax. The UK Government are committed to devolving tax powers where it is to the benefit of the UK as a whole. This is evident from the devolution to Scotland of the stamp duty land tax and the landfill tax, which amounts to the biggest transfer of fiscal powers from London to Scotland in 300 years …
>
> In response to the 2011 consultation on APD, a substantial number of stakeholders raised concerns about devolution complicating the APD system and creating distortions in the markets for flights. This concern was reinforced in a recent report by HMRC suggesting that the devolution of APD could lead to market distortion as a result of passenger redistributions between UK airports, without substantially increasing demand for aviation overall. In considering whether to devolve APD, hon. Members will surely agree that we must assess the risk of replicating the same problems that Northern Ireland faced from lower aviation taxes in the Republic of Ireland … Our analysis needs to be based on a full examination of the evidence. We will not be rushed or pushed into making premature judgments. On that basis, I ask hon. Members not to press their new clauses.[79]

Subsequently, in answer to a PQ, the Exchequer Secretary, David Gauke, underlined the Government's view that "APD is a relatively efficient and non-regressive tax, and that abolishing it would have a small impact on GDP and cause a net loss of overall tax receipts":

> **Priti Patel:** To ask the Chancellor of the Exchequer (1) what comparative assessment his Department has made of the amount of air passenger duty paid by (a) British companies, (b) French companies, (c) German companies, (d) companies in the Netherlands and (e) companies in the Republic of Ireland; (2) what assessment his Department has made of the recent report by PricewaterhouseCoopers, The economic impact of air passenger duty, published February 2013; and if he will make a statement; (3) if he will publish his Department's assessment of the effects of current levels of air passenger duty on UK businesses' use of air transport and their ability to export; (4) how many representations he has received from overseas residents regarding air passenger duty in 2012.
>
> **Mr Gauke:** Air passenger duty (APD) is paid by airlines rather than passengers, although airlines usually pass the cost of the tax on in ticket prices. For the purposes of administering the tax, HM Revenue and Customs (HMRC) does not require and does not collect information on the final purchasers of tickets, and so it is not possible to identify the amount of APD paid by companies resident in different countries. While HMRC does hold data on the amount of APD paid by airlines, it is not possible to provide breakdowns of this information by country due to taxpayer confidentiality.

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[78] Under s185 of *FA2013*. Under s186 HMRC was given the power to require operators of business jets to make payments of APD on account, should HMRC consider this is necessary to protect revenue (HC 1033, March 2013 para 2.158). Regulations made under this provision would prescribe the calculation of these amounts and the time when they would have to be paid . This section also added South Sudan to the list of territories in Band B, further to international recognition of this sovereign state (*Explanatory Notes – FA2013* p316).

[79] HC Deb 18 April 2013 cc601-2. In the event both new clauses were negatived on division.

The Government believes that APD is a relatively efficient and non-regressive tax, and that abolishing it would have a small impact on GDP and cause a net loss of overall tax receipts.

The Government has limited the rise in APD to inflation over the period from 2010-11 to 2013-14. Furthermore, Budget 2013 set out rates from April 2014, which will also only rise in line with inflation, ensuring that the level of APD will remain constant in real terms. However, the Chancellor keeps all taxes under review and considers their effects in the round.

Treasury Ministers and officials have meetings and receive representations from a wide variety of individuals and authorities as part of the process of policy development and delivery. Our records are not broken down to allow the number of communications specifically from overseas residents to be determined.[80]

5 Budget 2014 : a new 2 band structure

In his 2014 Budget the Chancellor, George Osborne, announced that from April 2015 APD would be restructured into 2-bands, with all long-haul flights charged the rate of tax, while the rate of tax on private jets would be substantially increased:

> We will … reform air passenger duty to end the crazy system where you pay less tax travelling to Hawaii than you do travelling to China or India. It hits exports, puts off tourists and creates a great sense of injustice among our Caribbean and south Asian communities here in Britain. From next year, all long-haul flights will carry the same, lower, band B tax rate that you now pay to fly to the United States. Private jets were not taxed at all under the previous Government. Today they are, and I am increasing the charge so they pay more.[81]

The Budget Report summarised these changes as follows:

