

Tonga

No. 6 of 1992.



I assent,

TAUFA'AHAU TUPOU IV

1st July, 1992.

## AN ACT

### TO IMPOSE A FOREIGN EXCHANGE LEVY

[24th June, 1992]

BE IT ENACTED by the King and the Legislative Assembly of Tonga in the Legislature of the Kingdom as follows :

1. This Act may be cited as the Foreign Exchange Levy Act 1992.
2. In this Act, unless the context otherwise requires :-

Short title.

Interpretation.

"bank" means any person or body carrying on in Tonga the business of banking or purchasing or selling foreign currency :

"Commissioner" means the Commissioner of Inland Revenue and includes any person for the time being authorised to exercise or perform any of the powers or functions of the Commissioner;

"Department" means the Inland Revenue Department;

"foreign currency" means the bank notes or other currency of any country other than Tonga, and includes postal notes, money orders, promissory notes, bill of exchange, and any other negotiable instruments payable otherwise than in the currency of Tonga;

"levy" means the foreign exchange levy imposed by this Act;

"Minister" means the Minister of Finance;

"purchase or sale of foreign currency" includes any dealing or transaction having the effect of a purchase or sale or exchange of foreign currency.

3. (1) On the date this Act comes into force, every bank shall pay a levy to be known as the foreign exchange levy.

Foreign  
exchange levy  
imposed.

(2) The levy imposed by this Act shall be payable in respect of every purchase and sale of foreign currency in Tonga except upon purchases and sales of foreign exchange from one bank to another bank and from or to Government. Provided that the payment of dividends to a shareholding Bank will not be exempted from the levy.

(3) The levy shall be payable monthly to the Commissioner on the due date.

(4) For the purposes of this Act the due date shall be the fifth working day of every month in respect of the levy payable on the purchase or sale of foreign currency during the preceding month.

**Rate of levy.** 4. The levy shall be assessed and paid at the rate of seven tenths of one percent of the pa'anga value of every purchase and sale of foreign currency.

**Penalty payable on unpaid levy.** 5. (1) Any bank failing to pay the levy within 7 days after the due date shall be chargeable, by way of penalty, with additional levy of 10 percent of the amount of the unpaid levy.

(2) Any penalty charged under subsection (1) shall be added to and deemed part of the levy payable and recoverable in accordance with this Act.

**Relief from additional levy.** 6. On application for relief made in writing by or on behalf of any bank, the Commissioner, if having regard to the circumstances of the case thinks it equitable so to do may, with the approval of Cabinet, grant relief to the bank, by the remission or refund the whole or part of the additional levy.

**Recovery of levy.** 7. The levy payable under this Act shall be recoverable by the Commissioner by legal action as a debt due to the Government.

**Furnishing of information and returns.** 8. Notwithstanding anything in any other Act, the Commissioner or any member of the Department authorised by the Commissioner may from time to time direct any bank to furnish, within such period as shall be specified in the direction, all such information or returns relating to that bank's dealings in or purchases or sales of foreign currency as the Commissioner may require for the purposes of this Act, and it shall be the duty of such bank to comply with the direction within that period.

**Powers of entry and inspection.** 9. For the purpose of verifying the correctness of any information or return furnished by any bank under this Act, or for the purpose of securing compliance with the provisions of this Act or of any directions issued pursuant to this Act, the Commissioner or any member of the Department authorised by the Commissioner may, notwithstanding anything in any other Act:

- (a) Enter any building or place used by the bank for the purpose of its business; and
- (b) Inspect and take copies of such documents or records as are kept by the bank in relation to its dealings in or purchases or sales of foreign currency.

**Offences.** 10. Any bank:

- (a) Which contravenes or fails to comply with any provision of this Act or any lawful directions given under or pursuant to

- (b) Which furnishes any false information or false return to, or obstructs any person exercising, performing or discharging any power, duty or function under or pursuant to this Act,

commits an offence and shall, on conviction, be liable to a fine not exceeding \$5,000.

