

No. 1 of 2011.

Sales Tax (Beer and Cigarettes) Act 2011.

Certified on: 20th September 2011.

AUTONOMOUS REGION OF BOUGAINVILLE.

No. 1 of 2011

AN ACT

Entitled

Sales Tax (Beer and Cigarettes) Act 2011.

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AUTONOMOUS REGION OF BOUGAINVILLE

No. 1 of 2011

AN ACT

entitled

Sales Tax (Beer and Cigarettes) Act 2011,

Being an Act to provide for the imposition of a sales tax on beer and cigarettes sold in Bougainville, and for related purposes.

MADE by the House of Representatives.

PART 1. – PRELIMINARY.

1. COMMENCEMENT.

This Act shall come into operation on 1st November 2011.

2. INTERPRETATION.

In this Act unless, the context otherwise requires-

“assessment” means an assessment made under Section 18 of this Act;

“Bougainville” means the Autonomous Region of Bougainville;

“Chief Bougainville Collector of Taxes” means the Chief Bougainville Collector of Taxes appointed under Section 3 of the Tax Administration Act 2006;

“Government” means the Autonomous Bougainville Government;

“person” includes any statutory body, company or association or body of persons corporate or incorporate;

“registered taxpayer” means a person who is registered under Part 3 of this Act; and

“sales tax” means the sales tax imposed under Section 5 of this Act.

3. ADMINISTRATION.

The Chief Bougainville Collector of Taxes is responsible for the administration of this Act.

PART 2. – IMPOSITION OF SALES TAX.

4. TAXABLE GOODS.

(1) Subject to this Act, all beer and cigarettes sold in Bougainville are taxable goods unless sales tax was previously payable on them.

- (2) Taxable goods that have been sold remain taxable goods if the Chief Bougainville Collector of Taxes believes that:
- (a) tax has not been paid, and is unlikely to be paid, in respect of the sale; and
 - (b) the seller who is liable to pay that tax does not intend to pay the tax.

5. IMPOSITION OF SALES TAX.

A tax to be known as the "sales tax" is imposed on the sale of all taxable goods.

6. RATES OF SALES TAX.

The rates of the sales tax are as follows:

- (a) 75 toea per bottle of beer;
- (b) 75 toea per can of beer; and
- (c) 20 toea per cigarette stick.

7. LIABILITY FOR PAYMENT OF TAX.

- (1) If the time of a sale of taxable good is on or after the first day this Act commences, then:
- (a) the sale is a sale of taxable goods;
 - (b) the seller is the person liable to pay the tax;
 - (c) the tax becomes payable at the time of the sale; and
 - (d) the tax is due for payment at the time that applies under Subsection (2).
- (2) The seller must pay the tax by the 14th day of the month following the month in which the taxable goods were sold.

8. CALCULATION OF AMOUNT OF TAX.

To calculate the amount of tax:

- (a) determine the number of taxable goods sold; and
- (b) multiply the result by the rate that applies to the taxable goods under Section 6.

PART 3. – REGISTRATION OF TAXPAYERS.

9. APPLICATION FOR REGISTRATION BY SELLERS OF TAXABLE GOODS.

- (1) A person who is or becomes a seller of taxable goods, must apply to the Chief Bougainville Collector of Taxes for registration under this Part.
- (2) The application under Subsection (1) must be in the form approved by the Chief Bougainville Collector of Taxes.

- (3) The application under Subsection (1) must be sent to the Chief Bougainville Collector of Taxes –
 - (a) in the case of a person who on the date of the commencement of this Act is a person referred to in subsection (1), within 30 days of that date; and
 - (b) in any other case, within such time as is prescribed.
- (4) The Chief Bougainville Collector of Taxes may grant an extension of time under Subsection (3)(a) in particular cases for such period as he or she considers the circumstances of each case warrant.

10. REGISTRATION AS TAXPAYER.

- (1) On receipt of an application under Section 9, the Chief Bougainville Collector of Taxes must –
 - (a) record the registration of the applicant in a register maintained for that purpose; and
 - (b) must send to the person registered a numbered certificate of registration in the prescribed form.
- (2) For the avoidance of doubt, it is declared that a seller of taxable goods who –
 - (a) is required to register under Section 9;
 - (b) but is not registered when the returns under Section 13 are due, is liable to submit returns of and make payment of tax in respect of all the sales of taxable goods made by him or her as if he or she were a registered tax payer.

