

REPRINT

SALES TAX ACT (CAP. 125)

As in force at: 1 January 2023

STATUS: HISTORICAL

This version is that in force at the date stated above. It does not include amendments made since that date.

For list of amendments see Endnotes

AN ACT TO IMPOSE A SALES TAX ON CERTAIN PRESCRIBED GOODS AND SERVICES AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO

SALES TAX ACT (CAP. 125)

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SALES TAX ACT (Cap. 125)

As in force at: 1 January 2023

1 Short title

This Act may be cited as the *Sales Tax Act*.

1A Act is tax law

This Act is a tax law for the purposes of the *Tax Administration Act 2022*.

2 Interpretation

In this Act, unless the context otherwise requires:

“consumer” means a person who:

- (a) uses or utilises or intends to use or utilise in Solomon Islands prescribed goods or services for his own use or consumption or for the use or consumption of any other person at his expense; or
- (b) uses or utilises or intends to use or utilise in Solomon Islands prescribed goods or services on behalf of or as the agent for a principal who desired or desires to so use or utilise such prescribed goods or services by the principal or by any person at the expense of such principal;

“prescribed goods or services” means goods or services declared to be taxable by or pursuant to this Act and set out in the Schedule;

“prepayment type goods and services” means prescribed goods or services declared to be subject to prepayment by or pursuant to this Act and set out in Schedule Two

“purchaser” means:

- (a) any consumer; or

- (b) any person who acquires prescribed goods anywhere, for his own use or consumption, or for the consumption or use in Solomon Islands of other persons at his expense, or on behalf of or as agent for a principal who desires to acquire such prescribed goods for consumption or use in Solomon Islands by such principal or other person at his expense; or
- (c) any person who acquires prepayment type goods or services anywhere;

“sale” or “sells” means:

- (a) a sale of prescribed goods to a purchaser for the purpose of use or consumption and not for resale;
- (b) the providing of prescribed services for a consideration; or
- (c) any transfer of title or possession, exchange, barter, lease or rental, conditional or otherwise of any prescribed goods including a sale on credit or where the price is payable by instalments, or any other contract (whether or not a hire-purchase contract) whereby at a price or other consideration a person delivers to another person prescribed goods; or
- (d) the furnishing and distribution of prescribed goods for a consideration by social clubs or other organisations in the course of ordinary business; or
- (e) a sale of prepayment type goods or services to a purchaser;

“sales tax” means sales tax imposed by or under this Act by an order by the Minister and includes additional sales tax;

“use” does not include prescribed goods brought into Solomon Islands for the purpose of transporting them subsequently outside of Solomon Islands for use thereafter solely outside Solomon Islands;

“value” includes:

- (a) the price for which the prescribed goods were purchased as expressed in terms of Solomon Islands currency;

- (b) the price for which the prescribed services were made available and used in Solomon Islands;
- (c) in the case of prescribed goods, the costs of or charges for customs and excise duties, transportation and insurance; and
- (d) in the case of prepayment type goods or services, the greater of:
 - (i) the price for which the prepayment type goods or services were purchased as expressed in terms of Solomon Islands currency; or
 - (ii) the price for which prepayment type goods or services are generally sold to consumers.

“vendor” means a person who, in the ordinary course of business, sells prescribed goods or services, and includes, subject to section 3A, a wholesaler.

2A Vendor to provide record of prepaid sales tax

The vendor of prepayment type goods or services on which sales tax has been prepaid must provide to a purchaser a record of the sales tax prepaid in respect of the goods or services being purchased.

2B Reduction of sales tax prepaid

The amount of sales tax a purchaser is charged on prepayment type goods or services is reduced by any sales tax prepaid in respect of the goods or services being purchased, consistent with the record of prepaid tax provided by the vendor in accordance with section 2A.

