

Environmental Levy (Budget Amendment) Bill 2017

Bill No. 29 of 2017

Introduction

The *Environmental Levy Act 2015*¹ ('Act') was enacted in 2015 to provide for an Environmental Levy ('levy') on prescribed services at the rate of 6% of the turnover of the business that provides the prescribed service. The list of "Prescribed Services" can be seen as Annex A (page 5).

Objectives, scope and intent of the Bill

The Minister for Economy announced in his Budget Address on 29 June 2017 that the Environmental Levy will be removed and replaced with the Environment and Climate Adaptation Levy or ECAL.

ECAL will be set at 10% and will also be applicable to individual taxpayers earning \$270,000 and above or those who pay social responsibility levy.

The *Environmental Levy (Budget Amendment) Bill 2017* ('Bill') seeks to amend the Act to extend the application of the Levy to plastic bags, imported goods, the charter fee of a superyacht and prescribed income as part of Social Responsibility Tax.

The Bill also changes the name of the Levy to "Environment and Climate Adaptation Levy" and sets up the Environment and Climate Adaptation Fund ('Fund') for greater transparency and accountability.

The Minister for Economy in his Budget Address also announced that all revenues collected from the ECAL will go into a trust fund to be used specifically for environmental and climate adaptation projects and to the relevant ministries. It is projected that the total revenue from ECAL for the 2017-2018 period will be about \$94 million dollars.

Summary of provisions

Short title and commencement

Clause 1(1) – the Bill when enacted may be cited as the *Environmental Levy (Budget Amendment) Act 2017*.

Clause 1(2) – if passed by Parliament, the Act comes into force on 1 August 2017.

Clause 1(3) – in this Act, the Environmental Levy Act 2015 is referred to as the "Principal Act".

Long title amended

Clause 2 – amends the long title of the Act by deleting "~~Environmental Levy on Prescribed Service Turnover~~" and substituting it with "*Environment and Climate Adaptation Levy on Prescribed Services, Items and Income*".

Section 2 amended

Clause 3 – amends *section 2* of the Act to replace the definition of "Environmental Levy" with a new definition that allows for the application of the Levy to prescribed items, income and on the gross charter fee of a superyacht.

¹ Environmental Levy Act 2015 is available at http://www.paclii.org/cgi-bin/sinodisp/fj/legis/num_act/ela2015230/index.html?stem=&synonyms=&query=environmental%20levy%20act%202015

Clause 3 also inserts new definitions that assist with the interpretation of the Act:

“fund” means the Environment and Climate Adaptation Fund established under section 12;

“importer” has the meaning given to that term under section 2 of the Customs Act 1986;

“plastic bag” means—

(a) a carry bag—

(i) the body of which comprises, in whole or in part, polyethylene;

(ii) that includes handles;

(iii) that is provided by a prescribed business for the carrying or transporting of goods; and

(iv) is not an integral part of a product’s packaging; or

(b) a bag that is of a kind prescribed by regulations;”.

Part 2 amended

Clause 4 – is amended in the heading by deleting “~~Environmental Levy~~” and substituting “*Environment and Climate Adaptation Levy on Prescribed Services*”.

Section 3 amended

Clause 5 – amends section 3 of the Act to change the rate of the Levy from 6% to 10% of turnover. This clause also amends section 3 to provide for the requirement that the Levy must be clearly displayed on a tax invoice.

Section 4 amended

Clause 6 – amends section 4 of the Act to insert a new subsection (4) to ensure that a person does not pay the Levy more than once in relation to a prescribed service.

“(4) For the purpose of ensuring that a person does not pay the Environment and Climate Adaptation Levy more than once in relation to a prescribed service, an accountable person shall—

(a) only charge and pay the CEO the Environment and Climate Adaptation Levy that is payable for the prescribed service provided by the business under the responsibility of the accountable person; and

(b) not charge the Environment and Climate Adaptation Levy for a prescribed service where the Environment and Climate Adaptation Levy has been charged by another person with respect to the prescribed service.”.

Renumbering of Principal Act

Clause 7 – amends the Principal Act as a whole to renumbering:

(a) Part 3 as Part 6;

(b) Section 6 as section 15;

(c) Part 4 as Part 7; and

(d) Sections 7 and 8 as sections 16 and 17, respectively.

New parts inserted

Clause 8 – amends the Act to insert the new Parts 3 to 5, consisting of sections 6 to 14.

The newly inserted Parts 3 and 4 provide for the *imposition of the Levy on plastic bags at \$0.10c a bag, on prescribed imported goods at 10% of the value of the imported goods and on prescribed income as a part of the Social Responsibility Tax under the Income Tax Act 2015 at the rate of 10%.*

The newly inserted Part 5 provides for the establishment of the *Environment and Climate Adaptation Fund* and sets out its purposes and application.

Schedule amended

Clause 9 – the Schedule to the Principal Act is amended by deleting “Schedule” and substituting “Schedule 1”.

New schedule 2 inserted

Clause 10 – amends the Act by inserting a new Schedule that sets out the prescribed imported goods under Part 3 of the Act and the exemptions and conditions that apply to them.

