

REPUBLIC OF VANUATU

THE HOTEL AND LICENSED PREMISES

TAX ACT N° 2 OF 1982

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TAX ACT N° 2 OF 1982

To provide for a tax on accommodation, goods and services supplied by hotels and licensed premises.

BE IT ENACTED by the President and Parliament as follows :-

Interpretation.

1. In this Act where the context so admits :-

"Collector" means the person appointed by the Minister as the Collector for the purposes of this Act or any person acting under the authority of the Collector;

"documents" includes books, ledgers, cards, accounts and computer printouts;

"goods or services" means accommodation, food, beverages, goods, services, discos, dances and entertainments of any kind and includes the letting or hiring of any goods or things or equipment;

"licensed premises" means any premises licensed under the laws of Vanuatu to sell alcohol for consumption on the premises including restaurants, bars, boats or ships;

"tax" means hotel and licensed premises tax;

"taxable person" means a person liable to pay tax under section 2 (3).

Hotel and licensed premises tax.

2. (1) A tax to be known as hotel and licensed premises tax shall be charged in accordance with the provisions of this Act on the provision of goods and services.

(2) The tax shall be payable in respect of -

(a) hotels, howsoever described containing ten or more rooms or suites of rooms for letting to the public at not less than 1.000 vatu for each room per day; and

(b) licensed premises.

- (3) The tax shall be payable by the person who provides goods or services whether directly or through an agent, manager, servant or contractor.
- (4) For the purposes of subsection (2) a room or suite of rooms containing beds for more than three people shall be counted as two rooms or suites.

- Rate of Tax.            3.            The tax shall be charged at ~~the~~ rate of 10 per cent of the amount paid or due from persons who are supplied with goods and services or the agents of such persons whether such persons have been supplied on the hotel premises or on the licensed premises or elsewhere.
- Assessment of amount paid or due for goods or services.            4.            The amount paid or due under section 3 for the supply of goods or services shall be assessed as follows :-
- (a) if the supply was made for a money consideration it shall be the amount of the money;
  - (b) if the supply was for no consideration or for a consideration other than money or for a consideration partly of money it shall be the open market value of the supply.
- Tax recoverable from persons supplied with goods or services.            5.            The person who manages an hotel or licensed premises to which this law applies may recover the tax from the persons who have been supplied with the goods or services in respect of which the tax applies.
- Period for which tax payable and day when tax payable.            6.            (1) Tax shall be payable to the Collector monthly.
- (2) Subject to subsection (3) the tax in respect of the total amount paid or due for goods and services supplied in a calendar month shall be due and payable to the Collector on or before the last day of the next calendar month.
  - (3) The Minister may by order provide for the payment of tax in relation to a period that is shorter than one calendar month but such period shall not be shorter than fourteen days nor shall the day on which the tax for that period is due be less than 14 days after the end of that period.

Penalty.

7. (1) If a taxable person does not pay the tax when it is due and payable he shall pay to the Collector a penalty at the rate of 10% of the unpaid tax which shall accumulate monthly.
- (2) Where the tax is payable in accordance with section 6 (1) the penalty shall become immediately payable on the first day after the end of the calendar month during which it was due and payable and shall be payable in respect of the tax due and payable during that period.
- (3) When the tax is payable in accordance with an order made under section 6 (3) the penalty shall become immediately payable on the day after the end of the prescribed period and shall be paid at the rate of 10% in respect of the tax payable during that period but the penalty shall accumulate monthly thereafter.
- (4) When a penalty is paid or ordered to be paid by a Court and on the day on which the penalty is paid the total period during which the tax to which the penalty relates includes a period of less than a calendar month that period for the purposes of assessment of the penalty shall be treated as a calendar month.

Returns.

8. (1) Every taxable person shall complete or cause to be completed a return in the prescribed form in respect of each period in respect of which tax is payable by him.
- (2) Returns provided for under subsection (1) shall be lodged with or sent to the Collector by or on behalf of the taxable person at the time of payment of the tax.
- (3) Returns which shall be signed by or on behalf of the taxable person shall show, apart from any other particulars that may be prescribed, the amount paid or due to the taxable person in respect of goods and services supplied during the period to which the return relates.

Bad debts.

9. (1) Amounts due to a taxable person in respect of the supply of goods and services which have been written off as irrecoverable may be deducted from the total amount paid or due for goods and services shown in a return made under section 8.

- (2) If any amount shown as a deduction under subsection (1) or a part thereof is received by the taxable person it shall be included as part of the total amount paid for goods and services in the return for the month in which it is paid.

Assessment of  
Tax By  
Collector.

10. (1) Where a taxable person has failed to make or cause to be made returns required under section 8 or to keep the documents or to afford facilities necessary to verify such returns or where it appears to the Collector that such returns are incomplete or incorrect he may assess the amount of tax due from such person to the best of his judgment and notify it to him.
- (2) Subject to subsections (3) and (4) an assessment under subsection (1) with reference to a period for which tax is due and payable shall not be made after the later of the following -
  - (a) two years after the end of the period, for which the tax is due and payable; o
  - (b) one year after receipt of evidence by the Collector sufficient in his opinion to justify making the assessment but where further information comes to his knowledge after making the assessment a revised assessment may be made.
- (3) No assessment may be made more than six years after the end of the period for which the tax is due and payable nor more than three years after the death of the person by whom the tax is payable.
- (4) Except where a taxable person has died an assessment may be made against him at any time if he has not paid the tax by reason of fraud or wilful neglect.

