

GAMBLING TURNOVER TAX DECREE

Decree No. 57 of 1991

Revised to 29 January 2010

UPDATED BY:-



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**GOVERNMENT OF THE SOVEREIGN DEMOCRATIC REPUBLIC
OF FIJI DECREE NO.46**

GAMBLING TURNOVER TAX DECREE 1991

**A DECREE TO IMPOSE A TURNOVER TAX
IN RELATION TO GAMBLING**

[Made 22nd November 1991]

IN exercise of the powers vested in me as President of the Sovereign Democratic Republic of Fiji and Commander-In-Chief of the Armed Forces, and acting in accordance with the advice of the Prime Minister and the Cabinet, I hereby make the following Decree:

Short title and commencement

1. (1) This Decree may be cited as the Gambling Turnover Tax Decree 1991.
- (2) This Decree shall come into force on the first day of July 1992.

Interpretation

2. (1) In this Decree unless the context otherwise requires–

“accountable person” means a person responsible for the collection of tax under Section 4 of this Decree;

"Commissioner" means the Commissioner of Inland Revenue [as provided by]¹ Section 3 of the Income Tax Act 1974;

“prescribed gambling service” means a service specified in the First Schedule to this Decree;

"State" means the Government of the Republic of Fiji;

"tax" means tax imposed under Section 3 of this Decree.

- (2) For the purposes of the application of this Decree in relation to–
 - (a) the acceptance of a bet; or
 - (b) the provision of a ticket, the stake money in relation to that bet, or unless the Commissioner determines, the price of that ticket, shall be deemed to be the consideration payable in respect of the prescribed gambling service by the acceptance of that bet or the provision of that ticket.

Levy of tax

3. Subject to this Decree, there shall be levied and paid a tax at the rates set out in the Second Schedule to this Decree on the value of any consideration paid or payable by a person in respect of the provision to that person of a prescribed gambling service.

Liability for tax

4. Tax levied under Section 3 of this Decree is payable by the person to whom the prescribed gambling service is provided and shall be collected from that person by the person who provides the prescribed gambling service.

Payment of tax and returns

5. (1) Subject to subsection (2) of this Section, an accountable person shall within [seven]¹ days after the last day of each month
 - (a) pay to the Commissioner the amount of tax due and payable in respect of the prescribed gambling services provided by him during that [week]²; and
 - (b) make and send to the Commissioner a return, in such form as is approved by the Commissioner, setting forth such particulars of the transactions in relation to the prescribed gambling services provided by him during that [week]³ as the Commissioner requires for the purposes of this Decree.
- (2) The Commissioner may, by notice in writing to an accountable person, require that tax due and payable in relation to the prescribed gambling services provided by that person to be paid at such interval of less than one month as is specified in the notice, in which case any tax due and payable shall be paid within fourteen days after the expiry of that lesser period.

(3)¹

(4).....²

(5)³

Accountable persons to register with Commissioner

6. (1) Subject to subsection (2) of this Section, every person who carries on or is about to carry on any trade, business, profession or vocation in respect of which he is or will

¹ Substituted “seven” for “twenty-eight” by §2(a) Promulgation No.43 of 2007 WEF from 1st January 2008

² Substituted “week” for “month” by §2(b) Promulgation No.43 of 2007 WEF from 1st January 2008

³ Substituted “week” for “month” by §2(b) Promulgation No.43 of 2007 WEF from 1st January 2008

be an accountable person, shall on or before the 1st day of July 1992, or within 30 days of the commencement of that trade, business, profession or vocation, whichever is the later date, register with the Commissioner–

- (a) his name and address;
 - (b) the names and addresses of his partners and associates, if any, indicating the precedent partner; and in the case of a company, the names and addresses of the directors and authorised officer (within the meaning of section 41 of the Income Tax Act 1974) of the company;
 - (c) the trade or business name where the trade, business, profession or vocation is carried on under a name or style other than his own name; and
 - (d) the place and address, if any, where he carries on or intends to carry on his trade, business, profession or vocation; and in the case of a company, the location and address of the registered office.
- (2) It shall be deemed to be sufficient compliance with subsection (1) of this Section if, in the case of a partnership, the precedent partner, and in the case of a body of persons, the manager or other principal officer, effects the registration of that partnership or body of person.
- (3) For the purposes of this Section, “precedent partner” in relation to a partnership, means the partner who, of the partners' resident in Fiji–
- (a) is first named in the agreement of partnership;
 - (b) if there is no agreement, is named singly or with precedence over the other partners in the usual name of the partnership; or
 - (c) is the precedent active partner if the partner named with precedence is not an active partner,

and, where no partner is resident in Fiji, means the attorney, agent, manager or factor of the partnership resident in Fiji.

- (4) Notwithstanding subsection (1) of this Section, a person who is registered under the Turnover Tax (Miscellaneous Services) Act, 1983 shall be deemed to have been registered under this Section as if that Act were still in force and not repealed.
- (5) An accountable person who fails to apply for registration when and as required under subsection (1) of this Section is guilty of an offence punishable by a fine of one thousand dollars.

