

REPUBLIC OF KIRIBATI
(No. 16 of 1997)

I assent,

Beretitenti
Assented: 29th December 1997

AN ACT TO AMEND THE HOTEL TAX ACT 1984 (No. 12 of 1984)

Commencement:
1997

MADE by the Maneaba ni Maungatabu and Assented to by the Beretitenti.

Short Title

1. This Act may be cited as the Hotel Tax (Amendment) Act 1997.

Amendment of section 2

2. Section 2 of the Hotel Tax Act 1984 (hereinafter referred to as the “principal Act”) is hereby amended in the definition of “tax” by adding at the end of the definition the words “and includes any penalty imposed under section 5(3).”

Amendment of section 5

3. Section 5 of the principal Act is hereby amended –
 - (a) in subsection (3) by –
 - (i) inserting after the word “penalty” and before the word “of” the words “, as the Minister may determine but shall not exceed”;
 - (ii) deleting the word “of” appearing after the word “penalty” and before the figure “30”; and
 - (b) in subsection (4), by deleting the figure “\$500” appearing at the end of the subsection after the word “of” and substituting the words “not exceeding \$5000 or to a term of imprisonment of 2 years or both.”

Amendment of section 7

4. Section 7 of the principal Act is hereby amended by deleting the whole section and substituting the following –

“Powers and Duties of the Minister

7. (1) The Minister shall undertake the administration of this Act, shall account for the tax levied hereunder and shall be responsible for the due care and management of all such taxes and other matters incidental thereto under this Act.

(2) The Minister may approve –

- (a) the form of the register to be kept under section 4 of this Act; or
- (b) the form of the return to be furnished under subsection (1) of section 5 of this Act; or
- (c) require the proprietor of a hotel to keep adequate records and accounts relating to the turnover of the hotel.

(3) The Minister or any person authorised in writing by him may –

- (a) enter any hotel at any reasonable time and inspect the records of the hotel that relate to its turnover or to the payment of tax under this Act; or
- (b) require the proprietor of hotel at anytime to produce any books or records of the hotel that relate to its turnover or the payment of tax under this Act.

(4) Any person who, being the proprietor of a hotel fails to comply with any requirement made under subsections (2) and (3) of this section commits an offence and shall be liable on conviction to a fine of \$500.”

Insertion of new sections 8 and 9

5. The principal Act is amended by inserting immediately after section 7 new sections of 8 and 9 as follows –

“Assessed tax

8. The Minister shall assess the proprietor of a hotel who commits a breach of section 5, subsections 4(b) and 4(c) of the principal Act.

Appeal

9. (1). Any proprietor who disputes an assessment under section 8 of this Act may, by notice in writing to the Minister, appeal against such assessment.

(2) The notice shall –

- (a) state the grounds of appeal supported by documents, if any
- (b) be lodged with the ~Minister within 60 days of service of the notice of assessment.

(3) Where the proprietor –

- (a) has given a valid notice of appeal to an assessment; and
- (b) does not agree with the Minister as to the amendment of the assessment,

he may within 30 days of the Minister making such an amendment, lodge the notice of appeal to the High Court.”

Renumbering of existing sections 8, 9 and 10

6. The principal Act is hereby amended by –

- (a) renumbering the existing sections 8 and 9 as sections 10 and 11 respectively; and
- (b) section 10 (as amended) is renumbered as section 12.

THE HOTEL TAX (AMENDMENT) ACT 1997

EXPLANATORY MEMORANDUM

The principal object of this Act is to make the Hotel Tax Act (No.12 of 1984) (“the principal Act”) more workable and easier to administer. The new section 7 empowers the Minister to administer the Act.

The Act at section 8 makes it incumbent on the minister to assess the proprietor of a hotel who fails to make a tax return within a specific period under the principal Act, or furnishes or causes to be furnished a tax return which is false or incorrect in any material part. The proprietor of the hotel who does any of such things is committing an offence under section 5(4) of the principal Act, the penalty of which is increased under this Act from \$500 to \$5000.

Any proprietor of a hotel who disputes an assessment under the new section 8 can appeal such assessment to the Minister, and can appeal further directly to the High Court, as provided for under section 9.

Under the principal Act, if a proprietor of a hotel does not pay tax before the 10th day of each month in respect of the previous month, he or she gets penalised 30 percent of the unpaid tax. The new amendment at section 5, subsection 3 makes it discretionary for the Minister to impose a penalty which shall not exceed 30 percent of the unpaid tax.

Michael N. Takabwe
The Attorney General
8 May 1996