

EXTRAORDINARY



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GOVERNMENT OF FIJI

SERVICE TURNOVER TAX DECREE 2012
 (DECREE NO. 8 OF 2012)

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SCHEDULE

In exercise of the powers vested in me as the President of the Republic of Fiji and the Commander in Chief of the Republic of Fiji Military Forces by virtue of the Executive Authority of Fiji Decree 2009, I hereby make the following Decree—

TO IMPOSE TAX ON PRESCRIBED SERVICE TURNOVER AND FOR RELATED MATTERS

PART 1—PRELIMINARY

Short title and commencement

- 1.—(1) This Decree may be cited as the Service Turnover Tax Decree 2012.
- (2) This Decree shall be deemed to have come into force on the tax years commencing on 1st January, 2012.

Interpretation

2. In this Decree, unless the context otherwise requires—

“accountable person” means the owner, manager, sole precedent partner and otherwise the person who is responsible for the daily management of the prescribed service and is responsible for the collection of tax under section 3;

“Commissioner” means the Chief Executive Officer and Commissioner of Inland Revenue appointed under the Fiji Revenue and Customs Authority Act 1998 and tax laws, or any persons appointed by the Chief Executive Officer for the purposes of this Decree;

“prescribed service” means the services listed in the Schedule;

“person” means an individual, company, partnership or trust;

“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 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;

“Service Turnover Tax” means the tax imposed under section 3; and

“turnover” means any sums or amounts received or receivable by or on behalf of the owner of a service in respect of any sums or amounts included in a charge for a prescribed service.

PART 2—SERVICE TURNOVER TAX

Levy and payment of Service Turnover Tax

3.—(1) Subject to the provisions of this Decree, a tax at the rate of 5% shall be levied on the turnover of any person conducting a business involving the provision of a prescribed service.

(2) The tax levied under subsection (1) is payable by the person to whom the prescribed service is provided.

(3) Notwithstanding subsection (2), the Service Turnover Tax shall be payable and recoverable from the accountable person in accordance with section 4.

(4) The 5% Service Turnover Tax levied under subsection (1) shall—

- (a) not be subject to the Value Added Tax imposed under the Value Added Tax Decree 1991; and
- (b) be shown separately on the invoice or tax invoice.

Service Turnover Tax to be paid and returns made to the Commissioner

4.—(1) The accountable person shall—

- (a) before or on the last day of each month following the month in which the tax was collected, pay the Commissioner any Service Turnover Tax that has been payable since the previous month; and
- (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 Service Turnover Tax be paid within a period of less than one month.

(3) Pursuant to subsection (2), the accountable person shall —

- (i) pay the Commissioner the prescribed Service Turnover Tax within 14 days after the expiry of the period fixed by the Commissioner; and
- (ii) comply with the requirement of subsection (1)(a) in respect of that period.

Accountable persons to register with the Commissioner

5.—(1) Subject to subsection (2), the owner or the person who is responsible for the daily management of a prescribed service shall, within 30 days before the commencement of the business, register with the Commissioner the—

- (a) name and address of the accountable person for the prescribed service;
- (b) names and addresses of any partners and associates in that business, indicating the precedent partner;

- (c) names and addresses of the directors and authorised officers of the company, in the case of a company;
- (d) trade or business name where the business is carried on under a name or style other than under his or her own name; and
- (e) place and address where the person intends to carry out the prescribed service.

(2) At the commencement of this Decree, the person who is responsible for the daily management of a prescribed service is deemed to be registered under this section as an accountable person.

(3) Notwithstanding subsection (1), a person who is registered under the Hotel Turnover Tax Act 2006 shall be deemed to have been registered under this Decree.

(4) 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, effect the registration of that partnership or body of persons.

PART 3—MISCELLANEOUS

Application of the Income Tax Act (Cap. 201)

6. Section 108 of the Income Tax Act (Cap. 201) applies for the purpose of this Decree.

Regulations

7. The Minister may make regulations to give effect to the provisions of this Decree.

Repeal and transitional

- 8.—(1) The Hotel Turnover Tax Act 2006 is hereby repealed.

(2) Any Hotel Turnover Tax imposed under the Hotel Turnover Tax Act continues to apply to hotel guests to whom the charges included in a guest's bill are subject to the tax that were incurred or part of the bill of the hotel guests prior to the commencement of this Decree.

(3) Subject to subsection (2), any new prescribed services provided in the list in the Schedule whereby charges or invoice raised prior to the commencement of this Decree and services will be provided after the commencement of this Decree, shall not be subject to tax.

GIVEN under my hand this 10th day of January 2012.

EPELI NAILATIKAU
President of the Republic of Fiji

SCHEDULE
(Section 2)

PRESCRIBED SERVICES

1. Provision of accommodation, refreshments and other services by a licensed hotel.
2. Any services provided in a vessel that is wholly or principally engaged in the carriage of tourists within Fiji.
3. Provision of meals or drinks in a licensed bar located in any part of a hotel or tavern.
4. Provision of services such as music, dancing or other reputable entertainment in a licensed nightclub.
5. Provision of inbound tour services.
6. Live entertainment provided wholly or substantially by the personal participation of artists at the place of performance or exhibition of products, where a fee is charged.
7. Provision of services for recreational activity for gain.
8. Provision of services relating to any exhibition of films to the public or to a section of the public which includes the production of any music, speech or other sound whatsoever in connection with the projection of a film, where the exhibitor is licensed under the Cinematographic Films Act (Cap.271) and a charge is made for admission to the premises which the exhibition is held, including any other services provided by cinema operators.
9. Provision of services relating to hire or rent of motor vehicle by a person that operates a business of rental cars licensed by the Land Transport Act 1998.
10. Provision of meals and beverages by bistros or coffee shops and their annual gross turnover is over \$1.5 million dollars.
11. Provision of meals regularly supplied on sale to the public for consumption on the premises of a licensed restaurant with an annual gross turnover of over \$1.5 million dollars.
12. Provision of charter flight services provided by an aircraft or helicopter registered with the Civil Aviation Authority of Fiji, with an annual gross turnover of over \$300,000.
13. Provision of all water sports including under water activities and river safaris with an annual gross turnover of over \$300,000 dollars.
14. Provision of accommodation in a private residence or property that accommodates tourists, international students or overseas visitors who are paying guests.
15. Provision of similar services listed in all the above conducted by an unlicensed operator.