3 Tax on purchases of goods or services

- (1) Every purchaser of prescribed goods or services shall be charged a tax (to be known as “sales tax”) in respect of the use or consumption of such goods or services computed in such amount or at such percentage of the value thereof as may be prescribed by the Minister:

Provided that sales tax shall not be payable on the purchase of any

goods if the goods were entered under bond for the due exportation and landing in a place outside Solomon Islands and are in fact so exported.

- (2) A purchaser shall pay the tax at the time of the sale.
- (3) Where the Commissioner deems it necessary or advisable he may determine the value of any such goods for the purposes of taxation under this Act, and thereupon the value of such goods for such person shall be as so determined by him.
- (4) If a person sells any prescribed goods to a person who alleges that he is not purchasing it for consumption or use in Solomon Islands, he shall nevertheless request such person to pay the tax or give security therefor, but such payment shall be refunded or such security restored by the Commissioner on receipt of satisfactory evidence that, apart from this subsection, the tax is not required to be paid or secured.
- (5) The Commissioner shall refund any amount overpaid as sales tax upon receipt, at any time within two years after the overpayment, of satisfactory evidence of such overpayment.
- (6) Every person who brings into Solomon Islands or who receives delivery in Solomon Islands of prescribed goods acquired by him for money or moneys worth for his own consumption or use, or for the consumption or use of other persons at his expense, or on behalf of, or as agent for, a principal who desires to acquire such prescribed goods for consumption or use in Solomon Islands by such principal or other person at his expense, shall upon entry of the goods under the *Customs and Excise Act* supply the Commissioner with the invoice and all other relevant information required by him in respect of the consumption or use of such goods; and at the same time shall, subject to subsection (7), pay to the Commissioner the tax in respect of the consumption and use of such goods that would have been payable if the goods had been purchased for the first time in Solomon Islands at the time of entry of such goods under the *Customs and Excise Act*.
- (7) No sales tax shall be payable pursuant to subsection (6) if the person aforesaid satisfies the Commissioner that the prescribed goods were

purchased by him prior to the date on which the sales tax was imposed on those goods under this Act.

- (8) The sales tax imposed by this Act shall be calculated separately on every purchase and shall be computed to the nearest cent.

3A Tax on purchase of local and overseas telecommunications

Notwithstanding the application of the definition of prepayment type goods and services, there shall be no sales tax imposed by this Act on the purchase of local and overseas Telecommunications, as a prescribed service, where those services are offered by any vendor who is a service provider (as that term is defined in the *Telecommunications Act 2009*), to another service provider on a wholesale basis, including charges relating to interconnection services, or any other wholesale telecommunications service, except where those services are provided as a retail end user service to another service provider.

4 Power of Minister to impose, revoke or vary sales tax

- (1) The Minister may from time to time in consultation with the Cabinet, by order impose sales tax on any goods and services and may revoke, reduce, increase, or alter any sales tax and may provide for exemptions therefrom, and any such order may revoke, amend or replace the Schedule.
- (2) Any order made under subsection (1), shall be subject to a negative resolution of the National Parliament.
- (3) Subject to subsection (2) until varied or revoked by an order made pursuant to subsection (1), the provisions of the Schedule shall have effect.

5 Certificate of registration

- (1) Subject to the provisions of this Act, every person who in Solomon Islands sells prescribed goods or services shall apply to the Commissioner in the prescribed form for registration as a seller of prescribed goods and services together with the prescribed fee.
- (2) Where any person has made application under subsection (1), and

the Commissioner is satisfied that such person is eligible to be registered under this Act, the Commissioner shall issue to such person a certificate of registration.

(3) Each certificate of registration issued by the Commissioner shall be kept and conspicuously displayed at the place of business of the vendor to whom the certificate of registration is issued and is not transferable.

(4) The Commissioner may:

- (a) refuse to issue a certificate of registration to any vendor; or
- (b) suspend or cancel the certificate of registration of any vendor if such vendor or any of his employees contravenes or fails to comply with any of the provisions of this Act,

but before a refusal, suspension or cancellation is made, the vendor shall be afforded an opportunity to appear before the Commissioner to show cause why the issuance of the certificate of registration should not be refused or why the certificate of registration should not be suspended or cancelled, as the case may be.