11. CANCELLATION OF REGISTRATION.

- (1) The Chief Bougainville Chief Collector of Taxes must cancel any certificate of registration –
 - (a) on the death or bankruptcy or liquidation of the registered taxpayer; or
 - (b) on the registered taxpayer ceasing to carry on the business to which the certificate relates.
- (2) A registered taxpayer who, during the currency of the certificate, ceases to carry on the business to which the certificate relates must –
 - (a) notify the Chief Bougainville Collector of Taxes of that fact; and
 - (b) forward his or her certificate to the Chief Bougainville Collector of Taxes, within 14 days of the date he or she ceases to carry on the business.

12. OFFENCES RELATING TO REGISTRATION.

- (1) Any person who –
 - (a) fails to apply for registration within the time frame specified under Paragraph 9 (3)(a); or
 - (b) fails to apply for registration within the time prescribed under Paragraph 9(3)(b); or
 - (c) fails to apply for registration within any extension of the period granted under Subsection 9 (4),is guilty of an offence and is liable to a fine not exceeding K2,000.00.

- (2) Any person who, in an application under this Part, intentionally furnishes any information which is false or misleading, is guilty of an offence and is liable to a fine not exceeding K2,000.00.

PART 4. – ASSESSMENT AND COLLECTION.

13. RETURNS.

- (1) A registered taxpayer must, in respect of each month or part of a month during which he or she is registered, submit a return under this Section.

- (2) A person referred to in Subsection 10(2) must submit a return under this Section.

- (3) A return for a particular month:
 - (a) must specify all sales of taxable goods made during that month;
 - (b) must specify any liability to pay sales tax incurred under Section 5 during that month; and
 - (c) must be in the form approved by the Chief Bougainville Collector of Taxes.

- (4) A return for a particular month must not be accepted unless it is:
 - (a) accompanied by the sales tax payable, if any, for the month in respect of which the return is made;
 - (b) duly signed as containing a full, true and complete statement of all matters required to be stated in it; and
 - (c) received by the Chief Bougainville Collector of Taxes in his or her office not later than 14 days after the close of the month to which the return relates.

- (5) The Chief Bougainville Collector of Taxes may, by notice published in the Bougainville Gazette, extend the period under Paragraph (4)(c) in respect of registered taxpayers who are sellers of particular categories of taxable goods.

14. DISPENSATION OF TAX RETURNS.

- (1) Subject to Subsection (2), where, on application in writing by a registered taxpayer, the Chief Bougainville Collector of Taxes is satisfied that a registered taxpayer –
 - (a) has not made any taxable sales for a period greater than two months ; or
 - (b) will not make any taxable sales for the period of at least the following three months,he or she may, on such conditions that he or she may impose, dispense with the requirement that the registered taxpayer submit a return for such period as is determined by the Chief Bougainville Collector of Taxes.
- (2) If during any month, during a period in which a registered taxpayer is dispensed, under Subsection (1), from submitting a return, the taxpayer makes any sale of taxable goods, he or she must submit a return in respect of that month.

15. REQUISITION OF ADDITIONAL INFORMATION.

- (1) The Chief Bougainville Collector of Taxes may –
 - (a) direct a registered taxpayer by notice, in writing, to supply him or her with information as is specified in the notice; and
 - (b) the taxpayer must supply that information.
- (2) Information required under Subsection (1) must be provided by the taxpayer within the period specified in the notice.
- (3) Any taxpayer who fails to provide information as required under this Section is guilty of an offence and is liable on conviction –
 - (a) for a first offence to a fine not exceeding K1500.00; or
 - (b) for a second or subsequent offence to a fine between K500.00 to K3,000.00 and or a term of imprisonment not exceeding three months.

