

# FOREIGN TRAVEL TAX BILL

## EXPLANATORY NOTE

THIS Bill gives effect to the Budget announcement regarding the imposition of a tax on foreign travel.

*Clause 1* relates to the Short Title and commencement. The Bill is to come into force on 30 July 1976.

*Clause 2* is the interpretation clause.

## PART I

### ADMINISTRATION

*Clause 3: Subclause (1)* gives the Minister, the Comptroller, and every Collector the same powers in relation to foreign travel tax as apply in relation to sales tax.

*Subclause (2)* applies the Sales Tax Act 1974, with any necessary amendments, to foreign travel tax.

*Clause 4* provides that the Act is to bind the Crown.

*Clause 5* empowers the Comptroller to prescribe forms for the purposes of the Bill.

## PART II

### LICENCING OF FOREIGN TRAVEL VENDORS

*Clause 6: Subclause (1)* provides that all foreign travel vendors (as defined in *clause 2*) in New Zealand are to be licensed.

*Subclause (2)* is a transitional provision in effect giving foreign travel vendors until 31 August 1976 to obtain a licence.

*Subclause (3)* provides, on summary conviction, for a fine not exceeding \$1,000 and \$40 a day for each day the offence continues for foreign travel vendors who carry on business without a licence.

*Clause 7* deals with the issue of licences.

*Clause 8* deals with extensions of licences to include other places of business.

*Clause 9: Subclause (1)* provides for amendment of licences where the licensee ceases to carry on business at one or more of the places specified in his licence.

*Subclause (2)* provides for the revocation of the licence of any licensee who ceases to carry on business, or dies, or, being a corporation, is dissolved.

*Subclause (3)* provides for the Collector to revoke the licence of any person who is convicted of an offence under the Bill, unless the Comptroller otherwise directs.

### PART III

#### IMPOSITION OF FOREIGN TRAVEL TAX

*Clause 10: Subclause (1)* imposes a tax of 10 percent of the sale value of tickets for foreign travel supplied in New Zealand or to persons in New Zealand on or after 30 July 1976.

*Subclause (2)* provides for foreign travel vendors to provide evidence of payment of the tax when supplying tickets.

*Subclause (3)* enables the foreign travel vendor to recover the tax from the person to whom the ticket is supplied.

*Clause 11* provides for exemptions from foreign travel tax.

*Subclause (1)* exempts all tickets paid for in full before 30 July 1976.

*Subclause (2)* exempts all tickets used for the repositioning of flight crews.

*Subclause (3)* exempts all tickets for travel between the countries listed in the Schedule to the Bill which do not include any other destination.

*Subclause (4)* empowers the Governor-General, by Order in Council, to amend the list of countries in the Schedule.

*Subclause (5)* empowers the Governor-General, by Order in Council, to exempt any class or classes of tickets, or tickets supplied to any class or classes of persons.

*Subclause (6)* provides that any Order in Council made under *subclause (4)* or *subclause (5)* may be retrospective so far as it has the effect of exempting from tax tickets that would otherwise be liable.

*Clause 12* provides that where the law relating to foreign travel tax is altered, the liability shall, unless otherwise provided, be that applicable to the law in force at the time the ticket was supplied.

### PART IV

#### VALUATION OF TICKETS

*Clause 13* provides that the sale value of tickets shall be the fair market value except where the Collector is of the opinion that it is inequitable or impracticable for the value to be so determined, in which case the Collector shall determine the value to be such amount as he considers reasonable.

*Clause 14: Subclause (1)* provides that the fair market value at any date shall be the price which the ticket would fetch if sold by a foreign travel vendor at that date in the open market to an independent purchaser.

*Subclause (2)* provides that the fair market value of a ticket supplied pursuant to a group purchase scheme shall be determined in relation to similar tickets sold to members of such groups.

*Clause 15* empowers the Collector to exclude facilities other than travel which are included in the cost of a ticket when ascertaining the fair market value of the ticket.

PART V

PAYMENT AND COLLECTION OF FOREIGN TRAVEL TAX

*Clause 16* provides that—

- (a) In the case of a foreign travel vendor, the tax is to be payable when the return is lodged pursuant to *clause 17* of the Bill, or, where it is not lodged, on the expiration of the time when it should have been lodged:
- (b) In the case of a person who has been supplied with a ticket otherwise than by a foreign travel vendor, the tax is to be payable when he notifies the Collector pursuant to *clause 18* of the Bill, or, where he does not notify the Collector, before he leaves New Zealand and in any event not later than 14 days after receipt of the ticket.

*Clause 17: Subclause (1)* provides for returns to be lodged with the Collector in respect of each month's supply of tickets by the 20th day of the following month.

*Subclause (2)* authorises the Collector, in his discretion,—

- (a) To require all or any of the sales of any foreign travel vendor to be included in a return of any other foreign travel vendor:
- (b) To require returns of foreign travel vendors to be submitted at intervals exceeding 1 month but not exceeding 1 year.

*Clause 18* provides for any person who is supplied with a ticket otherwise than by a foreign travel vendor to notify the Collector before he leaves New Zealand and in any event within 14 days after the receipt of the ticket.

*Clause 19* deals with assessment of the tax.

*Clause 20* presumes every assessment to be correct unless it is varied on appeal to the Minister under *clause 21* or in any proceedings taken for recovery of the tax.

*Clause 21* deals with appeals to the Minister. This is the same procedure as is used for sales tax.