Summary of turnover

7. (1) Subject to subsection (2) of this Section, on or before the last day of February of the year next following a year in which tax was collected by an accountable person, that

person shall deliver personally, or send by post, to the Commissioner a summary in duplicate, in a form approved by the Commissioner, containing the following particulars–

- (a) the name and address of the accountable person;
 - (b) the gross amount of all considerations paid or payable to him in respect of the provision of prescribed gambling services during the year immediately preceding that during which the summary is, under this Section, required to be delivered or sent; and
 - (c) the total amount of tax collected by him during the last-mentioned year in accordance with Section 4 of the Decree.
- (2) On the cessation of business by an accountable person, the Commissioner may require that person to deliver or send the summary within such time as the Commissioner may specify.
- (3).....⁴
- (4).....⁵

Access to documents and premises

8... ..⁶

Application of the Income Tax Act

8A.....⁷

Compounding of offences

9.....⁸

Refunds

10. (1) Where⁹ an accountable person satisfies the Commissioner that an amount of tax paid by that person to the Commissioner exceeds the amount that was properly payable, the excess shall be refunded to that accountable person:

Provided that no refund shall be made under this subsection after the expiration of the period of three years immediately after the end of the month in which the prescribed gambling services were provided by that accountable person, unless written application for the refund is made by or on behalf of that person before the expiration of the period.

(2)¹⁰

- (3)⁴ Subsection (2) applies to the owner of a hotel in respect of hotel turnover tax imposed under the Hotel Turnover Tax Act 2006.

Tax held by accountable person deemed to be held in trust for the State

11.¹¹

Exercise of powers of Commissioner by other officers

- 12.¹²¹³

⁴ Inserted by §2 Promulgation No. 16 of 2007

The Commissioner may, by instrument in writing signed by him, appoint and authorize any officer or employee of the [Fiji Islands Revenue and Customs Authority]¹ to exercise any of the powers conferred upon him by or under this Decree.

Regulations

13. The minister may make regulations, not inconsistent with this Decree, for the better carrying into effect of this Decree.

First Schedule
(Section 2)

Prescribed Gambling Service

1. Acceptance of bets by holders of licences granted under the Gaming Act Cap. 273 and the regulations made under that Act.
2. Provision in Fiji of a ticket for any lottery including any lottery run outside of Fiji and any lottery for charitable purposes.

Second Schedule
(Section 3)

Rate of Gambling Turnover Tax

1. On the value of consideration paid or payable by a person in respect of the provision to that person of a prescribed gambling service–

(a) For each complete \$1.00 of turnover, Gambling Turnover Tax payable = [15c]¹;

¹ Deleted “10c” and substituted “15c” by §3(a) Promulgation No.43 of 2007 WEF from 1st January 2008

- (b) For each sum less than \$1.00 and any fractional balance in excess of \$1.00 or a multiple thereof;

Amount of sum or fractional balance		Gambling Turnover Tax payable
7c to 50c	=	7c ²
51c to 99c	=	15c ³

¹ Substituted for “appointed under” by Schedule 2 Act 9/1998 WEF 1st January 1999 [Commencement Notice 1704/1998]

¹ Repealed by § Tax Administration Decree 50/2009 WEF 27th November 2009- previously read :

“Any accountable person who fails to pay any amount of tax due and payable in accordance with subsection (1) or (2) of this Section shall be liable to pay to the Commissioner, in addition to the tax due and payable, a penalty of twenty-five percent of the unpaid tax, unless the Commissioner otherwise directs.”

² Repealed by § Tax Administration Decree 50/2009 WEF 27th November 2009- previously read :

“an accountable person who–

(a) fails to make, or fails to cause to be made, any return specified in subsection (1) of this Section; or

(b) sends, or causes to be sent, to the Commissioner a return that is false or incorrect in any material particular,

is guilty of an offence punishable by a fine of one thousand dollars.”

³ Repealed by § Tax Administration Decree 50/2009 WEF 27th November 2009- previously read :

“Notwithstanding any provision of this Decree, Part X of the Income Tax Act 1974 shall apply to the recovery of any tax payable under this Decree as if it were income tax payable under that Act”.

⁴ Repealed by § Tax Administration Decree 50/2009 WEF 27th November 2009- previously read :

(3) “An accountable person who fails to make, or fails to cause to be made, any summary specified in this section is liable to pay the following penalties-

(a) \$2 for each day, or part of a day, if the failure continues after the date due for delivery of summary to a date up to 3 months after the due delivery date;

(b) \$7 for each day, or part of a day, if the failure continues after 3 months to a date up to 6 months after 3 months specified in subparagraph (a); and

\$15 for each day, or part of a day, if the failure continues after 6 months specified in paragraph (b) until the date the summary is received by the Commissioner.”

