

Examined and certified by:



Clerk of the Parliament

In the name and on behalf of His Majesty King Charles III, I hereby assent to this Act
this 18th day of April, 2023




King's Representative

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An Act to amend the Departure Tax Act 2012 to—

- clarify requirements to file departure tax returns; and
- expressly allow the Collector to impose the manner and form of filing departure tax returns; and
- clarify how departure tax must be paid to the Collector; and
- update penalties for late payment of departure tax; and
- make other minor and consequential changes.

The Parliament of the Cook Islands enacts as follows—

- Title**
This Act is the Departure Tax Amendment Act 2023.
- Commencement**
This Act comes into force on 1 July 2023.
- Principal Act**
This Act amends the Departure Tax Act 2012.
- Section 3 amended (Interpretation)**
 - In section 3, replace the definition of **Collector** with:

“**Collector** means the director of the Revenue Management Division of the Ministry of Finance and Economic Management”.

(2) In section 3, insert in their appropriate alphabetical order:

“**commercial carrier** means a carrier that operates an aircraft or a vessel—

“(a) operates an aircraft or a vessel that is designed or used to transport 8 or more passengers; and

“(b) provides regular or scheduled transport services with that aircraft or vessel to or from the Cook Islands

“**working day** means Monday to Friday excluding public holidays”.

5 Section 6 replaced (Duties of carrier)

Replace section 6 with:

“6 Duties of carrier

A carrier must—

“(a) collect departure tax from passengers; and

“(b) account for the tax collected; and

“(c) file returns with the Collector; and

“(d) pay the tax to the Collector.”

6 New section 8A inserted (Filing departure tax returns)

After section 8, insert:

“8A Filing departure tax returns

“(1) A carrier must file a departure tax return in the manner and form approved by the Collector, and the manner and form for filing a return may differ for commercial carriers and other carriers.

“(2) In this section,—

departure tax return means a form containing information required by the Collector, including—

“(a) any or all information recorded by the carrier under section 8; and

“(b) any other information required by the Collector for the purposes of this Act

manner and form includes requirements regarding—

“(a) intervals for filing returns; and

“(b) whether returns must be filed in hard copy form, electronically, or both.”

7 Section 9 replaced (Payment)

Replace section 9 with:

“9 Payment

“(1) A carrier must pay departure tax under this section.

“(2) The departure tax must be paid to the Collector—

“(a) by commercial carriers, not later than the 20th day of each month (unless that day is not a working day, in which case payment must be made on the next working day) for international travel completed in the immediately preceding month, and without any deduction:

“(b) by other carriers, before the carrier departs from the Cook Islands, and without any deduction.

- “(3) The Collector may—
 - “(a) require payment to be made in a specified manner, including by electronic means; and
 - “(b) require payment to be made to an intermediary (for example, the Cook Islands Customs Service); and
 - “(c) impose a different manner of payment for commercial carriers and other carriers.
- “(4) Departure tax paid to an intermediary in accordance with requirements of the Collector under this section must be treated as paid to the Collector.”

8 Section 10 replaced (Failure of carrier to pay to Collector)

Replace section 10 with:

“10 Failure of carrier to pay to Collector

- “(1) This section applies if a carrier fails to pay departure tax by the due date under section 9.
- “(2) The carrier must pay the following penalties in addition to the outstanding departure tax:
 - “(a) 5% of any tax unpaid on the day following the due date for payment of the tax; and
 - “(b) 1% of the total of unpaid tax and any penalties that have accrued for each month that the tax and penalties remain unpaid.
- “(3) The Collector may commence court proceedings to recover as a debt any outstanding—
 - “(a) departure tax payable under section 9; and
 - “(b) penalties payable under this section.”

9 Section 12 replaced (Refunds)

Replace section 12 with:

“12 Refunds

- “(1) A passenger is eligible for a refund of departure tax if the passenger—
 - “(a) becomes a transit passenger;
 - “(b) will not or did not depart the Cook Islands by the international travel for which the departure tax was collected;
 - “(c) is an exempt person listed in the Schedule.
- “(2) A commercial carrier must refund departure tax to a passenger if they request a refund in writing within 3 months of the departure tax being received by the carrier and they are eligible for a refund.
- “(3) If a commercial carrier has already paid the departure tax to the Collector, they may claim a credit for the amount paid in a future return if—
 - “(a) that return is filed within 3 months of the payment being made to the Collector; and
 - “(b) the claim is made in a manner approved by the Collector.
- “(4) If a commercial carrier has already paid the departure tax to the Collector and the commercial carrier has ceased to operate in the Cook Islands, the Collector may refund the passenger (if they meet the requirements of subsection (2)).

- “(5) The Collector must refund departure tax to a passenger if the departure tax paid by them has been paid to the Collector by a carrier, other than a commercial carrier, if—
- “(a) the carrier collected departure tax from the passenger; and
 - “(b) the passenger requests a refund in writing within 3 months of the departure tax being received by the Collector; and
 - “(c) the passenger is eligible for a refund.”

This Act is administered by the Revenue Management Division of the Ministry of Finance
and Economic Management.

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