16. COLLECTION OF SALES TAX.

- (1) Sales tax under this Act must be paid to –
 - (a) the Chief Bougainville Collector of Taxes; or
 - (b) an agent appointed by the Chief Bougainville Collector of Taxes.
- (2) Sales tax under this Act must be paid in the form and manner approved by the Chief Bougainville Collector of taxes.
- (3) The appointment under Subsection (1) (b) must be published in the Bougainville Gazette.

17. ADDITIONAL TAX FOR LATE PAYMENT.

If sales tax –

- (a) is not paid before the expiration of the time specified in Section 7; or
- (b) such further time as the Chief Bougainville Chief Collector of Taxes, by notice in writing allows,

additional tax must be paid at the rate of 20 percent per annum on the amount of sales tax that remains unpaid computed from the expiration of the time specified in that Section or of any extension, as the case may be.

18. ASSESSMENT OF TAX IN CERTAIN CASES.

If -

- (a) a person defaults in making a return required under this Act; or
- (b) the Chief Bougainville Collector of Taxes is not satisfied with the return made by a person; or
- (c) the Chief Bougainville Collector of Taxes has reason to believe that a person (though he or she may not have furnished a return) is liable to pay sales tax, the Chief Bougainville Collector of Taxes may cause an assessment to be made of the amount of sales tax which, in his or her opinion, ought to be levied, and the person must on delivery to him or her of the assessment, pay the amount assessed.

19. PAYMENT OF TAX ASSESSED.

(1) Sales tax assessed under Section 18 must –

- (a) be paid before the expiration of the time determined by the Chief Bougainville Collector of Taxes; or
- (b) within such further time as is allowed by the Chief Bougainville Collector of Taxes.

(2) If the tax is not paid before the expiration of the time determined under Subsection (1), additional tax at the rate specified in Section 17 must be paid on the sales tax assessed under Section 18, by the person liable to pay the tax.

20. EXTENSION OF TIME TO PAY.

(1) Where sales tax is due and owing under this Act, the Chief Bougainville Collector of Taxes may, in such case as he or she thinks fit –

- (a) extend the time for payment of sales tax for such period or periods as he or she considers the circumstances warrant; or
- (b) permit the payment of sales tax by installments within such time as he or she considers the circumstances warrant,

provided that the total period in which the tax may be paid must not exceed 210 days.

- (2) Where the Chief Bougainville Collector of Taxes extends the time for payment of sales tax for a period, the sales tax is due and payable at the expiration of that period.
- (3) Where the Chief Bougainville Collector of Taxes permits payment of sales tax to be made by installments under Subsection (1) –
 - (a) each installment is due and payable on the date ascertained ; or
 - (b) if the payment of sales tax is not paid on or before the date ascertained, the whole of the sales tax becomes due and is payable on that date.

PART 5. – REFUNDS.

21. REFUNDS.

Section 13 of the Tax Administration Act 2006 applies in relation to refunds.

22. REFUND OF WRONGLY PAID OR OVERPAID TAX.

- (1) Sales tax may be paid or credited to a registered taxpayer only if an application, in the prescribed form, is made to the Chief Bougainville Collector of Taxes within six months of the date of the overpayment.
- (2) An application under Subsection (1) must –
 - (a) clearly state that the application is being made under Section 22 (1); and
 - (b) specify the circumstances in which the sales tax was wrongly paid or overpaid; and
 - (c) state whether the sales tax the subject matter of the application was passed on by the registered taxpayer making the application to a person purchasing taxable goods from the registered taxpayer; or
 - (d) paid by the taxpayer from his or her own funds, and
 - (e) provide details of any refund made by the registered tax payer to the purchaser to whom tax was passed on under Paragraph (c); and
 - (f) provide such information and such documentation,as is necessary to establish the facts stated in the application to the satisfaction of the Chief Bougainville Collector of Taxes.
- (3) The amount of any refund by way of payment or credit of sales tax allowed under this Part must not exceed the amount of the sales tax previously paid in respect of the sale of taxable goods in respect of which the rebate is claimed.
- (4) The amount of any refund will be reduced by the amount of any tax included in the price for which the taxpayer sold the goods.

- (5) Any registered taxpayer who makes an application under this Section for a refund of sales tax –
- (a) which has been passed on to another person; and
 - (b) falsely claims that he has refunded the tax to that person, is guilty of an offence and is liable on conviction to a fine not exceeding K1,500.00 or to imprisonment for term not exceeding three months.