⁵ Repealed by § Tax Administration Decree 50/2009 WEF 27th November 2009- previously read :

“An accountable person who sends, or causes to be sent, to the Commissioner a summary under this section that is false or incorrect in any material particular commits an offence and is liable on conviction to a fine of \$1000 or to 6 months imprisonment or both.

History

Subsection (3) repealed and replaced by section 2, Act 5/2004. Section 3 previously read:-

“(3) An accountable person who–

(a) fails to make, or fails to cause to be made, any summary specified in this Section; or

(b) sends, or causes to be sent, to the Commissioner a summary that is false or incorrect in any material particular,

is guilty of an offence punishable by a fine of one thousand dollars.”

² Amended by deleting “5c” and substituting “7c” by §3(b)(i) Promulgation No.43 of 2007 WEF 1st January 2008

³ Amended by deleting “10c and substituting “15c” by §3(b)(ii) Promulgation No.43 of 2007 WEF 1st January 2008

New subsection (4) inserted by section 2, Act 5/2004.

⁶ Repealed by § Tax Administration Decree 50/2009 WEF 27th November 2009- previously read :

“The Commissioner or any officer authorised by him may require any accountable person to provide the Commissioner or that officer with adequate books, records, accounts and other documents relating to tax imposed by this Decree.

- (2) The Commissioner or any officer authorised by him may at any reasonable time enter any premises where an accountable person carries on the business of providing any prescribed gambling services and inspect books, records, accounts and other documents relating to that business and the Commissioner or that officer may remove and retain any such books, records, accounts and other documents for such period as may be reasonable for their examination or for the purposes of a prosecution.

- (3) A person who, without reasonable cause–

(a) fails to comply with a requirement made in accordance with subsection (1) of this Section; or

(b) obstructs the Commissioner or an officer authorised by him in the exercise of his powers under subsection (2) of this Section,

is guilty of an offence punishable by a fine of two thousand dollars.”

⁷ Repealed by § Tax Administration Decree 50/2009 WEF 27th November 2009- previously read :

“Sections 77A and 96A of the Income Tax Act shall apply to this Decree.”

History

New subsection 8A inserted by section 2, Act 5/2004.

⁸ Repealed by § Tax Administration Decree 50/2009 WEF 27th November 2009- previously read :

“ (1) Where the Commissioner is of the opinion that a person has committed an offence under this Decree, the Commissioner may send a notice to that person setting forth particulars of the alleged offence and making an offer to compound such offence.

(2) The Commissioner may make an offer to compound an offence notwithstanding that proceedings against the alleged offender have been commenced.

(3) If the alleged offender accepts the offer, all proceedings against the alleged offender in relation to the alleged offence shall be terminated.”

⁹ Amended by deleting “Subject to this section where” and substituting “where” by § Tax Administration Decree 50/2009 WEF 27th November 2009

¹⁰ Repealed by § Tax Administration Decree 50/2009 WEF 27th November 2009- previously read :

“(2) Where an accountable person has failed, in whole or in part, to pay to the Commissioner–

(a) any tax due and payable under this Decree. or

(b) any tax due and payable under the Income Tax Act 1974; or

(c) any tax due and payable under the Value Added Tax Decree 1991;

the Commissioner may set off, against that unpaid tax, any amount or any part of any amount otherwise payable to that person under this Section and shall treat any amount so set off as a payment received from that person.”

¹¹ Repealed by § Tax Administration Decree 50/2009 WEF 27th November 2009- previously read :

“An amount of tax collected by an accountable person under Section 4 of this Decree and payable by that accountable person to the Commissioner under Section 5 of this Decree shall be deemed to be held in trust for the State and shall not be subject to any attachment in respect of any debt or other liability of that accountable person in the event of the liquidation or bankruptcy of that accountable person, or of any assignment for the benefit of the accountable person's creditors, or in any event, and the said amounts shall not form part of the estate of the accountable person in liquidation or bankruptcy or part of any such assignment, but shall be paid in full to the Commissioner before any distribution of property is made.”

¹² Substituted by Schedule 2 Act 9/1998 WEF 1st January 1999 [Commencement Notice 1704/1998]; previously read –

“(1) Where, under this Decree, a power is conferred, or a duty is imposed, on the Commissioner, then subject to any express direction by the Commissioner to the contrary, that power may be exercised, or that duty may be performed, by the Deputy Commissioner of Inland Revenue, or a Chief Assessor, or a Principal Assessor of Inland Revenue, appointed under Section 3 of the Income Tax Act 1974.

- (2) *The Commissioner may, by instrument in writing signed by him, appoint and authorise any officer to exercise any of the powers conferred upon him under this Decree.”*

¹³ *Repealed by § Tax Administration Decree 50/2009 WEF 27th November 2009- previously read :*

¹ Reference to “*Fiji Islands Revenue and Customs Authority*” substituted for “*Fiji Revenue and Customs Authority*” by §4(1) Act 30/1999 WEF 1st January 2000 Commencement Notice 2664/1999