(5) A certificate of registration issued under this section may contain such terms and conditions as the Commissioner sees fit to impose for the better carrying out the purposes of this Act.

(6) Every vendor who fails to comply with this section or the terms and conditions specified under subsection (5) in the certificate is guilty of an offence under this Act.

5A Commissioner to issue Certificate of registration in certain circumstances

(1) Where the Commissioner has reasonable cause to believe that a person in Solomon Islands who sells prescribed goods and services has not registered as required under section 5, the Commissioner may by notice in writing inform such person that he intends to register him as a seller of prescribed goods and services.

(2) The Commissioner shall in the notice issued pursuant to subsection (1), specify a period of not less than fourteen days within which the

vendor may appear before him and show cause as to why, if any, he should not be registered as seller of prescribed goods and services.

- (3) On being satisfied that such vendor qualifies to be registered, the Commissioner shall issue to such vendor a certificate of registration as prescribed under section 5 and the provisions of that section shall *mutatis mutandis* apply in respect of the vendor.

6 Exemptions

The Minister may by general notice, from time to time determine in consultation with the Commissioner either generally or in any case or class of cases, or any persons entitled to relief from sales tax and any such relief may be made subject to any condition the Minister may impose.

6A Recommendation of the Exemption Committee

- (1) Before the Minister exercises any power under section 6, the Minister shall first refer the matter to the Exemption Committee established under section 8A of the *Customs and Excise Act* (Cap. 121) to make recommendations to the Minister.
- (2) The Exemption Committee shall take into account the following matters:
 - (a) the requirements of this Act and the effect of the exemption on the national economy;
 - (b) any guidelines prescribed by regulation under this Act or the *Income Tax Act* (Cap. 123)
- (3) Sections 8(3) to (10), 8A, 8B and 8C of the *Customs and Excise Act* (Cap. 121) apply to this Act, with necessary modifications.
- (4) Nothing prevents the Commissioner from communicating to a member of the Committee, including any person invited by the Committee, any matter relevant to an exemption application to which section 109(1) of the *Income Tax Act* (Cap. 123) applies.

10 Relief against double tax

Any vendor who has paid or is liable to pay sales tax under this Act for the purchase of any prescribed goods or services and who proves to the satisfaction of the Commissioner that he has paid sales tax in respect of the same goods or services shall be entitled to relief from sales tax under this Act equal to the amount paid in the first instance.

11 Anti-avoidance: high or low consideration

Where the Commissioner is of the opinion that:

- (a) any transaction or disposition of shares, stocks or assets was carried out for a consideration substantially different from that obtainable at arm's length or for no consideration; and
- (b) the effect of this would be to reduce or avoid the sales tax payable by the vendor,

the Commissioner may, for the purposes of this Act, treat the transaction or disposition as a sale, and having been carried out for such consideration as would in his opinion have been obtainable at arm's length:

Provided that this section shall not apply if the vendor shows to the satisfaction of the Commissioner that:

- (i) the transaction did not have as its object, or one of its objects, the avoidance of the sales tax; and
- (ii) the consideration for which the transaction was carried out was of a value less than the cost incurred by the person receiving the consideration in providing the subject matter of the transaction.

12 Restraints on exempted goods

- (1) Where prescribed goods have been purchased exempt from the tax imposed by this Act, the goods shall not during the two years next after the purchase be put to a taxable use, unless the purchaser prior to such change of use pays to the Commissioner the tax imposed by this Act on the value of the goods at the time of the purchase or

unless the terms of the exemption expressly excludes the operation of this section.

- (2) A person who contravenes the provisions of subsection (1) is guilty of an offence.

13 Vendor to be collector

- (1) Every vendor is an agent of the Commissioner for the purposes of this Act and as such shall levy and collect the taxes imposed by this Act upon the purchaser.
- (2) No person acting under subsection (1) shall on that account be regarded as holding public office.

