

SAMOA

Arrangement of Provisions

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2003, No. 15

AN ACT to provide certain incentives and support for the development of the tourism industry in Samoa and for related purposes. *[26th June 2003]*

BE IT ENACTED by the Legislative Assembly of Samoa in Parliament assembled as follows:-

1. Short title and commencement-(1) This Act may be cited as the Tourism and Hotel Development Incentive Act 2003 and the various provisions of this Act shall be read with and form part of the various Acts which they amend.

(2) This Act shall commence or any part or section thereof on the day or days nominated by the Minister of Finance.

(3) Notice of commencement of this Act or any part or section thereof shall be published in Samoan and English in the Savali and one other newspaper circulating in Samoa.

2. Tourism Investment Tax Credit – The Income Tax Act 1974 is amended by inserting the following after section 30:

“31. Tourism Investment Tax Credit-(1) Subject to this section, any person who invests \$100,000 or more in an Approved Tourism Development shall be allowed a credit against income tax payable in respect of the person’s income at the rate of 100% of the investment.

(2) For the purposes of this section an Approved Tourism Development shall be a tourism development which provides first class hotel accommodation in Samoa as approved by the Minister of Finance acting on the advice of the Cabinet.

(3) Any credit under subsection (1) may only be claimed against income in the year or years approved by the Commissioner.

(4) Any investment under subsection (1) shall be held for a period of at least 5 years in a form approved in writing by the Minister of Finance.

(5) Where an investment is not held in accordance with subsection (4) any credit provided under subsection (1) shall be cancelled by the Commissioner and the person concerned shall be liable for income tax as if no credit applied.

(6) Where a credit is cancelled under subsection (5) the Commissioner shall assess or reassess, as the case may require, the person’s tax liability in accordance with the provisions of subsection (5).

(7) Save that subsections (3), (4), (5) and (6) shall continue to apply as necessary, this section shall expire on the 30th day of June 2008.”

3. Hotel Income Tax Exemption – The Income Tax Act 1974 is amended by inserting the following after section 7:

“7A. Exempt Hotel Income-(1) In this section, unless the context otherwise requires:

“Category 1 Hotel” means a hotel providing first class accommodation and facilities which is approved by the Minister of Finance, acting on the advice of Cabinet, where the capital investment in the hotel is over \$1 million and up to and including \$3 million;

“Category 2 Hotel” means a hotel providing first class accommodation and facilities which is approved by the Minister of Finance, acting on the advice of Cabinet, where the capital investment in the hotel is over \$3 million and up to and including \$20 million;

“Category 3 Hotel” means a hotel providing first class accommodation and facilities which is approved by the Minister of Finance, acting on the advice of Cabinet, where the capital investment in the hotel is over \$20 million;

“Hotel” means a Category 1 or Category 2 or Category 3 Hotel.

(2) For the purposes of this section, any exemption from taxation referred to in subsection (3) shall be granted by the Commissioner:

- (a) Only where the Commissioner is satisfied that the capital investment referred to in subsection (1) has been made after the 30th June 2003; and
- (b) Only where the capital investment referred to in subsection (1) is held in a form and for a period approved in writing by the Minister of Finance.

(3) Subject to this section, the Commissioner shall grant an exemption from income tax for the taxable income (after deduction of all losses carried forward) derived from the operation of a Hotel as follows:

- (a) Category 1 Hotel – exemption for 5 years following the capital investment referred to in subsection (1);
- (b) Category 2 Hotel – exemption for 10 years following the capital investment referred to in subsection (1);

(c) Category 3 Hotel – exemption for 15 years following the capital investment referred to in subsection (1).

(4) For the purposes of subsection (3) the Commissioner shall determine in writing when the period of exemption commences and end.”

4. Import Duty Concessions – The Customs Act 1977 is amended as follows:

(1) In section 166(1) by deleting the fullstop after paragraph (c) and inserting the following:

“; or

(d) In respect of such imported goods referred to in and in accordance with the provisions of section 166A.”

(2) By inserting the following after section 166:

“166A. Hotel Development Import Duty Drawback-

(1) In this section, unless the context otherwise requires:

“Qualifying Project” means a First Class Hotel Development approved by the Minister of Finance, acting on the advice of Cabinet;

“Capital Goods” means such goods of a capital nature, excluding construction equipment, used in the construction of buildings and plant for a Qualifying Project where such goods have been so certified by the Chief Executive Officer of the Ministry of Finance.

(3) Subject to subsection (4), drawbacks on duty on Capital goods imported into Samoa may be allowed in respect of a Qualifying Project.

(4) Drawbacks under this section shall be allowed in such cases, to such amount, on such conditions, and with such restrictions as may be prescribed by regulation.

(5) Regulations under subsection (4) may provide for the forfeiture of goods to the Government and the imposition of offences punishable by a fine of up to 500 penalty points or imprisonment for 1 year, or both.”
