

HOTEL TURNOVER TAX ACT 2006

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ACT NO. 5 OF 2006



I assent.

[L.S.]

J. I. ULUIVUDA
President

[22nd March 2006]

AN ACT**TO IMPOSE TAX ON HOTEL TURNOVER AND FOR
RELATED MATTERS**- [1st June 2006]

ENACTED by the Parliament of the Fiji Islands —

Short title and commencement

1. This Act may be cited as the Hotel Turnover Tax Act 2006, and comes into force on a date appointed by the Minister, by notice in the *Gazette*.

Interpretation

2. In this Act, unless the context otherwise requires—

“accommodation” means accommodation in a hotel provided for hire or reward by the owner of a hotel and includes accommodation provided for the carriage of a passenger, in circumstances in which the passenger is provided with a berth for his overnight accommodation, in a vessel that is wholly or principally engaged in the carriage of tourists within Fiji, as if—

- (a) that vessel were a hotel within the meaning of this Act; and
- (b) the sum or sums payable by or on behalf of the passenger in respect of his carriage and accommodation in the vessel were sums or amounts within the meaning of this Act;

“accountable person” means the owner, manager, sole precedent partner and, otherwise the person who is responsible for the day to day management of the hotel;

“authorised person” means a person authorized in writing by the Commissioner for the purpose of this Act under section 5;

“Commissioner” means the Commissioner of Inland Revenue appointed under section 3 of the Income Tax Act, or any person appointed by him for the purposes of this Act;

“hotel” means a hotel as defined and licensed under the Hotels and Guest Houses Act;

“hotel turnover tax” means the tax imposed under section 3(1);

“precedent partner”, in relation to a partnership, means the partner who, of the partners resident in Fiji—

- (a) is first named in the agreement of partnership;
- (b) if there is no agreement, is named singly or with precedence over the other partners in the usual name of the partnership; or
- (c) is the precedent active partner if the partner named with precedence is not an active partner,
and includes, where no partner is resident in Fiji, the attorney, agent, manager or factor of the partnership resident in Fiji;

“refreshment” includes food and alcoholic or other beverages;

“turnover” means any sums or amounts received or receivable by or on behalf of the owner of a hotel in respect of accommodation, refreshment and any other sums or amounts debited to and included in the guest’s hotel charges.

Levy and payment of hotel turnover tax

3.—(1) Subject to the provisions of this Act, a tax at the rate of 3% shall be levied on the turnover of hotels.

(2) The person liable for the tax shall be the hotel guest by whom the charges subject to the tax are incurred or the person responsible for the payment of the guest’s hotel charges.

(3) Notwithstanding the provisions of subsection (2), the hotel turnover tax collected under this section shall be paid to the Commissioner by the accountable person in accordance with section 4.

(4) The 3% hotel turnover tax levied under subsection (1) shall not be subject to the value added tax imposed under the Value Added Tax Decree.

Hotel Turnover tax to be paid and returns made to Commissioner

4.—(1) The accountable person shall—

- (a) pay the Commissioner, within 30 days after the last day of each month, the hotel turnover tax payable for that month; and
- (b) provide together with such payment a return setting out the total amount of the turnover for that month.

(2) Notwithstanding subsection (1), the Commissioner may, in any particular case, require that the hotel turnover tax be paid within a period of less than one month

(3) For the purpose of subsection (2) the accountable person shall pay the Commissioner the hotel turnover tax within 14 days after the expiry of the period fixed by the Commissioner. The accountable person shall also at the same time comply with the requirement of subsection (1)(b) in respect of that period.

(4) If hotel turnover tax is not paid in accordance with subsection (1) or (2), the accountable person is liable to a penalty at a rate of 10% of the unpaid hotel turnover tax in addition to the hotel turnover tax, and if the default continues an additional two and a half percent penalty per month of default shall be added to the 10% penalty if the default continues for more than one month after the due date for payment.

(5) An accountable person who—

- (a) fails to provide a return required under subsection (1)(b); or
- (b) provides a return which is false or incorrect in any material particular,

commits an offence and is liable on conviction to a fine not exceeding \$5,000.

Powers of the Commissioner

5.—(1) The Commissioner may approve the form for the return to be provided under section 4(1)(b).

(2) The Commissioner may require the accountable person to keep adequate records and accounts relating to the turnover of the hotel.

(3) The Commissioner or a person authorised in writing by the Commissioner may enter any hotel at any reasonable time and inspect the records of the hotel that relate to turnover of the hotel or the collection or the payment of hotel turnover tax under this Act.

(4) The Commissioner or an authorised person may require the accountable person to produce any books or records relating to the turnover of the hotel or the collection or payment of hotel turnover tax under this Act.

(5) An accountable person who fails to comply with subsection (2), (3) or (4) commits an offence and is liable on conviction to a fine not exceeding \$5,000.

(6) The Commissioner may enter into an arrangement as he thinks fit with the accountable person for the payment or deferral of payment of hotel turnover tax.

(7) Where an accountable person has committed an offence in respect of payment of hotel turnover tax, the Commissioner may send a notice to that person setting out particulars of the offence and make an offer to compound the offence.

(8) The Commissioner may make an offer to compound an offence notwithstanding the commencement of proceedings against the alleged offender, and may compound the offence accordingly.

Accountable persons to register with Commissioner

6.—(1) Subject to subsection (2), the owner of a hotel shall, within 30 days before the hotel business commences, register with the Commissioner—

- (a) the name and address of the accountable person for that hotel;
- (b) the names and addresses of any partners and associates, in that business indicating the precedent partner;
- (c) the trade or business name where the business is carried on under a name or style other than his own name; and
- (d) the place and address where he carries on or intends to carry on his hotel business.

(2) At the commencement of this Act, the person whose name appears in the hotel licence issued under the Hotels and Guest Houses Act is deemed to be registered under this section as the accountable person.

(3) For the purpose of subsection (2), the owner of the hotel shall comply with subsection (1) within 30 days of coming into force of this Act.

(4) It shall be deemed to be sufficient compliance with paragraph (1) if, in the case of a partnership, the precedent partner, and in the case of a body of persons, the manager, effects the registration of that partnership or body of persons.

Application of the Income Tax Act

7. The following provisions of the Income Tax Act apply to this Act—

(a) Section 108; and

(b) Part X relating to the recovery of any tax payable under this Act as if it were income tax payable under that Act.

Regulations

8. The Minister may make regulations to give effect to the provisions of this Act.

Passed by House of Representatives on 21st February 2006.

Passed by Senate on 9th March 2006.