

# BILL NO. 27 OF 2015

## A BILL

### FOR AN ACT TO IMPOSE AN ENVIRONMENTAL LEVY ON PRESCRIBED SERVICE TURNOVER AND FOR RELATED MATTERS

ENACTED by the Parliament of the Republic of Fiji—

#### PART 1—PRELIMINARY

##### *Short title and commencement*

- 1.—(1) This Act may be cited as the Environmental Levy Act 2015.
- (2) This Act shall come into force on 1 January 2016.

##### *Interpretation*

2. In this Act, 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 the levy 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 person appointed by the Chief Executive Officer for the purposes of this Act;

“Environmental Levy” means the levy imposed under section 3(1);

“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;

“prescribed service” means the services listed in the Schedule; 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—IMPOSITION OF ENVIRONMENTAL LEVY

### *Environmental Levy*

**3.—(1)** Subject to the provisions of this Act, a levy at the rate of 6% shall be levied on the turnover of any person conducting a business involving the provision of a prescribed service.

(2) The Environmental Levy is payable by the person to whom the prescribed service is provided.

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

(4) The Environmental Levy imposed 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 tax invoice.

### *Environmental Levy 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 levy was collected, pay the Commissioner any Environmental Levy 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 Environmental Levy be paid within a period of less than one month.

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

- (a) pay the Commissioner the prescribed Environmental Levy within 14 days after the expiry of the period fixed by the Commissioner; and
- (b) 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 Act, 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 Service Turnover Tax Decree 2012 shall be deemed to have been registered under this Act.

(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.

(5) In the case of paragraph 14 of the Schedule, any person receiving rent on behalf of the owner shall be registered or deemed registered as an accountable person.

(6) Any person who, on or after 1 January 2016, in the course of carrying out the prescribed service has reasonable grounds to believe that his or her annual gross turnover will exceed the amount specified in paragraphs 10 and 11 of the Schedule, that person shall register or be deemed registered by the Commissioner.

(7) Subject to this Act, any accountable person registered under subsection (5) shall cease to be registered, if that accountable person has been registered for twelve consecutive months and the Commissioner is satisfied that the annual gross turnover of the prescribed service during the period of twelve months will not be more than the annual gross turnover specified in paragraphs 10 and 11 of the Schedule.

## PART 3—ANTI-AVOIDANCE

*Avoidance of Environmental Levy*

6. If there are reasonable grounds for the Commissioner to believe that any dealings have the direct or indirect effect of—

- (a) altering the incidence of any Environmental Levy that is payable or suffered by, or which would otherwise have been payable or suffered by any person;
- (b) relieving any person from any liability that has arisen or which would otherwise have arisen to pay Environmental Levy or file an Environmental Levy return;
- (c) evading or avoiding any liability which is imposed or would otherwise have been imposed on any person under this Act; or
- (d) hindering or preventing the operation of this Act in any respect,

the Commissioner may, without prejudice to such validity as it may have in any other respect or for any other purpose, disregard or vary the dealings and make such assessments as the Commissioner considers just and proper in the circumstances.

## PART 4—MISCELLANEOUS

*Application*

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

*Regulations*

8. The Minister may make regulations to give effect to the provisions of this Act.

SCHEDULE  
(Section 2)

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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.

*Office of the Attorney-General  
Suvavou House  
Suva*

*November 2015*

## **ENVIRONMENTAL LEVY BILL 2015**

### **EXPLANATORY NOTE**

*(This note is not part of the Bill and is only intended to indicate its general effect)*

#### **1.0 BACKGROUND**

1.1 The Environmental Levy Bill 2015 (**'levy'**) provides for the imposition of a levy on the turnover of any prescribed service. These services are prescribed in the Schedule.

#### **2.0 CLAUSES**

2.1 Clause 1 of the Bill provides for the short title and commencement.

2.2 Clause 2 of the Bill provides the definitions of terms used throughout the Bill.

2.3 Clause 3 of the Bill imposes a levy at the rate of 6% on the turnover of any person conducting a business involving the provision of a prescribed service.

2.4 Clause 4 of the Bill provides for the payment and returns of the levy.

2.5 Clause 5 of the Bill provides for the registration of accountable persons with the Commissioner.

2.6 Clause 6 of the Bill deals with anti-avoidance of the levy.

#### **3.0 MINISTERIAL RESPONSIBILITY**

3.1 The Act comes under the responsibility of the Minister responsible for Finance.

**A. SAYED-KHAIYUM**  
Attorney-General