11. This Act shall be in addition to and not in derogation of the provisions of the Foreign Exchange Control Act (Cap. 103) and the regulations made under that Act, and the National Reserve Bank of Tonga Act (Cap. 102).

Act to be in addition to and not in derogation of currency and exchange control legislation.

12. His Majesty in Council may from time to time make regulations for all or any of the following purposes :

Regulations.

- (a) Prescribing the form of returns to be made under this Act, the particulars to be set forth in such returns, the persons by whom and the times when or within which such returns are to be made, and the forms of assessments, notices and other documents necessary in order to give effect to the provisions of this Act; and

- (b) Providing for such other matters as are contemplated by or necessary for giving effect to the provisions of this Act and for its due administration.

13. This Act is administered in the Inland Revenue Department.

Administration

Passed in the Legislative Assembly this 24th day of June, 1992.

Tonga

Fika 6 'o e 1992.



'Oku ou loto ki ai,

TAUFA'AHAU TUPOU IV

1 'o Siulai, 1992.

## KO E LAO

KE HILIFAKI HA 'INASI FAKAPULE'ANGA 'I HE FETONGI  
PA'ANGA MULI

[24 'o Sune, 1992]

'OKU TU'UTU'UNI 'e he Tu'i mo e Fale Alea 'o Tonga 'i he Fakataha  
Alea 'a e Pule'anga 'o pehe :

1. 'E ala ui 'a e Lao ni ko e Lao ki he 'Inasi Fakapule'anga 'i he Fetongi  
Pa'anga Muli 1992. Hingoa  
Nounou.

2. 'I he Lao ni tukukehe 'o ka fiema'u ke 'uhinga kehe. 'Uhinga' Lea.

"pangike" 'e 'uhinga ia ko ha tokotaha pe sino 'oku ne fakalele 'i Tonga  
ha pisinisi faka-pangike pe fakatau mai pe fakatau atu ha pa'anga muli.

"Komisiona" 'e 'uhinga ia ko e Komisiona 'o e Pa'anga Humai  
Fakalotofonua, kau ai mo ha tokotaha 'i he lolotonga ni 'oku fakamafai'i  
ke ngaue'aki pe fakahoko ha taha 'o e ngaahi mafai pe ngaue 'a e  
Komisiona.

"Potungaue" 'e 'uhinga ia ko e Potungaue Pa'anga Humai Fakalotofonua.

"pa'anga muli" 'e 'uhinga ia ki he pa'anga pepa pe pa'anga 'o ha fonua  
'o 'ikai ko Tonga ni, kau ai 'a e positi noti, mohi'ota, tohi fakapapai,  
tohi fefakafetongi'aki mo ha me'angaue fakapa'anga 'oku totongi 'i ha  
pa'anga muli.

"'inasi Faka-Pule'anga" 'e 'uhinga ia ko e totongi 'i he fetongi pa'anga  
muli kuo hilifaki 'i he lao ni.

"Minisita" 'e 'uhinga ia ko e Minisita Pa'anga.

"fakatau mai pe fakatau atu 'o e pa'anga muli" 'oku kau heni mo ha  
fa'ahinga fakatau pe fehu'aki pa'anga 'oku ne fakahoko 'a hono fakatau  
mai pe fakatau atu pe fetongi pa'anga muli.

'Inasi kuo hilifaki  
'i he Fetongi  
Pa'anga Muli.

3. (1) 'I he 'aho 'e kamata ngaue'aki ai 'a e lao ni, 'oku fiema'u ke totongi 'e he pangike kotoa pe 'a e 'inasi 'e 'iloa ko e 'inasi Faka-Pule'anga 'i he fetongi pa'anga muli.

(2) Ko e 'inasi kuo hilifaki 'e he Lao ni 'e totongi ia mei hano fakatau mai pe fakatau atu 'o e pa'anga muli 'i Tonga, tukukehe kapau ko e fefakatau'aki 'o e pa'anga muli 'oku fai ia 'i he vaha'a 'o e ngaahi pangike pe 'i he vaha'a 'o ha pangike mo e Pule'anga. Tukukehe 'a e totongi 'o e ngaahi tiviteni ki ha Pangike 'oku ma'u 'inasi (Shareholding) 'e 'ikai faka'ata ia mei he totongi 'inasi.

