Tuvalu

LANDOWNERS TAXATION ACT

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Tuvalu

LANDOWNERS TAXATION ACT

AN ACT TO PROVIDE FOR THE TAXATION OF LANDOWNERS[1]

Commencement [1st August, 1957]

1 Short title

This Act may be cited as the Landowners Taxation Act.

2 Interpretation

In this Act unless the context otherwise requires —

"**Kaupule**" means a Kaupule established under the Falekaupule Act;

"**council fund**" means a fund established under the Falekaupule Act;

"**executive officer**" means a person appointed as such under the Falekaupule Act;

"**landowner**" means —

(a) in relation to land of which the fee simple is for the time being vested in a non-native, the person entitled to the rack rent thereof or who would be so entitled if the same were let to a tenant at a rack-rent;

(b) in relation to land, other than that referred to in paragraph (a), the person who is registered in the register of native lands as being the owner;

"**land tax payer**" means the landowner, unless —

(a) the land is leased on terms to the effect that the usufruct of the land shall be taken by the tenant, then such tenant shall be the taxpayer;

(b) the landowner is dead, a minor, of unsound mind, or absent from the island where the land is situated and such land is not leased, then the person who is deemed by the lands court to have caretakership or be in occupation of the land shall be the taxpayer;

"**register of native lands**" means the register of that name maintained under the provisions of the Native Lands Act.

3 Imposition of tax

(1) There shall be charged, levied and collected in respect of the year 1958 and each succeeding year a tax on land in Tuvalu in the manner hereinafter provided.

(2) Unless otherwise exempt each plot of land registered in the register of native lands, and each plot of land held in fee simple by a non-native shall be assessed for payment of tax by the Kaupule within whose area of authority the land is situated and the Kaupule shall determine the method of assessment as between plot of land on the island, and the amount of the tax to be paid:

Provided that the method of assessment adopted by the Kaupule and the amount of tax imposed shall be approved by the Minister.

(3) In determining the amount of tax to be imposed the Kaupule shall take into consideration the amount of revenue required to be raised from this source for the Kaupule fund and also any directions by the Minister regarding a contribution to the Consolidated Fund from the proceeds of this tax.

(4) The amount of tax due in the ensuing year shall be assessed by the Kaupule and published in the form of a notice, stating the method of assessment and the amount of tax payable, displayed outside the Kaupule office before 31st December, or such other date as may be authorised by the Minister either generally or specifically; and notice of the imposition of this tax having been published the executive officer shall assess the amount due in respect of each plot of land of each landowner, and enter this assessment in a land tax register.

4 Review and appeal

(1) The imposition of the tax having been published as required by section 3(4), individual land tax payers may ascertain from the executive officer details of the amount of the tax payable in respect of their lands and if a land tax payer is not satisfied with the assessment of any plot of land as entered in the land tax register against the landowner he may either personally, or by a person acting on his behalf, request the Kaupule to review the assessment.

(2) Requests for review shall be lodged with the executive officer within 30 days of the publication of the tax.

(3) When any land tax payer has lodged a request for review of assessment of a plot within the period prescribed by the last sub-section, the Kaupule, or a committee appointed by the Kaupule either generally or specifically for this purpose, shall then review the application of the approved method of assessment in respect of the plot, the details of plots of land on which the land tax payer is liable for tax and his resultant liability and may then either confirm or vary the assessment.

(4) If the Kaupule, or a committee thereof, while confirming an assessment, considers that the request for review was frivolous it may impose by way of costs an additional tax of an amount not exceeding one quarter of the amount the subject of the review.

(5) If following such a review the land tax payer is still not satisfied with the assessment he may appeal to the Minister who may, after hearing the appellant, the executive officer and such other evidence as he may require, either confirm or vary the assessment or any imposition by way of costs of additional tax and his decision shall be final.

(6) A land tax payer who wishes to appeal shall, either personally or by a person acting on his behalf, notify the executive officer within 30 days of the decision of the Kaupule, or its committee, on review under subsection (1), that he wishes to appeal.

(7) The assessment of any plot the assessment of which has not been the subject of a request for review or appeal in the manner and within the time prescribed above, shall not thereafter be able to be contested.

(8) An alteration of an assessment made by the Kaupule, or its committee, on review, or by the Minister on an appeal, under this section shall not affect the validity of an assessment on any other plot.

5 Payment of tax

(1) Land tax payers shall pay the amount of tax for which they are liable to the executive officer of the Kaupule within whose area of authority the land is situated before the 31st March of the year for which the tax is imposed, or within 3 months of the date of publication of the tax as required by section 3(4), or within 3 months of decision on review or appeal under section 4, whichever date is the later:

Provided that the time within which payment of land tax is required to be made may be extended in respect of the area of authority of a Kaupule —

(a) by notice by the Kaupule concerned to a date not later than the 31st day of December in the year for which the tax is imposed; or

(b) by the Minister, on the recommendation of the Kaupule concerned, to such date as the Minister considers appropriate.

