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TOURIST ACCOMMODATION (TAXATION) LAW

(2003 Revision)

Cap. 168 of the Laws of the Cayman Islands Revised Edition, 1963 consolidated with Laws 28 of 1968, 2 of 1977, 25 of 1981, 3 of 1988, 2 of 1993, 18 of 1994 and 5 of 2002.

Revised under the authority of the Law Revision Law (1999 Revision).

Originally enacted-

Cap. 168-1st January, 1964
Law 28 of 1968-17th September, 1968
Law 2 of 1977-7th March, 1977
Law 25 of 1981-19th November, 1981
Law 3 of 1988-20th April, 1988
Law 2 of 1993-26th March, 1993
Law 18 of 1994-7th December, 1994
Law 5 of 2002-21st March, 2002.

Consolidated and revised this 8th day of July, 2003.

Note (not forming part of the Law): This revision replaces the 1996 Revision which should now be discarded.

TOURIST ACCOMMODATION (TAXATION) LAW

(2003 Revision)

ARRANGEMENT OF SECTIONS

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TOURIST ACCOMMODATION (TAXATION) LAW

(2003 Revision)

1. This Law may be cited as the Tourist Accommodation (Taxation) Law (2003 Revision). Short title

2. In this Law- Definitions

“accommodation” includes-

- (a) overnight accommodation in any establishment where tourists are accommodated and are charged for such overnight accommodation and service connected therewith; and
- (b) a timeshare;

“Collector of Taxes” means the Collector of Taxes for the Islands and includes his duly appointed representatives;

“proprietor” includes manager;

“service” does not include the cost of food, drink and other consumables supplied to a tourist;

“timeshare” means any accommodation in the Islands used or intended to be used, wholly or partly, for leisure purposes by a class of persons, all of whom have rights to use, or participate in arrangements under which they may use, that accommodation, or accommodation within a pool of accommodation (wherever located) to which that accommodation belongs, for intermittent periods of short duration; and

“tourist” means a person, not ordinarily resident in the Islands, visiting the Islands and remaining therein continuously for a period not exceeding six months.

3. (1) Subject to subsection (2), the proprietor of any accommodation shall pay to the Government a tax equal to ten per cent of the amount of the charges made by him in respect of each tourist accommodated therein. Taxation of tourist accommodation

(2) Where a tourist is accommodated at a timeshare and such tourist is either-

- (a) the owner of the timeshare;
- (b) a guest of the owner of the timeshare; or
- (c) a person who has exchanged his timeshare for that timeshare,

the proprietor of the property at which the timeshare is located shall pay to the Government the equivalent of ten dollars US for each day or part of a day in

respect of each room in a timeshare which is occupied by tourist of a category specified in this subsection.

(3) Where a tourist occupying a timeshare does not fall into any of the categories specified in subsection (2) the proprietor shall pay the tax specified in subsection (1).

Duties of proprietors

4. (1) Every proprietor of accommodation shall keep or cause to be kept records in such form as the Governor in Cabinet may, from time to time, direct.

(2) Every proprietor of accommodation shall, on the departure therefrom of any tourist, deliver or cause to be delivered to that tourist a statement setting forth clearly-

- (a) particulars of the accommodation and services provided for that tourist; and
- (b) the amount payable under this Law for tax in respect thereof.

Powers of Collector of Taxes

5. (1) The Collector of Taxes may, at his absolute decision, inspect all records kept under this Law at any time.

(2) The Collector of Taxes or an authorised officer of the Collector of Taxes shall, on producing, if so required, some duly authenticated document showing his authority, have a right at all reasonable hours to enter any business premises for the purposes of-

- (a) inspecting any records;
- (b) ascertaining (whether by such inspection or otherwise) any amount or amounts of tax payable by a proprietor of accommodation on those or any other premises;
- (c) ascertaining whether there is or has been on those premises any contravention of this Law or any evidence of such contravention; and
- (d) the performance by the Collector of Taxes of any of his other functions under this Law.

(3) If a Judge of the Grand Court, on sworn information in writing, is satisfied that there is reasonable ground for entry into any premises for any purpose mentioned in subsection (2) and that -

- (a) admission to the premises has been refused, or a refusal is apprehended, and that notice of the intention to apply for the warrant has been given to the occupier; or
- (b) an application for admission, or the giving of such a notice, would defeat the object of the entry, or that the case is one of urgency,

the Judge may, by warrant signed by him, authorise the Collector of Taxes and any other person named in the warrant to enter the premises, if need be by reasonable force.

(4) Every warrant granted under this section shall continue in force for a period of one month.

(5) The Collector of Taxes or any other person entering any premises by virtue of this section, or of a warrant issued under it, may take with him such other persons as he considers necessary.

(6) The Collector of Taxes or any other person entering premises by virtue of this section, or of a warrant issued under it, may inspect any records (in whatever form they are held) relating to any business of tourist accommodation, whether or not carried on at those premises, and where any such records are kept by means of a computer may-

- (a) have access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the records; and
- (b) require any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material to afford him such assistance as he may reasonably require.