> As announced at Budget 2013, APD rates for 2014-15 will rise in line with RPI from 1 April 2014 … Budget 2014 announces that from 1 April 2015, the government will reform APD by merging bands B, C and D, and uprating bands A and B by the RPI. The government will also set the higher rates that apply to private business jets offering an enhanced level of comfort to 6 times the reduced rate … The government will also consult on making greater tax transparency in ticket sales.[82]

These changes are estimated to cost £215m in 2015/16, rising to £250m by 2018/19.[83] The Budget *Policy Costings* document gives more details:

> The tax base for this measure is all passengers currently subject to APD and travelling to destinations more than 4000 miles from London, or aboard luxury jets subject to the higher rate. In 2012-13, there were 97.5 million chargeable APD passengers, of which around 9 million were flying to destinations more than 4000 miles from London and would thus be affected by the change in rate … The static costing is calculated by applying the pre- and post-measure APD rates to [this] tax base …

80 HC Deb 9 July 2013 cc158-9W
81 HC Deb 19 March 2014 c787;
82 *Budget 2014* HC 1104, March 2014 para 2.160-1
83 *op.cit.* p57 (Table 2.1 – item 36).

Exchequer impact (£m)

	2014-15	2015-16	2016-17	2017-18	2018-19
Exchequer impact	0	-230	-240	-250	-265

> Behavioural adjustments are made to take into account the increase in demand for long haul flights following this change. A price elasticity of -0.6 is applied to passenger numbers travelling to the current band C and D in the lowest class of travel on the flight (usually economy class) who are therefore subject to the reduced rate. A price elasticity of -0.1 is applied to those travelling in a higher class of travel and thus being subject to the standard rate. This behavioural effect increases the number of passengers travelling to these long haul destinations and thus slightly offsets the static cost.

Exchequer impact (£m)

	2014-15	2015-16	2016-17	2017-18	2018-19
Exchequer impact	0	-215	-225	-230	-250

The department goes on to note that the main uncertainty in this costing arises from the extent of the behavioural response.[84]

Provision to make these changes is included in the *Finance Bill 2014* (clauses 72-74): this includes scrapping Bands C and D from April 2015, *and* increasing the rates for Bands A & B in line with inflation for 2015/16.[85] HM Revenue & Customs do not anticipate the changes will result in substantial compliance costs, though clearly the rate of tax paid on some destinations will fall considerably:

> The measure will reduce the tax paid on flights to many destinations. A family of four visiting relatives in the Caribbean or India flying in economy class will pay £56 less in APD … There are approximately 500 airlines and operators flying from UK airports and they are expected to have negligible one-off transition and ongoing costs as a result of this measure … Costs to HM Revenue & Customs (HMRC) of implementing this change are expected to be negligible … Carbon assessment: the banding reform could mean that carbon dioxide emissions are around 0.3 million tonnes higher per year of the scorecard than was expected under the previous policy.[86]

In general airlines and travel companies welcomed the merger of duty bands for long haul flights, but maintained their position that the tax should be abolished.[87] The *Times* quoted Virgin Atlantic as saying, "the Government has rightly recognised the damage APD is having on exporters and the travelling public alike. There is a growing body of evidence demonstrating the huge economic benefits to the UK of reducing or abolishing APD and we hope that the Government will continue to go further in the long run."[88] The *Guardian* quoted the IAG Group as suggesting this was "window-dressing a tax that even George Osborne says is 'crazy' … the only long-term solution is to scrap APD in its entirety."[89] Writing in *Travel*

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84 HM Treasury, *Budget 2014 – Policy Costings*, March 2014 p25

85 Clause 74 amends the legislation setting out territories incorporated in a given band, to take account of changes to the territorial status of Ascension Island & Saint Helena, and the Netherlands Antilles.

86 HMRC, *Air Passenger Duty: banding reform*, 20 March 2014

87 "Cut in air passenger duty leaves airlines unimpressed", *Financial Times*, 20 March 2014

88 "Cheaper holidays to the Caribbean as flight taxes cut", *Times*, 20 March 2014

89 "Travel: £340m pledged for plugging potholes and flood defences", *Guardian*, 20 May 2014

Weekly, ABTA's head of public affairs, Stephen D'Alfonso, commented, "it would be odd to be anything but positive in response to any step that reduces the tax-take from APD … but it would also be wrong to interpret this as the end of the road for our APD campaigning. On the contrary, it shows that when we make a compelling case, the Treasury will listen and act."[90]

