



ANALYSIS

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|----------------------------------|---|
| 1. Title | 10. Failure of carrier to pay to Collector |
| 2. Commencement | 11. Departure Tax to remain property of the Crown |
| 3. Interpretation | 12. Refunds |
| 4. Imposition of Departure Tax | 13. Regulations |
| 5. Exemptions from Departure Tax | 14. Transitional |
| 6. Duties of carrier | 15. Repeals and Revocations Schedule |
| 7. Collection | |
| 8. Accounting | |
| 9. Payment | |

2012, No. 10

An Act to impose departure tax on persons departing the Cook Islands and to provide for its collection, accounting and payment by carriers.

(22 June 2012)

BE IT ENACTED by the Parliament of the Cook Islands in Session assembled, and by the authority of the same, as follows:

1. Title – This Act is the Departure Tax Act 2012.
2. Commencement – (1) This Act comes into force on the 1st day of December 2012.
(2) Section 14 shall come into force on the passing of this Act.
3. Interpretation – Except where the context requires -

“carrier” means a person who provides international travel and includes an agent of the carrier;

“Collector” means the treasurer of the Revenue Management Division of the Ministry of Finance and Economic Management;

“international travel” means travel by air or sea from the Cook Islands;

“Passenger” means a person who undertakes international travel;

“transit passenger” means a passenger who has arrived in the Cook Islands and will depart the Cook Islands –

- (a) within 24 hours of that arrival; or
- (b) after 24 hours due to circumstances beyond the passengers control.

4. Imposition of departure tax – (1) A passenger, 13 years or older, who undertakes international travel, –

- (a) between 1 December 2012 and 30 June 2013 shall pay departure tax in the amount of \$55.00;
 - (b) between 1 July 2013 and 30 June 2014 must pay departure tax in the amount of \$65.00;
 - (c) after 30 June 2014 and in each year thereafter commencing 1 July shall pay departure tax in the amount that is 2% greater than the departure tax imposed on 30 June immediately preceding.
- (2) Departure tax must be paid by a passenger for each international travel.

5. Exemptions from departure tax – The persons described in the Schedule are exempt from the payment of departure tax.

6. Duties of carrier - It shall be the duty of a carrier –

- (a) to collect departure tax from a passenger;
- (b) to account for the departure tax collected;
- (c) to pay the departure tax to the collector.

7. Collection - A carrier shall at the time of accepting payment from a passenger, collect from that passenger the proper amount of departure tax for which the passenger is liable.

8. Accounting – (1) A carrier receiving departure tax shall keep proper records showing –

- (a) the amount and date the departure tax was collected;
- (b) the person from whom the departure tax was collected;
- (c) the international travel for which the departure tax was collected;
- (d) any refund of departure tax.

(2) A carrier shall provide such information in subsection (1) as the Collector may require.

(3) A carrier shall keep such records for a minimum of 5 years from the date of collection.

9. Payment – Not later than the 20th day of each month a carrier must pay to the Collector, without any deduction whatsoever the departure tax for international travel completed in the immediately preceding month.

10. Failure of carrier to pay to Collector – (1) If a carrier fails to pay departure tax on the due date in accordance with section 9, there shall be added to the amount due and owing a penalty of 2% for each month or part of a month that the amount remains outstanding.

(2) Departure tax payable by a carrier in accordance with section 9 and any penalties imposed under subsection (1) shall be recoverable at the suit of the Collector.

11. Departure tax to remain property of the Crown – The departure tax due under section 9, and any penalties due on that departure tax under section 10 shall constitute a debt payable by the carrier to the Collector and until paid –

- (a) be held in trust for the Crown;
- (b) be a charge on the property of the carrier;
- (c) not be the property of the carrier liable to execution;
- (d) in the event of the carrier's bankruptcy, liquidation or an assignment for the benefit of the carrier's creditors –
 - (i) form no part of the carrier's estate in bankruptcy, liquidation or be capable of assignment;
 - (ii) rank in priority after preferential claims for wages and in priority to all other claims.

12. Refunds – (1) A carrier shall refund departure tax collected from a passenger if requested to do so by the passenger because –

- (a) the passenger becomes a transit passenger; or
- (b) the passenger will not depart the Cook Islands by the international travel for which the departure tax was collected,

but otherwise shall pay that departure tax to the Collector.

(2) Departure tax paid to the Collector under subsection (1) shall be refunded to the passenger by the Collector if –

- (a) the passenger requests a refund in writing; and
- (b) the request is received by the Collector within 3 months of the departure tax being received by the Collector.

13. Regulations – The Queen's Representative in Executive Council may by regulation –

- (a) amend the amount of departure tax to be paid by a passenger;
- (b) determine which passengers shall pay departure tax in addition to those referred to in section 3;
- (c) amend the Schedule by adding or deleting persons;
- (d) prescribe the way in which persons shall either –
 - (i) be exempted; or
 - (ii) receive a refund after departure tax has been paid;
- (e) provide for the due administration of this Act.

14. Transitional – For the purposes of collecting, accounting and payment of departure tax for passengers undertaking international travel after 30 November 2012, a carrier must 21 days after the date of the passing of this Act, collect, account and pay that departure tax in accordance with this Act as if this Act had come into force.

15. Repeals and revocations – (1) The Departure Tax Act 2005 and the Departure Tax Amendment Act 2008 are repealed.

(2) The following Orders are revoked:

- (a) The Departure Tax Order 2007; and
- (b) The Departure Tax Amendment (No.4) Order 2009; and
- (c) The Departure Tax Order 2010.

This Act is administered by the Revenue Management Division
of the Ministry of Finance and Economic Management

SCHEDULE

(Persons exempt)

Section 5

1. Members of the New Zealand military participating in military exercises approved by Cabinet.
 2. The Queen's Representative.
 3. The Queen's Representative's Spouse.
 4. The Head of Mission and members of the diplomatic of the New Zealand High Commission at Rarotonga, and the members of their families forming part of their households.
 5. Visiting diplomats on official business and holding diplomatic passports from countries with whom the Cook Islands has diplomatic relations; and members of their families forming part of their households.
 6. The air crew of any aircraft servicing the Cook Islands, unless such persons remain in the Cook Islands for a period of 72 hours or more.
 7. Transit passengers as defined in section 3.
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