

INTRODUCTION FILE

THE DEBIT TAX BILL 1995

(NAME OF BILL)

- CONTENTS: Bill
Objects and Reasons
Notice of Presentation
Covering letter from Minister to Clerk to Parliament
(Authorisation from Minister of Finance under s.60 of Constitution)
- FROM: Attorney General's Chambers
- TO: Minister
(for signing Objects & Reasons, Notice of Presentation and covering letter to Clerk)
- TO: Minister of Finance
(for signing of letter to Clerk signifying Cabinet approval under s.60 of Constitution)
- TO: Clerk to National Parliament
(for certificate by Speaker)
- TO: Attorney General's Chambers
(for printing)
- TO: Clerk to National Parliament
(for reference during 1st, 2nd and 3rd Readings)
(Date passed... 20... 25... Act No. 14/1995)
- TO: Attorney General's Chambers
(for checking before Assent) *James F*
1/02 23/1/96
- TO: Governor-General
(for Assent) *25/01/96*



THE DEBIT TAX ACT 1995

(NO. 14 OF 1995)



THE DEBIT TAX ACT 1995

(NO. 14 OF 1995)

Passed by the National Parliament this twentieth day of December 1995.

This printed impression has been carefully compared by me with the Bill passed by Parliament and found by me to be a true and correct copy of the said Bill.

Handwritten signature of Elizabeth Andresen.

*Elizabeth Andresen
Acting Clerk to National Parliament*

Assented to in Her Majesty's name and on Her Majesty's behalf this twenty-fifth day of January 1996.

Handwritten signature of Moses P. Pitakaka.

*Moses P. Pitakaka
Governor-General*

Date of commencement: see section 1.

AN ACT To Provide for the imposition and collection of a tax in respect of debits made to accounts kept with banks.

ENACTED by the National Parliament of Solomon Islands.

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20. Paym

21. Acce
22. Com
23. Com
24. Pres
25. Regu

THE DEBIT TAX ACT 1995
ARRANGEMENT OF SECTIONS

Section:

PART I
PRELIMINARY

- 1. Short title and commencement.
- 2. Interpretation.
- 3. Debits to be expressed in Solomon Islands currency.
- 4. General administration of this Act.

PART II
IMPOSITION OF TAX AND LIABILITY TO TAX

- 5. Imposition of tax.
- 6. Liability to tax.
- 7. When tax payable.
- 8. Refund of amounts incorrectly paid.

PART III
RETURNS AND ASSESSMENTS

- 9. Returns.
- 10. Special assessments.
- 11. Default assessments.
- 12. Penalty for failure to furnish return, etc.

PART IV
OBJECTIONS AND APPEAL

- 13. Objections.
- 14. Appeal to High Court.

PART V
RECOVERY OF TAX

- 15. Recovery of tax.
- 16. Penalty for unpaid tax.
- 17. Extension of time and payment by instalments.
- 18. Offences.

- 19. Evading taxation.
- 20. Payment of penalty not to relieve liability to tax.

PART VI
MISCELLANEOUS

- 21. Access to books, etc.
- 22. Commissioner to obtain information and evidence.
- 23. Commissioner may compromise claim for tax.
- 24. Preservation of records.
- 25. Regulations.

PART I
PRELIMINARY

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| Short title and commencement. | 1. This Act may be cited as the Debit Tax Act, 1995, and shall come into force on such date as the Minister may appoint by notice published in the Gazette. |
| Interpretation. | 2. In this Act, unless the context otherwise requires -
"account" means an account kept with a bank from which debits are made in respect of cheques drawn or passbook withdrawals made by the account holder or by any one or more of the account holders;
"account holder" means the person in whose name, or either or any of the persons in whose names, the account is kept;
"assessment" means -
(a) the ascertainment of tax payable under this Act in respect of a debit; or
(b) the ascertainment of additional tax payable under section 12;
"authorised officer" means an authorised officer designated as such pursuant to section 4(2);
"bank" means an institution carrying on banking business that includes the keeping of accounts that may be drawn on by cheque or by means of passbook withdrawals;
"debit" means a debit made to an account;
"tax" means a tax imposed under this Act. |
| Debits to be expressed in Solomon Islands currency. | 3. Where a debit is made in a currency other than Solomon Islands currency, a reference in this Act to the amount of the debit shall be a reference to the amount of the debit expressed in terms of Solomon Islands currency. |
| General administration of this Act. | 4. (1) The Commissioner of Inland Revenue (hereinafter referred to as "the Commissioner") shall be responsible for the proper administration of this Act.
(2) The Commissioner may for the proper administration of this Act, designate any officer in the office of the department of Inland Revenue to be an authorised officer.
(3) An authorised officer shall in exercising, performing or discharging any power, duty or function conferred or imposed on or assigned to the Commissioner by any provision of this Act be deemed for all purposes to be authorised to exercise, perform or discharge that power, duty or function. |

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PART II
IMPOSITION OF TAX AND LIABILITY TO TAX

5. From and after the commencement of this Act, a debit tax of 2 cents in the dollar shall be charged in respect of each taxable debit of not less than one dollar (\$1.00) made to an account.

