



THE HOTEL LEVY ACT, 1995

ARRANGEMENT OF SECTION

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ACT NO. 1 OF 1995

I ASSENT

Salmin Amour

SALMIN AMOUR
PRESIDENT OF ZANZIBAR
AND

CHAIRMAN OF THE REVOLUTIONARY COUNCIL

9th March
....., 1995

AN ACT TO CONSOLIDATE AND RATIONALISE THE LAW
RELATING TO THE IMPOSITION AND COLLECTION OF
HOTEL LEVY AND SALES TAX ON TOURIST SERVICES
AND TO PROVIDE PROCEDURES FOR BETTER MANAGEMENT
OF THESE TAXES AND MATTERS RELATED THERETO

ENACTED by the House of Representatives of
Zanzibar.

Short
title and
commencement.

1. This Act may be cited as the Hotel Levy Act,
1995 and shall come into operation on such date as the
Minister may by notice in the Gazette appoint.

Interpretations.

2. In this Act, unless the context otherwise
requires:

"Act" means the Hotel Levy Act, 1995;

"Commissioner" means the Commissioner of Public
Revenue or any person to whom the Commissioner
has delegated all or any of the functions
under this Act;

"Court" means a court of law having jurisdiction over
the territory where the hotel, guest house or
the restaurant, as the case may be, is situated
at the relevant time;



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"Defaulter" means a taxpayer who fails to make payment of the hotel levy, penalty of any other sum of money payable under the provisions of this Act within the time prescribed manner;

"Guest" means any person who in return for a payment of a sum of money (whether such sum is paid by such person or any other person) occupies accommodation or receives food and other services provided by a hotel, guest house or restaurant as the case may be;

"Guest House" or "Restaurant" means an establishment providing accommodation, food, beverages, or any other services to a guest or visitor on payment of money and carried on with a view to profit or gain;

"Hotel" means any establishment intended for the reception of guest or visitors who may choose to stay therein, and carried on with a view to profit or gain, but does not include;

(a) any Government rest house;

(b) any establishment or class of establishments exempted under the provisions of this Act by the Minister;

"Hotel Levy" or "Levy" means the sum of money payable in accordance with the provisions of this Act;

"Minister" means the Minister for Finance;

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"Owner" means the owner of a hotel, guest house, or restaurant and includes any person in charge of the management of the establishment and any employee or other person responsible for the collection from the guests of the charges due from them in respect of the services rendered to them;

"Prescribed" means prescribed under the regulations made under this Act or under any order passed in accordance with the provisions of this Act;

"Regulations" means the rules of procedure prescribed under section 14 of this Act;

Imposition
of Levy.

3.(1) There shall be a levy to be ~~known~~ as Hotel Levy imposed on the owner hereafter called the "taxpayer" of a Hotel, Guest House or Restaurant, by whatever name called, providing accommodation, food and other services to a guest or visitor on payment. The Levy shall be charged at the rates specified in subsection (2) of this section.

(2) The Levy imposed under subsection (1) shall be:

- (a) fifteen percent (15%) of the charges for accommodation including breakfast but excluding all other services;
- (b) ten percent (10%) of the charges for any other services rendered to the guest or visitor such as meals, drinks, beverages, sightseeing, laundry or entertainment.

Determination
of charges.

4.(1) For the purposes of this Act, "charges" means the payment received or deemed by subsection (2) to have been received by the taxpayer in consideration of the services rendered to any guest or visitor.



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(2) Where in any case the taxpayer accepts from any guest or visitor a payment of a sum of money less than the normal charges for the services rendered, the taxpayer shall be deemed to have received from the guest or the visitor the normal charges; unless it is proved to the satisfaction of the commissioner that the payment so received was for bonafide business considerations in special circumstances.

(3) For the purpose of this section, "normal charges" means the sum of money which the taxpayer would normally require to be paid for the services so rendered.

Records
and
accounts.

5. Every taxpayer shall be responsible to maintain and retain proper records and accounts as may be prescribed of all sums of money received by him in respect of services rendered to a guest or visitor.

Inspection
and
checking.

6. The Commissioner may, for the purpose of ensuring that the provisions of the Act and the regulations made thereunder have been complied with: -

- (i) enter any Hotel, Guest House or Restaurant at any reasonable hour and inspect the records and books of accounts maintained in respect of Hotel Levy and may seize such records, books and documents and retain the same until produced as evidence in any court or if not so produced for a period not exceeding sixty days;
- (ii) require by a prescribed notice any taxpayer to appear, produce and furnish any records, books of accounts, documents and information which may be called in such notice for determining the correct liability of the Hotel Levy.

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Best
judgement
assessment.

7.(1) If no records of accounts are maintained by a taxpayer and required under section 5, or the records and books of accounts maintained by him, are, on examination, found to be defective and unsatisfactorily maintained in so far as they do not reflect the true and correct receipts of charges in respect of services rendered by the said establishment, the Commissioner may assess and estimate to the best of his judgment the amount of Hotel Levy payable by the taxpayer keeping in view all relevant factors.

(2) On such assessment, the Hotel Levy shall be so payable by the taxpayer within thirty days of the receipt of the notice of demand from the Commissioner.

Penalties.

8.(1) Where any taxpayer who is liable under this Act to pay the Levy fails to pay the whole or any part of such levy, within such time and in such manner as may be prescribed by regulations made thereunder:-

- (a) an additional levy equal to twenty five percent (25%) of the unpaid amount of the levy shall be payable by way of penalty;
- (b) in a case where such amount remains unpaid for more than thirty days after the prescribed due date the rate of the additional levy prescribed by paragraph (a) shall be increased by ten per centum (10%) of the amount of levy remaining unpaid in respect of each period of thirty days or part thereof during which the levy remains unpaid and such additional levy shall be payable by way of penalty.

