



Tonga

FOREIGN EXCHANGE LEVY ACT 2015

Act 5 of 2015



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Arrangement of Sections

Section

1	Short Title	5
2	Interpretation.....	5
3	Foreign exchange levy imposed.....	6
4	Rate of levy	6
5	Penalty payable on unpaid levy	6
6	Recovery of levy	6
7	Offences	6
8	Regulations	7
9	Administration	7



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AN ACT TO IMPOSE A FOREIGN EXCHANGE LEVY

I assent,
TUPOU VI,
15th October 2015.

BE IT ENACTED by the King and Legislative Assembly of Tonga in the Legislature of the Kingdom as follows:

1 Short Title

This Act may be cited as the Foreign Exchange Levy Act 2015.

2 Interpretation

In this Act, unless the context otherwise requires -

“**financial institution**” means a licensed financial institution under the Financial Institutions Act 2004 carrying on in Tonga the business of banking or the purchase or sale of foreign currency;

“**Minister**” means the Minister responsible for finance;

“**Ministry**” means the Government Ministry responsible for finance;

“**foreign currency**” means the bank notes or other currency of any country other than Tonga, and includes postal notes, money orders, promissory notes, bill of exchange, and any other negotiable instruments payable otherwise than in the currency of Tonga;

“**levy**” means the foreign exchange levy imposed by this Act;

“purchase or sale of foreign currency” includes any dealing or transaction having the effect of a purchase or sale of exchange of foreign currency; and

“spread” means the income that financial institutions derive (price difference when a financial institution purchases or sells foreign currency) from foreign exchange transactions as quoted in Tongan seniti.

3 Foreign exchange levy imposed

- (1) On the date this Act comes into force, every financial institution shall pay a levy to be known as the foreign exchange levy.
- (2) The levy imposed by this Act shall be payable in respect of every purchase or sale of foreign currency in Tonga with the exception of the purchases and sales of foreign currency by one financial institution through another financial institution within Tonga.
- (3) The levy shall be payable monthly on the due date into the account nominated by the Minister, and shall be accompanied by any information reasonably determined by the Minister subject to the Financial Institutions Act 2004.
- (4) For the purposes of this Act, the due date shall be the fifth working day of every month in respect of the levy payable on the purchase or sale of foreign currency during the preceding month.

4 Rate of levy

The levy shall be assessed and paid at a rate of one seniti imposed as part of the spread of the Pa’anga value of every purchase and sale of foreign currency.

5 Penalty payable on unpaid levy

- (1) Any financial institution failing to pay the levy within 5 working days after the due date on unpaid levy shall be chargeable, by way of penalty, with additional levy of 10 percent of the amount of the unpaid levy.
- (2) Any penalty charged under subsection (1) shall be added to and deemed part of the levy payable and recoverable in accordance with this Act.

6 Recovery of levy

The levy payable on this Act shall be recoverable by the Minister by legal action as a debt due to the Government.

7 Offences

Any financial institution:

- (a) which contravenes or fails to comply with any provisions of this Act or any lawful directions given under or pursuant to this Act; or
- (b) which furnishes any false information under or pursuant to this Act, commits an offence and shall, upon conviction, be liable to a fine not exceeding \$5,000.

8 Regulations

Cabinet may from time to time make regulations for the purpose of providing for such other matters as are contemplated by or necessary for giving effect to the provisions of this Act and for its due administration.

9 Administration

This Act shall be administered by the Ministry.

Passed by the Legislative Assembly this 23rd day of June 2015.