PART 6. – OFFENCES AND RECOVERY OF TAX.

23. GENERAL OFFENCES.

- (1) Any person who –
- (a) fails or refuses to furnish an application, a return or information required under this Act, or fails to furnish an application or a return required by this Act within the time specified in this Act; or
 - (b) fails or refuses to comply with any requirement or direction of the Chief Bougainville Collector of Taxes made or given under this Act; or
 - (c) submits a return, or makes an application, return, submission or claim under this Act which is false or misleading in any material particular; or
 - (d) makes a false or misleading statement, whether orally or in writing, in response to a question asked of him or her under this Act by the Chief Bougainville Collector of Taxes; or
 - (e) contravenes any provision of this Act for which no penalty is expressly provided,
- is guilty of an offence.
- (2) Where a person is convicted for an offence under Subsection (1):
- (a) the person may be liable to pay a fine not exceeding K1500.00; or
 - (b) in relation to the sales tax payable on or in relation to, or by reference to any property (other than land), the court that convicts him or her may order that any of the property that is owned by, or that is in the possession or under the control of the convicted person be forfeited to the Autonomous Bougainville Government.

24. CONTINUING TAX OFFENCES.

Section 16 of the *Tax Administration Act 2006* applies to continuing sales tax offences.

25. AVOIDANCE OF SALES TAX.

Any person who has sold taxable goods in circumstances where sales tax is payable under this Act and recklessly or negligently or intentionally -

- (a) understates, in any return that person submits, the amount of taxable goods sold; or

- (b) fails to disclose in a return he or she submits any part of the proceeds of any sale of taxable goods ; or
 - (c) by means of a default or contrivance, evades or attempts to evade, the payment of sales tax on taxable goods which the person or another, sells or has sold,
- is guilty of an offence and –
- (i) is liable to a fine of not less than K300.00 and not exceeding K1500.00; and
 - (ii) is liable to pay treble the amount of sales tax understated, not disclosed, or evaded or attempted to be evaded.

26. BOOKS, ACCOUNTS, ETC., TO BE PRESERVED.

In relation to preserving copies of invoices, vouchers and other records relating to a registered taxpayer's business, Section 8 of the Tax Administration Act 2006 applies.

27. ADDITIONAL TAX WHEN INFORMATION NOT SUPPLIED, ETC.

Despite Sections 22 and 23, any person who –

- (a) fails or refuses to furnish to the Chief Bougainville Collector of Taxes a return or information relating to sales of goods required under this Act;
- (b) fails to include in any return, particulars of taxable goods required by this Act;
- (c) understates in any return in respect of taxable goods, the amount of taxable goods sold,

is liable to pay by way of additional tax either –

- (i) the amount of K300.00; or
- (ii) double the amount of the difference between the sales tax properly payable and the sales tax paid or payable on the basis of the return lodged, whichever is greater.

28. RECOVERY.

- (1) Sales tax, including additional tax, is recoverable as a debt to the Government and may be sued for and recovered in any court of competent jurisdiction by the Chief Bougainville Collector of Taxes.
- (2) The judgment or payment of a penalty under this Act does not relieve a person from liability to payment of any sales tax including additional tax, for which the person would otherwise be liable.
- (3) A prosecution and conviction under this Act does not affect the right of the Chief Bougainville Collector of Taxes under this or any other Act to bring civil proceedings for the recovery of sales tax in respect of which the prosecution was brought.

29. FALSE PRETENCES.

Any person not liable to pay sales tax in respect of the sale of any good, who –

(a) on the sale or offer for sale of the goods;

(b) demands or receives or seeks to receive,

any sum of money on the pretence that the sum is chargeable to, and payable by, him as a tax under this Act is guilty of an offence and is liable on conviction to a fine of not less than K200.00 and not more than K2000.00 and three months imprisonment.

