



Tonga

CONSUMPTION TAX (AMENDMENT) 2020

Act 13 of 2020



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AN ACT TO AMEND THE CONSUMPTION TAX CONSEQUENT UPON THE ENACTMENT OF THE REVENUE SERVICES ADMINISTRATION ACT 2020

I assent,
TUPOU VI,
29th October 2020.

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

1 Short Title, Commencement, and Interpretation

- (1) This Act may be cited as the Consumption Tax (Amendment) Act 2020.
- (2) This Act shall come into force on the day that the Revenue Services Administration Act 2020 comes into force.
- (3) This Act shall apply to supplies and imports made on or after the date referred to in subsection (2).
- (4) In this Act, the Consumption Tax Act 2003, as amended, shall be referred to as the "Principal Act".

2 Repeal of sections and Part

The Principal Act is amended by repealing sections 25, 27, 28, 29, and Part XI.

3 Section 2 amended

Section 2 of the Principal Act is amended —

- (a) by deleting the words **“approved form”** and its definition and replacing them with the following —

““approved form” has the meaning in the Revenue Services Administration Act 2020”; and

- (b) by deleting the word **“associate”** and its definition and replacing them with the following —

““associate” has the meaning in the Revenue Services Administration Act 2020;”.

4 Section 7 amended

Section 7 is amended —

- (a) by inserting the following new subsection after subsection (4) —

“(4A) A taxable person who carries on an enterprise at more than one place of business shall apply to the Minister, in the approved form, for an official copy of the person’s consumption tax registration certificate for each place of business and the Minister shall issue the person with such copy or copies.”; and

- (b) by deleting subsection (6) and substituting the following subsection —

“(6) A taxable person shall display —

- (a) the original of the person’s consumption tax registration certificate in a conspicuous place at the main place of business where the person conducts their enterprise; and
- (b) an official copy of the person’s consumption tax registration certificate issued under subsection (4A) in a conspicuous place at every other place of business where the person is conducting their enterprise.”.

5 Section 18 amended

Section 18 of the Principal Act is amended —

- (a) in the heading, by inserting at the end **“and receipts”**; and
- (b) by inserting the following new subsections after subsection (2) —

“(3) Where —

- (a) a registered person makes a taxable supply to a person who is not a registered person; and

- (b) the registered person has received payment for the supply from the recipient, the registered person shall, at the time of receipt of the payment for the supply from the recipient, issue the recipient with the original consumption tax receipt for the supply.
- (4) A receipt issued by a registered person in (1) shall contain the following particulars —
 - (a) the words “**CONSUMPTION TAX RECEIPT**” in a prominent place;
 - (b) the name, address, and Tax Identification Number of the supplier;
 - (c) the individualised serial number and the date on which the receipt is issued;
 - (d) the description of the goods supplied (including quantity or volume) or services provided, and the date on which the supply was made; and
 - (e) the consideration for the supply and the amount of Consumption Tax charged.”.

6 Section 20 amended

Section 20 of the Principal Act is amended —

- (a) In subsection (1), by inserting the words “Consumption Tax receipt,” after “invoice,” wherever “invoice,” appears;
- (b) in subsection (2) —
 - (i) in paragraph (a), by deleting the word “or”;
 - (ii) by inserting a new paragraph (b) as follows —
 - “(b) in the case of a Consumption Tax receipt, immediately after payment is received by the supplier; or”;
 - (iii) re-lettering the existing paragraph (b) as paragraph (c);
- (c) in subsection (4), by inserting the words “or Consumption Tax receipt” after the word “invoice,”;
- (d) in subsection (5), by deleting “20” and replacing it with “8”, adding “2020” after the word “Revenue Services Administration Act” and inserting the words “Consumption Tax receipts,” after the word “invoices,” wherever the word “invoices,” appears; and
- (e) in subsection (7), by inserting the words “Consumption Tax receipt,” after the word “invoice,”.

7 Section 21 amended

Section 21 of the Principal Act is amended by repealing subsection (2).

8 Section 22 amended

Section 22 of the Principal Act is amended by repealing subsections (3) and (4).

9 Section 24 amended

Section 24 of the Principal Act is amended by repealing subsections (4), (5), and (6), and replacing them with the following new subsection (4) —

“(4) An application for a refund under section (1)(b) or (3) shall be made within 2 years after the date the consumption tax return to which the refund relates was lodged.”.

10 Section 26 amended

Section 26(5) of the Principal Act is amended by inserting the words “and the Revenue Services Administration Act 2020” at the end of the subsection.

11 Sections 34A and 34B inserted

The Principal Act is amended by inserting the following new sections 34A and 34B after section 34 —

“34A Tax avoidance schemes

- (1) This section shall apply if the Minister is satisfied of the following —
 - (a) a scheme has been entered into or carried out;
 - (b) a person has obtained a tax benefit in connection with the scheme; and
 - (c) having regard to the substance of the scheme, it would be concluded that a person, or one of the persons, who entered into or carried out the scheme did so for the sole or dominant purpose of enabling the person to obtain the tax benefit referred to in paragraph (b).
- (2) If the Minister is satisfied of the matters specified in subsection (1), the Minister shall determine the consumption tax liability of the person who obtained the tax benefit and of any other person related to the scheme as if the scheme had not been entered into or carried out.
- (3) If the Minister has made a determination under subsection (1) the Minister shall give effect to the determination by serving a notice or notices of assessment, including an amended assessment under the Revenue Services Administration Act 2020, on the person or persons whose consumption tax liability is affected by the determination.
- (4) Despite anything in the Revenue Services Administration Act 2020, a notice or notices of assessment under subsection (3) shall be served within 6 years from the last day of the consumption tax period to which the determination relates.

- (5) An assessment made under this section shall be treated as a taxation assessment for all purposes of the Revenue Services Administration Act 2020.
- (6) In this section —
- “**scheme**” includes a course of action, and an agreement, arrangement, promise, plan, proposal, or undertaking, whether express or implied, whether or not legally enforceable, and whether undertaken unilaterally or by 2 or more persons; and
- “**tax benefit**” means —
- (a) a reduction in the liability of a person to pay consumption tax;
 - (b) an increase in the entitlement of a person to an input tax credit;
 - (c) an entitlement to a refund of consumption tax;
 - (d) a postponement of a liability for the payment of consumption tax;
 - (e) an acceleration of an entitlement to an input tax credit;
 - (f) any other advantage arising because of a delay in payment of consumption tax or an acceleration of the entitlement to an input tax credit;
 - (g) anything that causes a taxable supply, taxable import, or supply of imported services not to be a taxable supply, taxable import, or supply of imported services, as the case may be; or
 - (h) anything that gives rise to an input tax credit entitlement for an acquisition or import that is used, or is to be used, other than in making taxable supplies.

34B Application of Revenue Services Administration Act

The Revenue Services Administration Act 2020 shall apply for the purposes of the administration of this Act but subject to Parts VII, VIII, and IX.”.

12 Transitional

Subject to the new section 7(4A) of the Principal Act, a taxable person at the commencement date who, carries on an enterprise at more than one place of business shall apply to the Minister for an official copy of the person’s consumption tax registration certificate for each place of business within 60 days.

Passed by the Legislative Assembly this **14th** day of **September** 2020.