(7) Any person exercising any power conferred by subsection (6) may-

- (a) seize and detain any records referred to in that subsection which he has reason to believe may be required as evidence in proceedings under this Law; and
- (b) where the records are kept by means of a computer, may require the records to be produced in a form in which they may be taken away.

6. (1) Whoever-

- (a) intentionally obstructs any person acting in the execution of this Law; or
- (b) without reasonable cause, fails to give to any person acting in the execution of this Law any assistance or information which that person may reasonably require of him for the performance of his functions under this Law,

Obstruction, etc., of
officers

is guilty of an offence and liable on summary conviction to a fine of five thousand dollars and to imprisonment for six months.

(2) Whoever, in purported compliance with subsection (1) (b)-

- (a) furnishes information which he knows to be false or misleading in a material particular; or
- (b) recklessly furnishes information which he knows is false or misleading in a material particular,

is guilty of an offence and liable on summary conviction to a fine of fifty thousand dollars and to imprisonment for two years.

Accounting for and
payment of tax

7. (1) Every proprietor of accommodation shall, no later than twenty-eight days after the end of each month in which the proprietor has provided accommodation and services for tourists, submit, under section 4, to the Collector of Taxes a copy of each statement delivered by him to tourists during the month.

(2) Tax payable under this Law by a proprietor, in respect of accommodation and services he has provided, shall be due and payable to the Collector of Taxes twenty-eight days after the end of the month in which the accommodation and services were provided.

(3) Where-

- (a) a proprietor has failed to submit any copy statement as required by subsection (1);
- (b) a proprietor has failed to keep any documents and afford the facilities necessary to verify any such copy statement; or
- (c) it appears to the Collector of Taxes that any such copy statement is incomplete or incorrect,

the Collector of Taxes may assess, to the best of his judgment, the amount of tax due from the proprietor, and notify that assessment and amount to the proprietor.

(4) Where an amount has been assessed and notified to a proprietor under subsection (3) it shall be deemed to be an amount of tax due from him and may be recovered accordingly, unless, or except to the extent that, the assessment has subsequently been withdrawn or reduced.

1998 Revision

(5) Tax due from any proprietor under this Law shall be recoverable in the manner provided by the Tax Collection Law (1998 Revision) as if it were a tax required to be paid to the Collector of Taxes under that Law.

Default surcharge

8. (1) If, by the last day on which a proprietor is required under section 7 to submit a copy to the Collector of Taxes of a statement delivered by the proprietor to tourists, the Collector of Taxes -

- (a) has not received that copy statement; or

- (b) has received that copy statement but has not received the total amount of tax shown on it as payable by the proprietor in respect of the accommodation and services provided in the month to which it relates,

then that proprietor shall be regarded for the purposes of this section as being in default in respect of the tax which is due and payable for that month.

(2) Where a proprietor is in default in respect of the tax which is due and payable for any month the proprietor shall be liable to a surcharge equal to twenty per cent of the tax due and payable for that month.

(3) Where a proprietor is liable to a surcharge under this section the surcharge to which he is liable shall be treated as tax for the purposes of this Law.

9. (1) Where an assessment is made under section 7(3), the tax assessed shall carry interest at the prescribed rate in respect of the period beginning on the date on which the tax (if not assessable under that subsection) would have become due and payable and ending on the date of payment. Interest on tax assessed

(2) If the circumstances are such that an assessment under section 7(3) could have been made, but before such an assessment was made the tax due was paid (so that no such assessment was necessary), that tax shall carry interest at the prescribed rate in respect of the period beginning on the date on which the tax (if not assessable under that subsection) would have become due and payable and ending on the date of payment.

- (3) Any interest carried on tax by virtue of this section-
 - (a) shall be treated as tax for the purposes of this Law; and
 - (b) shall be recoverable as tax notwithstanding any surcharge to which the proprietor is liable.

(4) In this section-

“the prescribed rate” means such rate as may be prescribed by the Governor in Cabinet.

10. (1) Whoever is knowingly concerned in, or in the taking of steps with a view to, the fraudulent evasion of tax by him or any other person, is guilty of an offence and liable on summary conviction to a fine of fifty thousand dollars or of three times the amount of the tax, whichever is the greater, and to imprisonment for two years. Offences and penalties

(2) Whoever-

- (a) with intent to deceive, produces or submits for the purposes of this Law (or otherwise makes use of for those purposes) any document which is false in a material particular; or
- (b) in submitting any statement or information for the purposes of this Law makes any statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular,

he is guilty of an offence and liable on summary conviction to a fine of fifty thousand dollars or of three times the amount of the tax, whichever is the greater, and to imprisonment for two years.

Publication in consolidated and revised form authorised by the Governor in Cabinet this 8th day of July, 2003.

Carmena Watler
Clerk of Cabinet

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