Imposition of tax.

6. (1) A bank with which an account is kept and the account holder or, if there are two or more account holders, those account holders are jointly and severally liable to pay the tax imposed by this Act on a debit made to the account.

Liability to tax.

(2) Any law, or provision of a law, passed before the commencement of this Act that purports to exempt a person from liability to pay a tax which may be or could be taken to include tax imposed under this Act does not exempt that person from liability to pay the tax imposed by this Act.

7. (1) Subject to the provisions of this Act -
(a) where tax in respect of a debit made during a month (whether or not that tax is the subject of an assessment) is payable under section 6(1), that tax shall be paid not later than fifteen days after the end of that month; and
(b) tax to which an assessment made under section 11(2) relates shall be paid not later than the day specified in the notice of that assessment as the day on which the tax is due for payment, being a day not less than fifteen days after -

When tax payable.

(i) in a case in which notice of that assessment was required to be served on one person, the day on which the notice was served on that person;

(ii) in a case in which notice of that assessment was required to be served on two or more persons and notice of that assessment was served on those persons on the same day, the day on which the notice was served on the persons; or

(iii) in a case in which notice of that assessment was required to be served on two or more persons and notice of that assessment was served on those persons on different days, the earliest of those days.

(2) Additional tax under section 12 is due and payable on the date specified in the notice of assessment of the additional tax as the date on which the additional tax is due and payable.

Refund of amounts incorrectly paid.

8. (1) Subject to the provisions of this section, where, on application made by a person, the Commissioner is satisfied that any amount paid as tax under this Act (other than an amount paid pursuant to an assessment) was not payable, the Commissioner shall -

- (a) refund the amount to the person; or
- (b) apply the amount against any liability of the person to the Government and refund any part of the amount not so applied.

(2) An application under this section for a refund of an amount paid by a bank may be made by the bank, if the amount has not been so recovered by the bank.

(3) An application under this section for a refund of an amount shall be in writing in a form approved by the Commissioner and be made not later than two years from the date on which the amount was paid.

PART III
RETURNS AND ASSESSMENTS

Returns.

9. (1) If, in any month, a debit is made in respect of any account kept with a bank, the bank shall not later than fifteen days after the end of that month or such later date as the Commissioner permits, furnish to the Commissioner a return, or where subsection (2) applies, returns, relating to all debits made during that month to accounts kept with the bank.

(2) A bank may, with the consent of the Commissioner, furnish separate returns under subsection (1) in relation to debits made to accounts kept with a particular branch or branches of the bank.

(3) A return under this section shall be in a form approved by the Commissioner and shall contain such particulars as are required by the form.

Special assessments.

10. (1) A bank may in relation to a return lodged by it under section 9, request the Commissioner, in accordance with this section, to make an assessment of the amount of tax that, in the opinion of the Commissioner, is payable in respect of debits to which the return relates.

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(2) A request made under subsection (1) shall be made in writing within thirty days after the day on which the return was furnished to the Commissioner.

(3) Where a request is made in accordance with subsection (1) in relation to a return, the Commissioner shall make an assessment of the amount of tax that, in the opinion of the Commissioner, is payable in respect of the debits to which the return relates.

11. (1) Where the Commissioner is of the opinion that two or more persons are jointly and severally liable to pay tax on a debit made to an account (whether or not any return has been furnished) the Commissioner may make an assessment of the amount of the tax.

Default
assessments.

(2) As soon as practicable after an assessment is made pursuant to this section, the Commissioner shall cause notice in writing of the assessment and of the amount of tax payable in accordance with the assessment to be served by post on the bank with which the account is kept.

12. (1) Where a person refuses or fails, when and as required under or pursuant to this Act or regulations to furnish a return or any information relating to a debit, the person is liable to pay, by way of penalty, additional tax equal to double the amount of tax payable.

Penalty for
failure to
furnish return,
etc.

(2) Where a person -

- (a) (i) furnishes a return or any information or makes a statement to the Commissioner that is false or misleading in a material particular; or
- (ii) omits from a return or any information or a statement furnished or made to the Commissioner any matter or thing without which the return, information or statement is misleading in a material particular; and
- (b) the tax properly payable by the person exceeds the tax that would have been payable by the person if it were assessed or determined on the basis that the return, information or statement were not false or misleading, as the case may be,

the person shall be liable to pay, by way of penalty, additional tax equal to double the amount of the excess.

PART IV
OBJECTIONS AND APPEAL

Objections.

13. (1) Where a person who is liable to pay tax is dissatisfied with an assessment of the tax made by the Commissioner, he may, within sixty days after the issue of the assessment or the making of the decision, serve the Commissioner a notice of objection in a form approved by the Commissioner setting out the reasons for the objection.

