



LAWS OF FIJI

CHAPTER 202A

TURNOVER TAX (MISCELLANEOUS SERVICES)

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*Acts Nos. 27 of 1983, 6 of 1984, 25 of 1985*AN ACT TO IMPOSE A TURNOVER TAX IN RELATION TO CERTAIN
SERVICES

[1 January 1984]

Short title

1. This Act may be cited as the Turnover Tax (Miscellaneous Services) Act.

Interpretation

- 2.—(1) In this Act, unless the context otherwise requires—
“accountable person” means a person by whom tax is required by section 4 to be collected from the recipient of a prescribed service;
“authorised officers” means—
 (a) the Commissioner; and
 (b) a person appointed by the Commissioner under section 13 to be an authorised officer for the purposes of this Act;
“Commissioner” means the Commissioner of Inland Revenue appointed under section 3 of the Income Tax Act; *(Cap. 201.)*
“prescribed service” means a service specified in the First Schedule;
“tax” means the tax imposed by section 3;

(2) For the purposes of the application of this Act in relation to—

- (a) the acceptance of a bet; or
- (b) the provision of a ticket,

the stake money in relation to that bet, or unless the Commissioner otherwise determines, the price of that ticket, shall be deemed to be the consideration payable in respect of the prescribed service constituted by the acceptance of that bet or the provision of that ticket. (*Amended by Act No. 25 of 1985*.*)

Levy of tax

3. Subject to this Act, there shall be levied and paid a tax at the rates set out in the Second Schedule on the value of any consideration paid or payable by a person in respect of the provision to that person of a prescribed service.

Liability for tax

4. Tax levied under section 3 is payable by the person to whom the prescribed service is provided and shall be collected from that person by the person by whom the prescribed service is provided.

Payment of tax and returns

5.—(1) Subject to subsection (2), an accountable person shall, within 28 days after the last day of each month—

- (a) pay to the Commissioner the amount of tax due and payable in respect of prescribed services provided by him during that month; and
- (b) make and send to the Commissioner a return, in such form as is approved by the Commissioner, setting forth such particulars of the transactions in relation to prescribed services provided by him during that month as the Commissioner requires for the purposes of this Act.

(2) The Commissioner may, by notice in writing to an accountable person, require that tax due and payable in relation to prescribed services provided by that person shall be paid at such interval of less than 1 month as is specified in the notice, in which case any tax due and payable shall be paid within 14 days after the expiry of that lesser interval.

(3) An accountable person who fails to pay any amount of tax due and payable in accordance with subsection (1) or (2) shall be liable to pay to the Commissioner, in addition to the tax due and payable, a penalty of 25 per cent of the tax unpaid, unless the Commissioner otherwise directs.

(4) An accountable person who—

- (a) fails to make, or fails to cause to be made, any return specified in subsection (1); or
- (b) sends, or causes to be sent, to the Commissioner a return which is false or incorrect in any material particular,

is guilty of an offence punishable by a fine of \$1,000.

(5) Notwithstanding any provision of this Act, Part X of the Income Tax Act applies to the recovery of any tax payable under this Act as if it were income tax payable under that Act.

(*Cap. 201.*)

* In force 1 January 1986 relating to services provided on or after 1 January 1986.

Accountable persons to register with Commissioner

6*.—(1) Subject to subsection (2), every person who carries on or is about to carry on any trade, business, profession or vocation in respect of which he is or will be an accountable person, shall, on or before 31 January 1984, or within 30 days of the commencement of that trade, business, profession or vocation, whichever is the later date, register with the Commissioner—

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

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

(3) For the purposes of this section, "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, where no partner is resident in Fiji, means the attorney, agent, manager or factor of the partnership resident in Fiji.

Summary of turnover

7.—(1) Subject to subsection (2), on or before the last day of February of the year next following a year in which tax was collected by an accountable person, he shall deliver personally, or send by post, to the Commissioner a summary in duplicate, in a form approved by the Commissioner, containing the following particulars—

- (a) the name and address of the accountable person;
- (b) the gross amount of all considerations paid or payable to him in respect of the provision of prescribed services during the year immediately preceding that during which the summary is, under this section, required to be delivered or sent; and
- (c) the total amount of tax collected by him during the lastmentioned year in accordance with section 4.

(2) On the cessation of business by an accountable person, the Commissioner may require that accountable person to deliver or send the summary within such time as he may specify.

