

HOTEL TURNOVER TAX ACT

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UPDATED BY:-



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RESEARCH UNIT
FIJI ISLANDS REVENUE AND
CUSTOMS AUTHORITY**

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HOTEL TURNOVER TAX ACT 2006

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AN ACT

TO IMPOSE TAX ON HOTEL TURNOVER AND FOR RELATED MATTERS

ENACTED by the Parliament of Fiji –

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 a hotel guest’s bill.

Levy and payment of hotel turnover tax

3. – (1) Subject to the provisions of this Act, a tax at the rate of 5%¹ 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 5%² hotel turnover tax levied under subsection (1) shall not be subject to the value added tax imposed under the Value Added Tax Decree.
- (5) ³The hotel turnover tax component is to be shown separately on the invoice.

Hotel Turnover tax to be paid and returns made to Commissioner

4. – (1) The accountable person shall –
- (a)⁴ on or before the last day of each month, pay the Commissioner any hotel turnover tax that has been payable since the previous month;
 - (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)⁵

(5)⁶

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.

Tax held by accountable person deemed to be held in trust for the State

4A¹.- An amount of tax collected by an accountable person under Section 3 of this Act and payable by that accountable person to the Commissioner under Section 4 of this Act shall be deemed to be held in trust for the State and shall not be subject to any attachment in respect of any debt or other liability of that accountable person in the event of the liquidation or bankruptcy of that accountable person, or of any assignment for the benefit of the accountable person's creditors, or in any event, and the said amounts shall not form part of the estate of the accountable person in liquidation or bankruptcy or part of any such assignment, but shall be paid in full to the Commissioner before any distribution of property is made.

Powers of the Commissioner

5. ¹....-

“(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.”

Compounding of offences

5A^{1 2}....-

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.

Keeping of Records

6A¹. - (1) For the purposes of this Act, the owner of the hotel shall-

- (a) keep records, in Fiji and in the English language, to allow the Commissioner or any officer authorised by the Commissioner, to ascertain or examine the turnover of the hotel and the hotel turnover tax; and
 - (b) retain such records in Fiji for at least 7 years from the date of such records.
- (2) The Commissioner may give written notice that preservation of records is not required under subsection (1) if the hotel has been wound-up and finally dissolved.
- (3) For the purpose of this Section the term “records” includes books of account (whether contained in manual, mechanical, electronic format, or microfilm) recording receipts or payments or income or expenditure, and also includes vouches, bank statements, invoices, credit notes, debit notes, receipts and such other documents as are necessary to verify the entries in any such books of account.

Application of the Income Tax Act

7. ¹ Section 108 of the Income Tax Act applies for the purposes of this Act.

¹ Repealed and Substituted by Tax Administration Decree 50 of 2009, WEF 27th November, 2009.

Previously read-

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.

¹ Substituted for 3% by §2(a) Promulgation No. 44 of 2007 WEF 1st April 2008

² Substituted for 3% by §2(a) Promulgation No. 44 of 2007 WEF 1st April 2008

³ New subsection (5) inserted by §2(b) Promulgation No. 44 of 2007 WEF 1st April 2008

⁴ Substituted by §2(a) Promulgation No. 17 of 2007 WEF 1st January 2007. Previously read:-

“(a) pay the Commissioner, within 30 days after the last day of each month, the hotel turnover tax payable for that month; and”

⁵ Deleted by Tax Administration Decree 50 of 2009, WEF 1st January 2010. Previously read-

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.

⁶ Deleted by Tax Administration Decree 50 of 2009, WEF 1st January 2010. Previously read-

¹ Inserted by §2 Promulgation No. 34 of 2008 WEF 1st January 2009

¹ Repealed by Tax Administration Decree 50 of 2009 WEF 1st January 2010. Previously read-

(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 authorized 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)¹

(8)¹

¹ Inserted by §3(b) Promulgation No. 17 of 2007 WEF 1st January 2007

² Repealed by Tax Administration Decree 50 of 2009 WEF 1st January 2010. Previously read-

(1) *If a person has committed an offence under this Act, the Commissioner may send a notice in writing to that person-*

(a) *setting out the particulars of the alleged offence; and*

(b) *making an offer to compound such offences.*

(2) *The Commissioner shall not exercise the power under this section unless the person has admitted committing the offence and agrees that Commissioner deals with the offence under this section.*

(3) The Commissioner may make an offer to compound an offence notwithstanding that proceedings against the alleged offender have been commenced.

(4) An agreement made under this section shall-
(a) be in writing and signed by the Commissioner and the person;
(b) specify the offence and penalty imposed by the Commissioner
(c) be final and not subject to any appeal

(5) If an agreement is signed under this section, any investigation or prosecution against the person in respect of that offence shall be terminated.

¹ Inserted by §4 Promulgation No. 17 of 2007 WEF 1st January 2007