14 Taxes to be collected at time of sale

The sales tax imposed by this Act, whether the purchase price be stipulated to be payable in cash or on terms or by instalments or otherwise, shall be collected at the time of the sale on the whole amount of the value, and be remitted to the Commissioner together with the relative returns not later than thirty days after the end of the month in which the sale occurs.

15 Returns

Every vendor shall make such returns to the Commissioner at such times and shall keep such records in such form and substance as the Commissioner may from time to time prescribe.

17 Liability for tax

- (1) The purchaser is liable for the tax imposed by this Act until it is collected and a consumer or purchaser who refuses to pay the tax at the time of sale is liable on conviction to a fine of two thousand penalty units and double the amount of sales tax which he ought to have paid at the time of the purchase.
- (2) Where a vendor fails to charge and remit any tax in accordance with his obligation under this Act, the amount in respect of which default has been made, shall constitute a debt payable by the vendor to the Commissioner on the 30th day of the month following the month in

which the purchase of prescribed goods and services was made.

- (3) If any vendor fails or neglects to charge and remit tax under the provisions of this Act and if recovery thereof has not been made from the purchaser such vendor shall be liable for payment of such tax.

18 Tax moneys deemed trust moneys

- (1) Every vendor who collects any tax under this Act shall be deemed to hold it in trust for the Government of Solomon Islands and is responsible for the payment of it in the manner and time provided under this Act.
- (2) Every tax collectable or penalty payable by a vendor under this Act is a first lien and charge upon his property in Solomon Islands for the amount of such tax or penalty and, notwithstanding anything to the contrary contained in any other Act, has priority over all the other claims of any person.

21 Penalty for default in filing return or remitting

- (3) Every vendor who fails to register as a vendor of prescribed goods and services as required under this Act is liable to a penalty of two thousand penalty units and an additional penalty of double the amount of the tax collectable by him from the day on which the vendor should have been registered.

21A Penalty for failure to collect tax

Every vendor who fails to charge and collect tax as required by this Act or the Regulations is liable to a penalty of two thousand penalty units and an additional penalty up to twenty penalty units per day from the day on which such tax should have been collected and remitted to the Commissioner.

SCHEDULE ONE

| | Prescribed Goods and Services | Rate |
|----|---|--|
| 1 | Local and Overseas Telecommunications | 10 cents in the dollar |
| 2 | Restaurant Services | 10 cents in the dollar |
| 3 | Tickets purchased for overseas travel | \$10.00 per ticket |
| 4 | Tickets purchased for domestic travel by air | \$10.00 per ticket |
| 5 | Tickets purchased for domestic travel by sea | 10% of the fare |
| | Tickets purchased under items 4 and 5 herein not apply to tickets bought in respect of a child under the age of 3 years and students under the age of 18 years. | |
| 6 | Hire of video tapes | |
| | (i) for general exhibition (GE) | \$2.00 per tape |
| | (ii) for adults only (AO) | \$2.00 per tape |
| 7 | Movie tickets | 50 cents per ticket |
| 8 | Accounting, Legal and Security Services | 10% of the cost of the service in the contract |
| 9 | Motor Vehicle Rental and Hire Services | 10% of the daily hiring rate |
| 10 | Real Estate Agency Services | 10% of the commission, dues, fees or charge receivable |
| 11 | Professional Services | 10% of the cost of service as per contract |
| 12 | Sale of petroleum from any premises Licensed under the Petroleum Rules | 10 cents per litre |
| 13 | Sale of diesoline from any premises Licensed under the Petroleum Rules | 10 cents per litre |
| 14 | Video hire (including deck, screen and component) | 10% of the hiring charge |
| 15 | Computer hire (including component) | 10% of the hire charge |

| | | |
|----|---|-------------------------------------|
| 16 | Hiring or Leasing of vessel and aircraft (but does not include hiring for purposes of transporting a deceased or sick person) | 10% of the hiring or Leasing charge |
| 17 | Hiring or Leasing of plant, machinery and equipment | 10% of the hiring or leasing charge |
| 18 | Electronic repairs and equipment | 10% of the cost of service |
| 19 | All services provided by hairdressers and Barber shops and includes beauty pallor | \$5.00 |
| 20 | Casino fee | \$5.00 |
| | (a) entrance fee | 10% |
| | (b) Table fee | 10% |
| 21 | Laundry Services | 10% |
| 22 | Tyre Services | 10% |