(2) A person entitled to make an objection may, before the expiration of the time for making the objection, apply for an extension of time and the Commissioner may, for reasonable cause shown, extend the time for making the objection for such period as the Commissioner considers to be reasonable.

(3) Upon receipt of the notice of objection, the Commissioner shall within reasonable time reconsider the assessment and vacate, confirm or vary the assessment or make a re-assessment and thereafter notify the objector in writing of the decision and the reasons for the decision.

Appeal to
High Court.

14. (1) Any person who has given a notice of objection to an assessment and, consequent thereon has been served with a notice under section 13(3) may within sixty days appeal to the High Court.

(2) The onus of proving that the assessment objected to is excessive or incorrectly assessed shall be on the person assessed.

(3) In determining the appeal the Court may confirm, reduce, increase or annul the assessment or make such order thereon as it thinks fit.

PART V
RECOVERY OF TAX

Recovery of
tax.

15. (1) Tax shall on becoming due and payable under this Act be a debt due to the Crown and payable to the Commissioner.

(2) Any tax that is unpaid may be sued for and recovered in any court of competent jurisdiction by the Commissioner.

Penalty for
unpaid tax.

16. (1) If any tax remains unpaid after the time when it became due and payable, or would (but for section 17) have become due and payable, a penalty of twenty per cent is due and payable by way of penalty by the person liable or the persons jointly and severally liable to pay the tax at the prescribed rate on the amount unpaid, computed from that time or, where, under section 17 the

Commissioner has granted an extension of time for payment of the tax or has permitted payment of the tax to be made by instalments, from such day as the Commissioner determines, not being a day prior to the day on which the tax was originally due and payable.

(2) Where a penalty is payable by a person under this section and the Commissioner is satisfied that the circumstances that contributed to the delay in payment was reasonable, he may remit the penalty or part of the penalty.

17. (1) The Commissioner may in any case grant such extension of time for payment of tax or permit payment of tax to be made by such instalments and within such time, as the Commissioner considers the circumstances warrant, in any such case the tax is due and payable accordingly.

Extension of time and payment by instalments.

(2) In section 15 and this section "tax" includes the additional tax payable under section 12.

18. A person who -

Offences.

(a) fails or neglects to furnish any return or information or to comply with any requirement of the Commissioner or any authorised officer;

(b) without just cause refuses or neglects to attend and give evidence when required by the Commissioner or any authorised officer or to answer truly and fully any questions put to the person, or to produce any records required by the person;

(c) obstructs or hinders an authorised officer in the execution of his duties; or

(d) makes or delivers a return which is false in any particular or makes any false answer whether orally or in writing,

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

19. A person who by any wilful act, default or neglect or by any fraud or contrivance whatever, evades or attempts to evade tax payable under this Act is guilty of an offence and liable on conviction to a fine of one thousand dollars or to imprisonment for one year.

Evading taxation.

20. The payment of a penalty under this Act does not relieve a person from liability to any tax to which the person would otherwise be liable.

Payment of penalty not to relieve liability to tax.

PART VI
MISCELLANEOUS

Access to
books, etc.

21. For the purposes of this Act, an authorised officer -
- (a) may, at all reasonable times enter any land or premises;
 - (b) is entitled to full or free access at all reasonable times to all books, documents and other records; and
 - (c) may make copies of, or take extracts from, any books, documents or other records.

Commissioner
to obtain
information and
evidence.

22. The Commissioner may, for the purposes of this Act, by notice in writing require any person, whether or not a person is liable to pay tax under this Act -

- (a) to furnish the Commissioner with such information as he may require; and
- (b) to attend before the Commissioner or before any authorised officer -
 - (i) to answer questions put to the person concerning the business or other affairs of that person or any other person; and
 - (ii) to produce all books, documents and other records in the person's custody or under the person's control relating to that business or those affairs.

Commissioner
may compromise
claim for tax.

23. (1) Where by reason of the complexity or uncertainty of the facts or from any other cause it is difficult or impracticable to ascertain exactly the amount of tax or to ascertain the amount of tax without undue delay or expense, the Commissioner may assess as the tax payable such sum as the Commissioner thinks proper under the circumstances and may accept payment of the sum so assessed in full discharge of all claims for the tax.

(2) An assessment made under subsection (1) does not constitute a good discharge from tax if it is procured by fraud or by wilful failure to disclose material facts.

Preservation
of
records.

24. (1) A bank is required for the purposes of this Act, to keep sufficient records (including such records as may be prescribed) to enable its liability for tax to be assessed by the Commissioner and to preserve those records for a period of five years after the completion of the transactions to which they relate.

(2) Subject to subsection (3) a bank that fails to preserve records as required by subsection (1) is liable to a fine of five thousand dollars.

(3) The requirement of subsection (1) shall not apply so as to require the preservation of records in respect of which the Commissioner has notified the bank that preservation is not required.

25. The Minister may make regulations not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Regulations.