One issue flagged in PwC's report on APD was the potential risk posed to the Exchequer from 'multi-ticketing': passengers booking separate flights from airports on the Continent to avoid paying the higher rates of APD on long haul flights:

> With lower fares available from abroad, many UK travellers have opted to 'multi-ticket'. Instead of purchasing one long-haul ticket (either direct or indirect) from a UK-point of origin, passengers are increasingly purchasing separate tickets to reach their end destination. This involves buying one short-haul ticket to a European hub (in doing so attracting only a Band-A APD charge) and a separate long-haul ticket which the consumer can connect to at the European destination (and hence avoiding the long-haul APD charge) …
>
> This strategy does entail the risk of a delay occurring on the initial leg, which could cause the passenger to miss the subsequent flight to their end destination. Despite such risks, the initial evidence shows that the occurrence of multi-ticketing is increasing. Over the last five years, there has been a general increase in the number of UK passengers using foreign hubs, particularly Amsterdam Schiphol, to begin their onward journeys … If APD rates continue to rise there is potential for multi-ticketing to increase and threaten the tax base.[91]

In a submission before the 2014 Budget, the UK Board of Airline Representatives raised concerns about two practices for avoiding APD, but did not estimate the scale of this behaviour:

> The industry has advised HM Treasury that APD avoidance is taking place primarily as a result of the tax reaching high enough levels whereby individuals are financially incentivised to seek ways in which to do so. Avoidance is not believed to have been an issue prior to the November 2010 increases. There are plenty of websites and blogs instructing savvy travellers how to reduce or avoid paying APD
>
> This avoidance is taking place in two ways:
>
> a) Open jaw journeys – In particular from bands C and D, it is relatively commonplace for inbound business and leisure customers from these long-haul destinations to combine more than one city in their itinerary due to the distance and cost involved. Overseas travel agents and individuals are therefore taking advantage of common rated fares from foreign network airlines that connect customers via their hub to a number of European hubs. This is achieved by flying into the UK and connecting via train, ferry or separate air ticket in order to departing from a European hub, thereby avoiding the band C or D APD. Since many such tickets are not arranged or sold directly by airlines, and airline reservation systems (GDS) are not programmed to extract this type of travel pattern, it is extremely difficult to provide quantitative data other than to provide professional industry assurance that such activity is taking place.
>
> b) Multi or split ticketing – Is occurring in instances where it is financially favourable to travel via train or a separate flight ticket to connect onto a band C or D departure from

[90] "Opinion: Securing APD reform was a significant win, but the fight goes on", *Travel Weekly*, 25 March 2014
[91] *The economic impact of Air Passenger Duty*, February 2013 pp 21-23, p5

> a European hub. Again, airline reservation systems are not programmed to identify this trend since they are simply required to maximise revenue on each flight sector from the fare component and not the tax. However, it is known that such activity is taking place but on a highly variable level according to fare offerings on specific routes and at specific times of the year, rather than a consistent or averaged basis.[92]

Clearly there are some disincentives for passengers to avoid APD this way. First, as travellers would have to use a separate flight for the second stage of their journey, this would mean having to collect their luggage off the first flight and check in a second time. For some passengers, such as those on business, the time and hassle involved could well be a major issue. Second, anecdotally, booking flights from airports on the Continent can be more expensive. The issue has been raised in PQs recently. While HMRC have no statistics on its incidence, the proposed reforms to the band structure of APD will clearly reduce incentives for passengers to do this:

> **Andrew Percy:** To ask the Chancellor of the Exchequer what assessment he has made of the effect of multi-ticketing on the revenue accruing to the Exchequer from air passenger duty in each of the last five years; and if he will make a statement.
>
> **Nicky Morgan:** Budget 2014 announced the reform of air passenger duty with the abolition of bands C and D from 1 April 2015. This will eliminate the two highest rates of APD charged on flights to countries over 4,000 miles from Britain, cutting tax for millions for passengers to travelling to China, India, Brazil and many other emerging markets. This will mean that flights to South Asia and the Caribbean will pay tax at the lower band B rate.
>
> Air passenger duty is calculated on a passenger's final destination. The liability of a journey from the UK will be the same whether the journey is made by using a single, direct flight from the UK, or by using two or more connected flights through foreign hub airports. A journey using separate unconnected tickets has practical and financial implications including no protection on the cost of missed connections. Data is not held on the number of UK passenger journeys to foreign hub airports that may be part of a longer journey using unconnected tickets.[93]