In this Schedule:

“accounting, legal and security services” means all charges, fees and dues generally and reasonably arising from providing of accounting, legal and security services;

“cost of service as per contract or in the contract” means all fees, charges, dues and include retainers received by the vendor in respect of the services rendered or supplied and in the case of a vendor being on a retainer fee, the cost of service supplied, shall be deemed to be realised and the sales tax payable when the bill of costs is issued;

“local and overseas Telecommunications” includes all forms of telecommunications, and **“telecommunications”** has the meaning given in the *Telecommunications Act 2009*;

“professional services” means all charges, fees and dues generally and reasonably arising from the sale of any professional, technical, advisory or consultancy services rendered and include:

- (i) secretarial services;
- (ii) computer services (including sale of computer, package, manuals, maintenance and training);

- (iii) architectural services (including services in respect of drafting of plans, sketches or drawings);
- (iv) sign writing, design, mural painting, drawing and other related services;
- (v) surveying and valuation fees;
- (vi) civil, electrical or mechanical engineering services (including panel beating and body repair work);
- (vii) management and trustee services;
- (viii) marine engineering services;
- (ix) building/construction engineering;

“restaurant services” means licensed or unlicensed premises where drinks of any description or cooked food is offered for sale either for consumption within the premises or to be taken away for consumption; and

“tickets purchased for overseas travel” means tickets purchased in Solomon Islands but does not include tickets issued in respect of any child under two years of age at the date of commencement of travel.

SCHEDULE TWO

Prepayment Type Goods and Services

1. Local and Overseas Telecommunications
2. Sale of petroleum from any premises licensed under the Petroleum Rules
3. Sale of diesoline from any premises licensed under the Petroleum Rules

ENDNOTES

1

KEY

| | |
|-----------------------|-------------------------------|
| amd = amended | Pt = Part |
| Ch = Chapter | rem = remainder |
| Div = Division | renum = renumbered |
| exp = expires/expired | rep = repealed |
| GN = Gazette Notice | Sch = Schedule |
| hdg = heading | Sdiv = Subdivision |
| ins = inserted | SIG = Solomon Islands Gazette |
| lt = long title | st = short title |
| LN = Legal Notice | sub = substituted |
| nc = not commenced | |

NOTE

This Reprint comprises the Act and amendments as in force on 1 March 1996 and published as Chapter 125 of the Revised Edition of the Laws of Solomon Islands, together with amendments made to the Act from that date to 1 January 2023.

2

LIST OF LEGISLATION

Sales Tax Act (Cap. 125)

| | |
|---------------------------------|------------------------------------|
| <i>Constituent legislation:</i> | 6 of 1990 (Commenced 30 July 1990) |
| | LN 87/1990 |
| | 11 of 1991 |
| | LN 10/1992 |
| | LN 4/1994 |
| | LN 45/1995 |
| | 16 of 1995 |
| | LN 4/1996 |

Sales Tax (Prescribed Goods and Services) Order 1998 (LN 61 of 1998)

| | |
|-----------|-------------|
| Gazetted | 9 June 1998 |
| Commenced | 9 June 1998 |

Sales Tax (Amendment) Act 2004 (No. 1 of 2004)

| | |
|-------------|--------------|
| Assent date | 29 June 2004 |
| Gazetted | 30 June 2004 |
| Commenced | 17 July 2009 |

Telecommunications Act 2009 (No. 20 of 2009)

| | |
|-------------|------------------|
| Assent date | 3 September 2009 |
| Gazetted | 4 September 2009 |