(3) Ko e 'inasi 'e totongi fakamahina ki he Komisiona 'o e Pa'anga Humai Fakalotofonua 'i he 'aho 'oku totonu ke totongi ai.

(4) Ki he ngaahi taumu'a 'o e Lao ni, ko e 'aho ke totongi ai 'a e 'inasi ko e 'aho ngaue hono nima 'o e mahina kotoa pe 'o felave'i mo e 'inasi ke totongi 'i hono fakatau mai pe fakatau atu 'o e pa'anga muli 'i he lolotonga 'a e mahina kimu'a.

Tu'unga totongi  
'o e 'inasi.

4. Ko e 'inasi 'e fakamahu'inga'i mo totongi 'i he mahu'inga ko e vahe hongofulu 'e fitu 'o e peseti 'e taha 'o e mahu'inga fakapa'anga 'o e fakatau mai mo e fakatau atu 'o e pa'anga muli.

Tautea Pa'anga  
'o e ta'etotongi  
'inasi.

5. (1) Ka 'ikai totongi 'e ha pangike 'a e 'inasi 'i loto 'i he 'aho 'e fitu hili e 'aho 'oku totonu ke totongi ai, 'e tanaki atu 'a e tautea ko e 'inasi makehe ko e peseti 'e hongofulu 'o e lahi 'o e 'inasi te'eki totongi.

(2) Ko ha tautea 'oku hilifaki 'e he kupu si'i. (1) 'e tanaki ki ai pea 'e lau ko e konga 'o e 'inasi 'e totongi pe toe ma'u mai 'o fakatatau ki he Lao ni.

Faka'ata mei he  
'inasi, makehe.

6. (1) 'I ha tohi kole ke faka'ata mei he 'inasi makehe 'e ha Pangike pe ko hono fakafongga 'e lava 'e he Komisiona hili ha'ane vakai'i fakalelei 'a e me'a na'e hoko 'o fakakaukau'i pea 'oku ne pehe 'oku taau ke tukuange ha faka'ata ki he Pangike 'i he loto ki ai 'a e Kapineti 'aki hano to'o faka'aufuli ha kongga, pe kotoa 'o e 'inasi makehe.

Ma'u 'o e 'inasi.

7. Ko e totongi 'inasi kotoa pe 'oku totonu ke totongi tu'unga 'i he Lao ni 'e lava ke ma'u 'e he Komisiona 'aki hono 'eke fakalao ko e mo'ua ia ki he Pule'anga.

Fakakakato 'a e  
ngaahi  
fakamatala mo e  
ngaahi lekooti  
fakapa'anga.

8. Neongo ha toe me'a 'oku ha 'i ha toe Lao kehe, 'e lava 'e he Komisiona pe ko ha taha mei he Potungae kuo fakamafai'i 'e he Komisiona mei he taimi ki he taimi 'o tu'utu'uni ki he pangike ke 'omai, 'i ha vaha'a taimi pau 'e fakamahino 'i he tu'utu'uni, 'a e ngaahi fakamatala pe lipooti fakapa'anga fekau'aki mo e ngaahi ngaue 'a e pangike 'i he pe ko hono fakatau mai mo e fakatau atu 'a e pa'anga muli 'o hange ko ia 'e fiema'u 'e he Komisiona koe'uhi ko e ngaahi taumu'a 'o e Lao ni, pea kuo pau 'e hoko ia ko e fatongia 'o e pangike ko ia ke talangofua ki he tu'utu'uni 'i he vaha'a taimi ko ia.

Ngaahi Mafai ke  
hu ki loto mo  
sivi.