Schedule 2 (Section 8)

Imported Goods	Conditions or exemptions (if any)
New or re-conditioned luxury vehicles with engine capacity exceeding 3000cc	Exemptions and conditions: Vehicles used for public transportation, liquid petroleum gas, compressed natural gas, solar vehicles, electric vehicles, and vehicles procured by anyone under concession codes 201A, 203, 204, 205, 206, 220 column 2(iii) and 287 of Schedule 2, Part 3 to the Customs Tariff Act 1986 provided that any person or body exempted from paying the Environment and Climate Adaptation Levy under the above concession codes who at any time within 5 years from the date of importation or delivery from the warehouse of such vehicles, sells or disposes such vehicles to any non-entitled persons or bodies other than those specified under the above concession codes, shall be liable to pay the Environment and Climate Adaptation Levy on a pro-rata basis for the unused period of the vehicle.”

Miscellaneous amendments

Clause 11 – the Principal Act is amended by:

- (a) deleting “the Schedule” wherever it appears and substituting “Schedule 1”; and
- (b) deleting “Commissioner” wherever it appears and substituting “CEO”.

Amendment to references to “Environmental Levy”

Clause 12 – amends all written laws and State documents to change all references to the “Environmental Levy” to “Environment and Climate Adaptation Levy”.

Ministerial Responsibility - The explanatory notes says that the Act comes under the responsibility of the Minister responsible for finance.

Environment and climate adaptation levy

Policy	Description
Environment and Climate Adaptation Levy (ECAL)	<ul style="list-style-type: none">• The Environmental Levy will be renamed as the Environment and Climate Adaptation Levy (ECAL) and increased from 6% to 10%.• A 10% ECAL will be imposed on luxury vehicles with the engine capacity exceeding 3000cc. The levy is applicable to vehicles for personal and commercial use and not applied to on public transportation such as taxis.• A 10 cents per bag levy will be imposed on plastic bags at the point of sale. The levy is aligned to Fiji’s COP 23 Environment Protection Initiatives and will encourage shoppers to use their own re-usable



	<p>carry bags. It will be applicable to all businesses but implemented on a phased approach beginning with all business with the Point of Sale System.</p> <ul style="list-style-type: none">• The Superyacht Charter Fee will be removed and a 10% ECAL will be imposed.• A 10% ECAL will be imposed on chargeable income of more than \$270,000. This will be incorporated into the SRT with SRT rates adjusted downwards to contain the current tax burden.
Price Display	<ul style="list-style-type: none">• The Environment and Climate Adaptation Levy Act will be amended whereby businesses charging ECAL will be required to display to their customers the ECAL inclusive prices for all their products and services.• Non-compliance to the price inclusive display will be punishable by a fine or prosecution or both.

Source: FRCA Website²

Gender analysis

The Bill does not appear have any disproportionate impact on women or men.

Further Information

- *Environmental Levy (Budget Amendment) Bill 2017* – No. 29 of 2017. Available at: <http://www.parliament.gov.fj/wp-content/uploads/2017/03/Bill-No.-29-Environmental-Levy-Budget-Amendment.pdf>
- *Environmental Levy Act 2015*. Available at: http://www.pacii.org/cgi-bin/sinodisp/fj/legis/num_act/ela2015230/index.html?stem=&synonyms=&query=environmental%20levy%20act%202015
- *Fiji Revenue & Customs Authority Website*. Available at: http://www.frca.org.fj/wp-content/uploads/2017/06/2017_2018-Summary-of-Revenue-Policies.pdf

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² The 2017/2018 Summary of Revenue Policies is available at: http://www.frca.org.fj/wp-content/uploads/2017/06/2017_2018-Summary-of-Revenue-Policies.pdf



Annex A: Prescribed Services

1. Provision of accommodation, refreshments and any 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 beverages, and any other services in a licensed bar. For the purpose of this paragraph, “bar” includes any club.
4. Provision of services such as music, dancing or other entertainment including other services 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 hired cars or rental cars licensed by the Land Transport Act 1998.
10. Provision of meals, beverages and other services by bistros or coffee shops and their annual gross turnover is over \$1.25 million.
11. Provision of meals, beverages and other services regularly supplied on sale to the public by a licensed restaurant with an annual gross turnover of over \$1.25 million.
12. Provision of charter flight services provided by an aircraft or helicopter registered with the Civil Aviation Authority of Fiji, except for medical or natural disaster relief evacuation services.
13. Provision of all water sports including under water activities and river safaris.
14. Provision of accommodation in a private residence or property that accommodates tourists, international students or overseas visitors who are paying guests excluding any pre-school registered by the Ministry of Education, primary school, secondary school, the Fiji National University, Montfort Boystown, the Pacific Regional Seminary, the Pacific Theological College and the University of the South Pacific, or any other similar educational institution as approved by the Commissioner, but does not include any educational institution that is carried on for the purposes of commercial profit or gain to any proprietor, member, or shareholder.
15. Provision of similar services listed in all the above conducted by an unlicensed operator.