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(2) If a taxpayer fails to submit the prescribed returns and statements in time and in the manner prescribed by this Act of the regulations made thereunder, he shall be liable to pay a penalty not exceeding Five Hundred Shillings (TShs. 500/=) for each day during which the default continued.

(3) The penalties mentioned in this section may be imposed by the commissioner after hearing the defaulting taxpayer.

Offences.

9.(1) Without prejudice to the provisions of any other law for the time being in force, any person who:-

- (a) commits or attempts to commit breach of any provision of this Act or any regulation made thereunder;
- (b) denies access to or obstructs any officer authorised by the Commissioner to inspect records and books of accounts relating to Hotel Levy;
- (c) refuses to pay the amount of levy payable under this Act or falsifies the records or books of accounts with a view to reduce the liability toward Hotel Levy payable under this Act;
- (d) refuses to appear to give information when required to do so by an authorised officer;
- (e) makes or causes to be made any false statement in any document used for the purpose of compliance with this Act or the regulations made thereunder, or fails or refuses to answer truthfully any question put to him by any public officer exercising his power under this Act or the regulations;



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(f) abets any of the offence mentioned in this section; is guilty of an offence and shall, on conviction by a court, be punished with fine not exceeding US Dollars five thousand (US\$ 5000) or it is equivalent currency or imprisonment for a term not exceeding two years or both such fine and imprisonment.

(2) Where any offence under this Act is committed by a body corporate, then, any person who at the relevant time was concerned as a Director or an officer, with the management of the affairs of the body corporate, shall also be liable to be proceeded against and punished accordingly as well as the satisfaction of the court that he had no knowledge and could not by the exercise of reasonable diligence have had the knowledge of the commission of the offence.

(3) Where any offence under this Act is committed by a person as an agent or employee, then, the principal or the employer shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly as well the agent or the employee as the case may be, unless he proves to the satisfaction of the court he had not knowledge and could not by the exercise of reasonable diligence have had knowledge of the commission of the offence.

Compounding
of offence.

10. The Commissioner may, where he is satisfied that adequate reasons exist, compound an offence committed by a taxpayer under this Act or the regulations made thereunder by requiring him to make payment of a sum of money which shall not be less than half of the maximum fine provided for such offence:

provided that:-

(a) the taxpayer admits in writing that he has committed the offence and shall take due care not to repeat it;



- (b) pays all his dues of the Levy or penalty of any other sum payable under this Act or the regulations.

Appeals.

11.(1) If a taxpayer is aggrieved by any order of an officer making assessment or demanding levy or imposing penalty under this Act, he makes an appeal before the Minister in the prescribed manner.

(2) The Minister, after hearing the aggrieved person may pass such order as he deems fit granting relief or confirming the order appealed against or increasing the liability of the taxpayer as the case may be.

Refunds.

12. Where an amount paid by the taxpayer exceeds his liability under this Act due to appeal or any other reason, the taxpayer shall be entitled to receive the excess amount back as refund after the same has been determined by an order of the Minister or an authorised officer.

Recovery of Levy and penalty.

13.(1) Any amount payable under this Act by way of Hotel Levy, penalty or any other charge shall be a debt due to the Government and may be so recovered.

(2) Without prejudice to any other mode of recovery of such dues, the Commissioner may attach the movable assets of the defaulting taxpayer such as the credit balance of his bank accounts, stock-in trade, debts due to him from various debtors, vehicles and equipment's and may recover the dues from such assets in the prescribed manner.

(3) Without prejudice to the foregoing provisions of this section where any amount of levy penalty is due from a taxpayer, the Commissioner may file in a court having jurisdiction over the area in which the Hotel, Guest House or Restaurant is situated, a certificate stating:-



- (a) the name and address of the person from whom such amount is due; and;
- (b) the amount due and upon such certificate being lodged in such court, such certificate shall be deemed to be a decree passed by such court against the person named in the certificate for payment by such person to the government of the state as stated in the certificate together with interest thereon of ten percent (10%) per month from the date of payment, and every such decree may be executed in the same manner as a decree passed by the court in a civil suit.

(4) Every certificate filed in a court pursuant to the provisions of subsection (3) shall be conclusive evidence of the truth of the facts stated therein and shall be enforceable by the court notwithstanding that the amount involved exceeds the pecuniary jurisdiction of the court.

Regulations.

14. For proper management of and giving effect to the intent and purpose of this Act, the Minister may prescribe such regulations and procedures as are considered necessary which shall have the same effect as this Act upon publication in the Gazette.

Exemptions.

15. The Minister may by order in the Gazette, exempt:-

- (a) any Hotel, Guest House or Restaurant or class of such establishments from the provisions of this Act;
- (b) any owner or class of owners of Hotel, Guest House or Restaurant in respect of any guest or visitor or class of guest or visitors.



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Repeal.

16.(1) The following provisions of law relating to the charge of Hotel Levy are hereby repealed:-

- (a) section 22 of the Promotions of Tourism Act, 1991;
- (b) the entry relating to "services on tour operation, hotels and restaurants" included in the Second Schedule to the Sales Tax Act, 1991 by section 10(c) (i) of the Finance Act, 1993.

(2) Notwithstanding the repeal under subsections (1), anything done under the said provisions of law which is in force on the effective date shall be deemed to have been made under the Provisions of this Act.

Passed in the House of Representatives on the 18th day of January, 1995.

K Chamde

KHAMIS JUMA CHANDE

CLERK TO THE HOUSE OF REPRESENTATIVES.