9. 'I he taumu'a ke fakamo'oni'i 'oku totonu ha fakamatala pe lipooti fakapa'anga kuo 'omai 'i he Lao ni 'e ha pangike, pe 'i he taumu'a ke

fakapapau'i 'oku muimui ki he ngaahi tu'utu'uni 'a e Lao ni pe ko ha ngaahi tu'utu'uni 'oku fai 'o fakatatau ki he Lao ni, 'e malava 'e he Komisiona pe ko ha tokotaha 'o e Potungaue kuo fakamafai'i 'e he Komisiona, neongo ha toe me'a 'oku ha 'i he Lao kehe, ke ne :

- (a) Hu ki ha fale pe fcitu'u 'oku ngaue'aki 'e he pangike ki he taumu'a 'o 'ene ngaue fakapisinisi; pe
- (b) Sivi'i pea 'ave ha ngaahi tatau 'o e 'u tohi 'oku tauhi 'e he pangike felave'i mo 'ene ngaahi ngaue 'i he pe ko hono fakatau mai pe fakatau atu 'o e pa'anga muli.

10. Ko ha pangike:

Ngaahi Maumau  
Lao.

- (a) 'Oku ne maumau'i pe 'ikai fai ki ha tu'utu'uni 'o e Lao ni pe ko ha ngaahi tu'utu'uni fakalao kuo fai 'i he pe fakatatau ki he Lao ni; pe
- (b) 'Oku ne 'omai ha fakamatala loi pe lekooti pa'anga loi pe 'oku ne fakafaingata'a'ia'i ha tokotaha 'oku ne ngaue, faka'aonga'i pe fakahoko ha mafai, ngafa pe fatongia 'i he pe fakatatau ki he Lao ni, 'oku ne maumau lao pea kuopau, 'i ha'ane halaia, ke mo'ua ki he tautea pa'anga 'o 'ikai toelaka hake 'i he \$5,000.

11. Ko e Lao ni 'e hoko ia ko e tanaki atu 'o 'ikai ko e fakasi'isi'i 'o e ngaahi tu'utu'uni 'i he Lao ki hono Pule'i 'o e Fetongi Pa'anga Muli (Vahe 103) pea mo e ngaahi tu'utu'uni kuo fa'u ki he Lao ko ia pea pehe ki he Lao ki he Pangike Pule Fakafonua 'o Tonga (Vahe 102).

Lao ko hono fakalahi pea 'ikai fakasi'isi'i 'a e Lao ki hono Pule'i 'o e fetongi Pa'anga Muli.

12. 'E ngofua ki He'ene 'Afio 'i he Fakataha Tokoni ke fa'u ha ngaahi Tu'utu'uni mei he taimi ki he taimi ki he kotoa pe ko e ni'ihi 'o e ngaahi taumu'a ko 'eni :

Ngaahi  
Tu'utu'uni.

- (a) Tu'utu'uni 'a e ngaahi sipinga 'o e ngaahi lipooti pa'anga ke fai 'i he Lao ni, ko e ngaahi fakaikiiki ke fokotu'u 'i he fakamatala ko ia, ko e ni'ihi ke nau fakahoko mo e ngaahi taimi pe ngaahi vaha'a taimi kuopau ke fai ai 'a e ngaahi fakamatala ni pea mo e ngaahi sipinga 'o e ngaahi fakafuofua, ngaahi fanongonongo pe ngaahi tohi kehe 'e fiema'u ki hono fakahoko 'o e ngaahi tu'utu'uni 'o e Lao ni; pea
- (b) Tu'utu'uni ki he ngaahi me'a kehe 'a ia 'oku fakataumu'a ki ai pe 'oku fiema'u koe'uhi ke fakahoko 'a e ngaahi tu'utu'uni 'o e Lao ni pea mo hono pule'i totonu.

13. Ko e Lao ni 'e pule'i ia 'i he Potungaue Pa'anga Humai Fakalotofonua. Pule'i.

Na'e fakahoko 'i he Fale Alea 'i he 'aho 24 'o Sune, 1992.

BY AUTHORITY:

V. V. MISI, Government Printer,