Records.

11. (1) Every taxable person shall keep such records and documents as the Collector may require.
- (2) The duty to keep records under subsection (1) may be discharged by the preservation of the required information in a manner approved by the Collector either for persons generally or for individuals.
- (3) The Collector may impose such conditions on the granting of an approval under subsection (2) as may appear to him necessary to make

such information as readily available to him as if the records required under subsection (1) had been kept.

Furnishing of Information.

12. (1) Persons shall furnish the Collector with such information as may be prescribed concerning the commencement by them of any business, the carrying on of any business or changes in their business activities as may make them liable to payment of tax under this Act or alter their liability to payment of such tax.
- (2) Every person concerned in an hotel or licensed premises in whatever capacity shall -
  - (a) furnish to the Collector within such time and in such form information relating to the provision of goods and services including the consideration therefor as he may require; and
  - (b) upon demand by the Collector produce or cause to be produced any documents relating to the provision of accommodation, food or beverages including the consideration therefor for inspection by the authorised officer and permit him to take copies of or make extracts from them or remove them for a reasonable period.
- (3) For the purposes of this section "documents" shall include profit and loss accounts and balance sheets.
- (4) Where documents removed in accordance with this section are lost or damaged during the period of their removal the Government shall compensate the owners thereof for any expenses reasonably incurred in replacing or repairing the documents.

Entry and inspection of premises and searches of premises and persons.

13. (1) For the purpose of exercising any powers under this Act the Collector may at any reasonable time enter premises used in connection with an hotel or licensed premises.
- (2) Where the Collector has reasonable cause to believe that any premises are used in connection with an hotel or licensed premises he may at any reasonable time enter those premises, inspect the accommodation if an hotel, and inspect the stores of food and beverages kept therein.

(3) If a magistrate is satisfied on information on oath that an offence in connection with this Act has been, is being or is about to be committed on any premises or that evidence of such commission of an offence is likely to be found there he may issue a warrant in writing authorising the Collector to enter those premises, if necessary, by force at any time within 14 days of the issue of the warrant and -

- (a) take such persons with him as he may require;
- (b) search the premises;
- (c) seize and remove any documents or things found on the premises which he has reasonable cause to believe may be required in evidence in proceedings in respect of such offence;
- (d) search or cause to be searched any person found on the premises whom he has reasonable cause to believe to have committed or about to commit the offence or to be in possession of any such documents or things but no female shall be searched except by a female.

Offences and penalties.

14. (1) A person who

- (a) is knowingly concerned in, or in the taking of steps with a view to, the fraudulent evasion of tax by any person;
- (b) with intent to deceive produces or furnishes for the purposes of this Act or otherwise uses for such purposes any document that is false in any material particular;
- (c) in furnishing information for the purposes of this Act makes a statement that he knows to be false in a material particular or recklessly makes a statement which is false in a material particular; or
- (d) accepts the supply of goods or services having reason to believe that tax on the supply of the goods and services will be evaded,

commits an offence and shall be liable to a fine of 100.000 vatu or if greater of three times the amount of the tax or to imprisonment for two years or both such fine and imprisonment.

- (2) Any person who fails to comply with section 8, 11 or 12 commits an offence and shall be liable on conviction to a fine of 20.000 vatu together with a fine of 2.000 vatu for each day on which the failure continues.

Appeals.

15. An appeal shall lie to the Minister with respect to an assessment under section 10 of this Act.

Tax to be debt to Government and to have priority.

16. The amount of any tax due under this Act shall be a debt due to the Government which shall be paid in priority under any law relating to insolvency including persons dying insolvent or any law relating to the payment of creditors on liquidation of a partnership or corporate body.

Evidence by Certificate.

17. (1) A certificate of the Collector that any tax or penalty is due whether or not assessed under section 10 shall be sufficient evidence of that fact until the contrary is proved.
- (2) A photograph of any document or extract from any document certified by the Collector to be such document shall be admissible in any proceedings whether civil or criminal to the same extent as the document itself.
- (3) A document purporting to be a certificate under subsection (1) or (2) shall be accepted as such certificate unless the contrary is proved.

Summary proceedings.

18. The Judicial Committee may provide summary court procedures for the collection of tax and penalties in respect thereof.

Exemptions.

19. The Minister may by order exempt -

- (a) any person; or
- (b) any goods or services either generally or in relation to a specific person,

from the provisions of this Act or any part thereof.

Compounding.

20. (1) The Minister may authorise the Collector to compound any offence against this Act.
- (2) An agreement for compounding an offence shall be in writing signed by the Collector and the person who admits to the offence.
- (3) Where an offence has been compounded in accordance with this section it shall be extinguished in relation to the person who enters into the agreement for compounding with the Collector.

Orders.

21. (1) The Minister may by order make regulations for the better carrying out of the purposes of this Act.
- (2) Without derogating from the generality of subsection (1) regulations made under that subsection may provide for -
- (a) any thing that may be prescribed;
  - (b) document that shall be lodged or sent with returns made under this Act;
  - (c) forms to be used for the purposes of this Act and particulars to be included therein;
  - (d) the procedures to be followed for appeals to the Minister and the time within which such appeals shall be made;
  - (e) a penalty of not more than 20,000 vatu for contravention of any such Regulations.

Commencement.

22. This Act shall come into force on such date as the Minister shall appoint by order published in the Gazette.