30. EXCESSIVE CHARGING.

(1) Any person who –

(a) has paid or is liable to pay an amount of sales tax in respect of any sales of taxable goods; or

(b) has purchased goods at a price which includes an amount in respect of sales tax payable by the vendor under this Act,

on entering into or offering to enter into a contract under which goods are to be supplied must not-

(i) demand or receive; or

(ii) seek to receive,

any sum of money in excess of the amount of sales tax payable on the sale, or already paid on the purchase, on the pretence that the excess sum is payable on the sale or has been paid by him or her on the purchase.

(2) Any person who contravenes Subsection (1) is guilty of an offence and is liable on conviction to a fine of not less than K200.00 and not more than K1000.00.

PART 7. –OBJECTIONS AND APPEALS.

31. OBJECTIONS.

(1) If a person objects to an assessment of liability to pay sales tax under Section 18, he or she may within 30 days of the date of the service of the notice on him or her, lodge an objection in writing with the Chief Bougainville Collector of Taxes against the assessment fully stating the reasons he or she relies on.

(2) Where a registered taxpayer objects to a refusal to allow a refund under Part 5, he or she may, within 30 days from the date of refusal, lodge an objection with the Chief Bougainville Collector of Taxes against the refusal fully stating the reasons he or she relies on.

(3) The Chief Bougainville Collector of Taxes must consider the objection under Subsections (1) or (2) and within 30 days of lodgment, may –

(a) disallow it; or

- (b) allow it either wholly or in part.
- (4) The Chief Bougainville Collector of Taxes must forward to the objector written notice of his or her decision and the reasons for that decision.

32. APPEALS.

- (1) An objector who is aggrieved by a decision under Section 31 may –
 - (a) within 30 days of receipt of that decision; and
 - (b) on payment of the prescribed fee;appeal to a District Court to review the decision of the Chief Bougainville Collector of Taxes.
- (2) A District Court has power to review the decision of the Chief Bougainville Collector of Taxes under Section 31.
- (3) In reviewing a decision of the Chief Bougainville Collector of Taxes under Section 31, the District Court may –
 - (a) consider the merits of the decision; and
 - (b) exercise all the powers and functions of the Chief Bougainville Collector of Taxes in the making of an assessment or refund decision.
- (4) The decision of the District Court must be taken to be the assessment or refund decision of the Chief Bougainville Collector of Taxes.
- (5) In addition to any other powers it may have, the District Court may, if it considers the appeal frivolous or unreasonable, order that –
 - (a) the appeal be struck out;
 - (b) the prescribed fee under Subsection (1) be forfeited; and
 - (c) the reasonable costs of the Chief Bougainville Collector of Taxes be awarded against the appellant.

33. PAYMENT OF TAX PENDING OBJECTION OR APPEAL.

Sales tax payable under this Act must be paid even though an objection or appeal has been lodged and remains pending.

34. ADJUSTMENTS FOLLOWING OBJECTIONS AND APPEAL.

- (1) Where a decision of the Chief Bougainville Collector of Taxes is varied on objection or appeal under this Part –
 - (a) a due adjustment must be made by the Chief Bougainville Collector of Taxes; and

- (b) amounts paid in excess must be refunded or credited to; and
- (c) amounts short paid must be recoverable as arrears from, the person making the application under Section 31.

(2) Where as a result of an objection or appeal under this Part, the quantity of any taxable goods is varied, sales tax must be paid in accordance with this Act on the varied quantity.

PART 9. –MISCELLANOUS.

35. REGULATIONS.

The Bougainville Executive Council may make regulations, not inconsistent with this Act, prescribing all matters that are required or permitted to be prescribed or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

I, **ROBERT TAPI**, Clerk of the House of Representatives, hereby certify that the foregoing is a fair copy of the *Sales Tax (Beer and Cigarettes) Act 2011* which has been made by the House of Representatives.

DATED this 20th day of September 2011.



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ROBERT TAPI,
Clerk of the House of Representatives.

I, **ANDREW MIRIKI**, Speaker of the House of Representatives, hereby certify that the *Sales Tax (Beer and Cigarettes) Act 2011* was made by the House of Representatives on 14th September 2011 by an absolute majority votes in accordance with the *Bougainville Constitution*.

DATED this 20th day of September 2011.



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ANDREW MIRIKI,
Speaker of the House of Representatives.