(2) Upon payment of the tax, the executive officer shall issue the payer with a receipt showing the number of the plot or lots of land, the amount of tax paid and the names of the land tax payer and the landowner, if these are not the same person; and land tax payers may pay their tax in instalments, provided always that no payment, except the last, is of an amount less than the tax imposed on one plot of land.

6 Non-payment of tax

(1) Any land tax payer, who has not paid the whole or part of the tax for which he is liable within the time prescribed in section 5, shall be liable to a fine of $10 and in addition to any fine imposed the court shall on conviction order the land tax payer to pay any of the tax still due.

(2) If the land tax payer for a plot of land cannot be readily ascertained, or if for good reason he cannot be proceeded against for non-payment of tax under subsection (1), or if despite prosecution under subsection (1) he persistently refuses to pay the tax, the executive officer shall prepare a notice of individual assessment in a form to be prescribed by the Minister and the notice shall be served on the landowner by registered post, if after reasonable enquiry his address can be found and he is living there, and a copy of the notice shall be served on the occupier of the land or a relative of the landowner resident within the area authority of the Kaupule concerned who may be reasonably expected to be able to represent the landowner, or if there be no such occupier or relative, it shall be affixed upon some conspicuous part of the land.

(3) The notice of individual assessment shall, *inter alia*, addressed to the landowner, state the description and registered number (if any) of the plot of land in respect of which tax has not been paid, and inform him that if the tax, together with an additional quarter of the tax by way of penalty for late payment remains unpaid and tax is also not paid in the succeeding year the land shall be liable to seizure and sale by the Kaupule as hereinafter provided.

(4) If, after the issue of a notice of individual assessment, as provided in subsection (2), the tax remains unpaid and tax is also not paid in the succeeding year, the Kaupule may petition the lands court that title to the plot of land concerned may be transferred from the landowner to the Kaupule under the provisions of this section, and, upon such transfer, that land shall vest in the Kaupule and shall be held by the Kaupule upon trust with a power to sell the land after the expiry of 1 year from the date upon which it was transferred to the Kaupule, if the land has not within that period been reconveyed to the landowner, under the provisions of sub-section (6).

(5) The petition referred to in the last subsection shall be heard so far as may be in accordance with the procedure laid down for lands courts in Part IV of the Native Lands Act[2], and if the executive officer on behalf of the council shall prove to the lands court's satisfaction that —

(i) the whole or part of the total tax due from the landowner in respect of plots of land in issue in respect of 2 consecutive years remains unpaid; and that

(ii) the notice of individual assessment was served or affixed on the land as required by subsection (2),

it may order the transfer to be effected:

Provided that the proceedings at any stage may be stayed if the landowner, or a person on his behalf, pays all arrears of tax in respect of plots of land in issue, together with an additional quarter of such arrears by way of penalty and the amount of any costs incurred by the Kaupule as a result of this action.

(6) Any landowner, whose land is forfeited under the provisions of subsection (4) due to failure on the part of the land tax payer, not being himself, to pay the tax, may upon payment to the Kaupule as in the proviso to subsection (5) within 1 year of the transfer have his land transferred back to his ownership, and shall have a civil claim for damages against the defaulting tax payer, and he shall have no claim against the Kaupule in respect of the Kaupule's use of the land during the period it was in the Kaupule's ownership.

(7) Where land is transferred to the Kaupule upon trust under the provisions of subsection (4) and is not reconveyed to the landowner within 1 year under the provisions of subsection (5) the Kaupule shall exercise the power of sale and shall sell the land either by public auction or by private treaty, either as a whole or in lots, at a price which the Kaupule considers to be a fair price and shall deduct from the proceeds of such sale the amount of tax due from the tax payer in respect of such land, the costs of court proceedings, and the expenses incurred in the seizure and management of the land and in effecting the sale thereof and shall pay any balance remaining to the former owner of the land.

7 Exemption

Notwithstanding the other provisions of this Act it shall be lawful for the Minister to exempt from liability to pay tax under this Act for such period specified in the instrument of exemption —

(a) any individual landowner; or

(b) any class of landowner.

8 Saving

No assessment of tax in respect of any landowner shall be invalid by reason of the fact that any other landowner has been omitted from assessment or has been erroneously or invalidly assessed.

ENDNOTES

[1] 1990 Revised Edition, Cap. 53 – Acts 13 of 1957, 6 of 1958, 6 of 1961, 8 of 1971, 3 of 1972, 18 of 1972

[2] Cap. 46.20