The provisions in *Finance Bill 2014* to reform the structure of APD and set the rates from April 2015 were debated, and approved unamended, on 9 April 2014.[94] On this occasion the House also considered new clauses moved by Plaid Cymru and the SNP, to devolve the tax. Speaking for the Opposition Catherine McKinnell noted that the changes announced in Budget 2014 "have been cautiously welcomed by much of the industry" though the rates for Bands B-D were being uprated for 2014/15, which "comes on top of the large increases over the past few years." Ms McKinnell argued that devolving APD to Northern Ireland was appropriate "given its unique international land border and the fact that Northern Ireland largely relies on air transport for its link to the rest of the UK" though the Labour Party remained to be convinced of the merits of further devolution.[95] The Exchequer Secretary concurred with Ms McKinnell's point about Northern Ireland:

> The devolution of duty for Northern Ireland was in specific response to Northern Ireland's unique circumstances … The current situation is that airports on the Great

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92 *BAR UK 2014 Budget Submission on APD*, January 2014 p3
93 HC Deb 24 March 2014 c9W
94 HC Deb 9 April 2014 cc358-384
95 *op.cit.* c375

> Britain mainland face the same APD rates, but the SNP and Plaid Cymru proposals could well lead to the introduction of the same market distortions that our devolution to Northern Ireland sought to prevent, namely the reallocation of flights from one part of the UK to another, leading to distortion in competition, and winners and losers across the UK.[96]

The Minister went on to set out the Government's case for replacing the 4-band system, and for not taking up the suggestions, made by some regional airports, that the duty rate should be higher for more congested airports, or be cut during holiday periods:

> The previous Government's four-band system … saw travellers to China, India, Brazil, the Caribbean and a host of other destinations paying more in tax than travellers going to Hawaii, even though Hawaii is further away. We believe this system to be crazy and unfair. Clause 73 restores sense and fairness by reforming the duty bandings. It introduces a simple to understand two-band system: one band for travel to countries up to 2,000 miles from London, and another for travel to countries further away. This puts a host of countries on to the same rate as the USA and delivers a rates cut for travel to growth markets in Latin America, southern Asia and the far east with effect from 1 April 2015 ...
>
> In 2011, a number of regional airports offered the view that there ought to be an additional charge of duty at congested airports, or a lower rate at uncongested airports … In October 2012, Her Majesty's Revenue and Customs published a report that shows that significantly higher prices at congested airports could lead to some passenger redistributions, but it also suggests that the benefits might not be spread widely across the UK. In addition, the report suggests that some regional airports would in fact lose passengers if a difference in price meant traffic and services went to other competing airports … It is of note that the Airports Commission's December 2013 interim report also concluded that "an air passenger duty congestion charge is not a promising solution to the capacity problem in London and the South East."
>
> In more recent times some regional airports have turned their thinking to the idea of a holiday period for new long-haul routes during which duty would not be payable. On this, the Airports Commission's interim report offers an illuminating view. It says that there are two potential pitfalls. First, if the idea applied to all new routes equally, there would be substantial potential for airlines to game the system by switching existing routes between airports. Secondly, if there were measures to control this behaviour, the idea would run a substantial risk of legal challenge, because it would distort competition in favour of particular routes and not others. The commission felt that it could not recommend the use of air passenger duty holidays. It instead referenced how airport landing charges might be used to incentivise new routes. We see nothing to disagree with in the commission's analysis.[97]

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96 *op.cit.* c377

97 *op.cit.* cc380-1. The House voted on one of the new clauses – to devolve APD to Wales – and rejected it by 254 votes to 9. Clauses 72-4 of the Bill were then agreed, without a vote.