* Section 5 of Act No. 25 of 1985 provides that a person who carries on any trade, business, profession or vocation in respect of which he becomes an accountable person on 1 January 1986 by reason of the addition of items 6 to 11 to the First Schedule, is deemed to have commenced that trade, business, profession or vocation on 1 January 1986.

Access to documents and premises

8.—(1) An authorised officer may require any accountable person to provide him with adequate books, records, accounts and other documents relating to tax imposed by this Act.

(2) An authorised officer may at any reasonable time enter any premises where an accountable person carries on the business of providing any prescribed service and inspect any books, records, accounts and other documents relating to that business and the authorised officer may remove and retain any such books, records, accounts and other documents for such period as may be reasonable for their examination or for the purposes of a prosecution.

(3) A person who, without reasonable cause—

(a) fails to comply with a requirement made in accordance with subsection (1); or

(b) obstructs an authorised officer in the exercise of his powers under subsection (2),

is guilty of an offence punishable by a fine of \$2,000.

Compounding of offences

9.—(1) Where the Commissioner is of the opinion that a person has committed an offence under this Act, the Commissioner may send a notice to that person setting forth particulars of the alleged offence and making an offer to compound such offence.

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

(3) If the alleged offender accepts the offer, all proceedings against him in relation to the alleged offence shall be terminated.

Refunds

10. Where an accountable person satisfies the Commissioner that an amount of tax paid by him to the Commissioner exceeds the amount that was properly payable, the excess shall be refunded to that accountable person.

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

11. An amount of tax collected by an accountable person under section 4 and payable by him to the Commissioner under section 5 shall be deemed to be held in trust for the Crown and shall not be subject to any attachment in respect of any debt or other liability of that accountable person.

Exercise of powers of Commissioner by other officers

12. Where, under this Act, a power is conferred, or a duty is imposed, on the Commissioner, then, subject to any express direction by the Commissioner to the contrary, that power may be exercised, or that duty may be performed, by the Deputy Commissioner of Inland Revenue, or a Principal Assessor of Inland Revenue, appointed under section 3 of the Income Tax Act. (Cap. 201.)

Authorised officers

13. The Commissioner may, by instrument in writing signed by him, appoint persons as authorised officers for the purposes of this Act.

Regulations

14. The Minister may make regulations, not inconsistent with this Act, for the better carrying into effect of this Act.

FIRST SCHEDULE

(Section 2)

Amended by Acts 6 of 1984, 25 of 1985

PRESCRIBED SERVICES

1. Acceptance of bets by holders of licences granted under the Gaming Act and the regulations made under that Act. (Cap. 273.)
2. Provision, by way of hire, of home entertainment video tapes.
3. Admission to, or use of the facilities of, night clubs.
4. Provision of meals and drinks in premises, and at places and aboard vessels, to which licences granted under the Liquor Act relate, in the premises of clubs registered under the Registration of Clubs Act and in any other premises, at any other places and aboard any other vessels where liquor is dispensed otherwise than without charge to consumers (exclusive of the provision of meals and drinks in respect of which turnover tax is levied and payable under the Hotel Turnover Tax Act.) (Cap. 202.)
5. Provision, by way of hire, of motor passenger vehicles, with or without driver (exclusive of the provision of vehicles in pursuance of arrangements that, in the opinion of the Commissioner, are long-term leasing arrangements or the hire of taxis).
6. Live entertainment provided wholly or substantially by the personal participation of artistes at the place of performance.
7. Provision of tickets in Fiji in respect of sea or air travel outside Fiji.
8. Commercial advertising.
9. Retail sale of alcoholic beverages for consumption otherwise than on the premises at which the sale takes place.
10. Charter of yachts for recreational purposes.
11. Provision in Fiji of tickets for any lottery including any lottery run outside Fiji and any lottery for charitable purposes.*

SECOND SCHEDULE

(Section 3)

RATE OF TURNOVER TAX

1. For each complete \$1 of turnover, turnover tax payable = 5c.
2. For each sum less than \$1 and any fractional balance in excess of \$1 or a multiple thereof:

<i>Amount of sum or fractional balance</i>	=	<i>Turnover tax payable</i>
5c to 50c	=	2c.
51c to 99c	=	5c.

Controlled by Ministry of Finance

* Items 6 to 11 in force 1 January 1986 relating to services provided on or after 1 January 1986.