Commenced 11 September 2009

Penalties Miscellaneous Amendments Act 2009 (No. 14 of 2009)

Assent date 29 July 2009
Gazetted 1 October 2009
Commenced 1 October 2009

Customs and Excise (Amendment) (No. 2) Act 2012 (No. 8 of 2012)

Assent date 18 December 2012
Gazetted 27 December 2012
Commenced 1 August 2013

Sales Tax (Amendment) Act 2014 (No. 10 of 2014)

Assent date 12 June 2014
Gazetted 1 July 2014
Commenced 1 July 2014

*[*Note: The date of publication in the Gazette and the Commencement date have been validated by s4 of the Constitution (Amendment and Validation) Act 2023 and s78 of the Legislation Amendment, Repeal and Validation Act 2023]*

Sales Tax (Prescribed Goods and Services) (Amendment) Order 2022 (LN 173/22)

Gazetted 26 May 2022
Commenced 1 June 2022 (Expires 31 December 2022)

Sales Tax (Prescribed Goods and Services) (Amendment) (No. 2) Order 2022 (LN 174/22)

Gazetted 26 May 2022
Commenced 1 January 2023

Tax Administration Act 2022 (No. 3 of 2022)

Assent date 23 September 2022
Gazetted 26 September 2022
Commenced 1 January 2023

3 LIST OF AMENDMENTS

s 1A ins by Act No. 3 of 2022
s 2 amd by Acts No. 1 of 2004; No. 20 of 2009; No. 10 of 2014; No. 3 of 2022
s 2A ins by Act No. 10 of 2014
s 2B ins by Act No. 10 of 2014
s 3A ins by Act No. 20 of 2009; amd by Act No. 10 of 2014
s 5A ins by Act No. 1 of 2004
s 6 amd by Act No. 1 of 2004
s 6A ins by Act No. 8 of 2012
s 7 amd by Act No. 1 of 2004
rep by Act No. 3 of 2022
s 8 rep by Act No. 3 of 2022

| | |
|---------|--|
| s 9 | rep by Act No. 3 of 2022 |
| s 16 | rep by Act No. 3 of 2022 |
| s 16A | ins by Act No. 1 of 2004 |
| | rep by Act No. 3 of 2022 |
| s 17 | sub by Act No. 1 of 2004; amd by Act No. 14 of 2009 |
| s 19 | rep by Act No. 3 of 2022 |
| s 20 | rep by Act No. 3 of 2022 |
| s 21 | amd by Acts No. 1 of 2004; No. 14 of 2009; No. 3 of 2022 |
| s 21A | ins by Act No. 1 of 2004; amd by Act No. 14 of 2009 |
| s 22 | rep by Act No. 3 of 2022 |
| s 23 | rep by Act No. 3 of 2022 |
| s 23A | ins by Act No. 10 of 2014 |
| | rep by Act No. 3 of 2022 |
| s 24 | amd by Act No. 1 of 2004 |
| | rep by Act No. 3 of 2022 |
| s 25 | amd by Act No. 1 of 2004 |
| | rep by Act No. 3 of 2022 |
| s 26 | rep by Act No. 3 of 2022 |
| s 27 | amd by Act No. 1 of 2004 |
| | rep by Act No. 3 of 2022 |
| s 28 | amd by Act No. 1 of 2004 |
| | rep by Act No. 3 of 2022 |
| s 29 | amd by Act No. 14 of 2009 |
| | rep by Act No. 3 of 2022 |
| s 30 | amd by Act No. 14 of 2009 |
| | rep by Act No. 3 of 2022 |
| s 31 | rep by Act No. 3 of 2022 |
| s 32 | rep by Act No. 3 of 2022 |
| Sch | sub by LN 61 of 1998; amd by Act No. 20 of 2009; amd by LNs 173 and 174/2022 |
| Sch hdg | amd by Act No. 10 of 2014 |
| Sch Two | ins by Act No.10 of 2014 |