6 Appendix : Rates of APD since 1994

HM Revenue and Customs
Air Passenger Duty (APD) Bulletin - December 2013

7 Changes to APD rates

Date of Change[1]	Lower Rate (£)	Higher Rate (£)
01.11.94	5.00	10.00
01.11.97	10.00	20.00

	EEA* Destinations		Non-EEA Destinations	
Date of Change [2]	Reduced rate (£)	Standard Rate (£)	Reduced rate (£)	Standard Rate (£)
01.04.01	5.00	10.00	20.00	40.00
01.02.07	10.00	20.00	40.00	80.00

	Band A [4]		Band B		Band C		Band D	
Date of Change [3]	Reduced rate (£)	Standard Rate (£)	Reduced rate (£)	Standard Rate (£)	Reduced rate (£)	Standard Rate (£)	Reduced rate (£)	Standard Rate (£)
01.11.09	11.00	22.00	45.00	90.00	50.00	100.00	55.00	110.00
01.11.10	12.00	24.00	60.00	120.00	75.00	150.00	85.00	170.00
01.04.12	13.00	26.00	65.00	130.00	81.00	162.00	92.00	184.00
01.04.13	13.00	26.00	67.00	134.00	83.00	166.00	94.00	188.00

	Band A	Band B	Band C	Band D
Date of Change [5]	Higher rate (£)	Higher rate (£)	Higher rate (£)	Higher rate (£)
01.04.13	52.00	268.00	332.00	376.00

1. Between 1 November 1994 and 31 March 2001 a lower rate applied where passengers were travelling to a UK destination or within the European Economic Area (and other closely connected destinations). A higher rate applied in all other cases.

2. With effect from 1 April 2001, new standard and reduced rates of duty were introduced for both EEA and Non EEA destinations and an exemption applying to the return leg of a domestic flight was removed. The lowest rates of duty apply to the lowest class of travel of any flight.

3. From 1 November 2009, a four destination band structure applies, based on geographical distance from London to the capital of the destination country. Each band has two rates of duty depending upon the class of travel, so there are eight different rates of duty.

4. With effect from 1 November 2011, the rate of APD due for passengers travelling on direct long-haul routes departing from airports in Northern Ireland was cut, and Band A rates applied irrespective of the destination. From January 2013 the rate for direct long-haul flights from Northern Ireland was devolved and set to zero by the Northern Ireland Executive.

5. From 1 April 2013, the higher rate applies to flights aboard aircraft of 20 tonnes and above with fewer than 19 seats.

The four bands are defined as follows, with mileage referring to the geographical distance from London to the capital of the destination country:
Band A: 0 - 2,000 miles
Band B: 2,001 - 4,000 miles
Band C: 4,001 - 6,000 miles
Band D: over 6,000 miles
From 1 April 2013, APD will apply to all flights aboard aircraft 5.7 tonnes and above. If any class of travel provides a seat pitch in excess of 1.016 metres (40 inches) the standard rate is the minimum rate that applies.

* EEA = European Economic Area

HM Treasury/HM Revenue & Customs, *Overview of Tax Legislation and Rates*, 19 March 2014

Air Passenger Duty (APD) rates for 2014-15 were set out at Budget 2013. The APD rates for 2015-16 are set out below.

Air Passenger Duty Rates [23] [24]						
Bands (approximate distance in miles from the UK)	**Reduced rate (lowest class of travel)**		**Standard rate** [25] **(other than the lowest class of travel)**		**Higher rate** [26]	
	From 01 April 2013	From 01 April 2014	From 01 April 2013	From 01 April 2014	From 01 April 2013	From 01 April 2014
Band A (0 – 2000 miles)	£13	£13	£26	£26	£52	£52
Band B (2001 – 4000 miles)	£67	£69	£134	£138	£268	£276
Band C (4001 – 6000 miles)	£83	£85	£166	£170	£332	£340
Band D (over 6000 miles)	£94	£97	£188	£194	£376	£388
From 1 April 2015						
Bands (approximate distance in miles from the UK)	**Reduced rate (lowest class of travel)**		**Standard rate** [25] **(other than the lowest class of travel)**		**Higher rate** [26]	
Band A (0 – 2000 miles)	£13		£26		£78	
Band B (over 2000 miles)	£71		£142		£426	

[23] From 1 April 2013, APD has applied to all flights aboard aircraft 5.7 tonnes and above.
[24] From 1 January 2013 the rates for direct long-haul flights from NI were devolved to the Northern Ireland Executive, and set at £0. Direct long haul journeys from NI are those where the first part of the journey is to a destination outside Band A.
[25] If any class of travel provides a seat pitch in excess of 1.016 metres (40 inches) the standard rate is the minimum rate that applies.
[26] The higher rate applies to flights aboard aircraft of 20 tonnes and above with fewer than 19 seats.