*Clause 22* provides for the imposition of additional tax equal to 10 percent of any tax unpaid 14 days after the due date. The Comptroller has power to remit or refund, in whole or in part, the additional tax.

*Clause 23* gives the Minister power to waive payment of the tax or refund the tax, in whole or in part, on the grounds that the payment would entail serious hardship or would be against the public interest or would be inequitable.

*Clause 24* puts an obligation on carriers of passengers to take all reasonable steps to ensure that the proper tax has been paid in respect of the tickets of the passengers.

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*Hon. Mr Wilkinson*

## FOREIGN TRAVEL TAX

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### A BILL INTITULED

#### **An Act to make provision for the imposition and collection of foreign travel tax**

BE IT ENACTED by the General Assembly of New Zealand  
5 in Parliament assembled, and by the authority of the same, as follows:

**1. Short Title and commencement**—(1) This Act may be cited as the Foreign Travel Tax Act 1976, and shall be read together with and deemed part of the Sales Tax Act 1974 (hereinafter referred to as the principal Act).

(2) This Act shall come into force on the 30th day of July 1976. 5

**2. Interpretation**—In this Act, unless the context otherwise requires,—

“Foreign travel” means travel between New Zealand and any one or more places outside New Zealand, and travel undertaken wholly outside New Zealand, whether such travel is by air, water, or land; 10

“Foreign travel tax” means foreign travel tax imposed by this Act:

“Foreign travel vendor” means any person, organisation, or public or local authority carrying on in New Zealand the business of supplying tickets; 15

“Licence” means a foreign travel vendor’s licence issued under this Act:

“Ticket” means any document or authority validated for use and entitling the holder to use designated transport for foreign travel. 20

## PART I

### ADMINISTRATION

**3. Application of provisions relating to sales tax**—(1) The Minister, the Comptroller, and every Collector shall have and may exercise in respect of the collection of foreign travel tax the like powers and authorities (as far as the same are applicable and with any necessary modifications) as if foreign travel tax were sales tax. 25 30

(2) Except as otherwise provided by this Act, the principal Act shall, as far as it is applicable and with any necessary modifications, apply in all respects as if foreign travel tax were sales tax, as if a foreign travel vendor under this Act were a wholesaler under the principal Act, and as if a person liable to pay foreign travel tax under this Act were a taxpayer under the principal Act. 35

4. **Act to bind Crown**—This Act shall bind the Crown.

5. **Power of Comptroller to prescribe forms**—(1) For the purposes of this Act the Comptroller may from time to time prescribe any forms that are not otherwise specifically prescribed.

(2) The production of any document under the hand of a Collector purporting to be a prescribed form or an extract from a prescribed form or a copy of any such form or extract shall in all Courts and in all proceedings be sufficient evidence of the fact that the form was prescribed; and all Courts shall in all proceedings take judicial notice of the signature of the Collector either to the prescribed form or to any such extract or copy.

## PART II

### 15 LICENSING OF FOREIGN TRAVEL VENDORS

6. **Foreign travel vendors to be licensed**—(1) It shall not be lawful after the commencement of this Act for any person to carry on the business of a foreign travel vendor otherwise than pursuant to, and in conformity with, a foreign travel vendor's licence issued under this Act.

(2) Notwithstanding anything in this Act, during the period commencing on the 30th day of July 1976 and ending with the 31st day of August 1976, this Act shall apply to any person, not being the holder of a foreign travel vendor's licence, who carries on the business of a foreign travel vendor in the same manner as if he were the holder of a foreign travel vendor's licence.

(3) Every person who, contrary to this section, carries on the business of a foreign travel vendor commits an offence and shall be liable on summary conviction to a fine not exceeding \$1,000 and, if the offence is a continuing one, to a further fine not exceeding \$40 for every day during which the offence has continued.

7. **Issue of licences**—(1) Every application for a licence under this Act shall be made in the prescribed form to the Collector for the district in which the principal place of

business of the applicant is situated or is proposed to be situated and shall state the place or places at which the applicant carries on or proposes to carry on business.

(2) The Collector, if satisfied that the conditions of this Act have been complied with, shall issue to the applicant a licence in the prescribed form. Such a licence shall authorise the holder to act as a foreign travel vendor at any place or places in New Zealand specified in the licence, and shall specify the Collector to whom returns under section 17 of this Act shall be delivered.

(3) Every such licence shall remain in force until it is surrendered or revoked in accordance with this Act.

**8. Extension of licences**—If any licensee applies to the Collector for authority to act as a foreign travel vendor at any place or places not specified in his licence, the Collector shall by endorsement on the licence grant authority so to act.

**9. Amendment and revocation of licences**—(1) If any licensee ceases to carry on business at one or more of the places specified in his licence, he shall forthwith notify the Collector and forward his licence to the Collector for amendment.

(2) If any person holding a licence under this Act ceases to carry on the business for which the licence is required, or dies, or, being a corporation, is dissolved, the Collector shall revoke the licence.

(3) Where any person holding a licence as a foreign travel vendor under this Act is convicted of an offence against this Act, the Collector shall revoke his licence, unless the Comptroller otherwise directs in any particular case.

### PART III

#### IMPOSITION OF FOREIGN TRAVEL TAX

**10. Imposition of foreign travel tax**—(1) Subject to this Act, foreign travel tax shall be levied, collected, and paid at the rate of 10 percent of the sale value of all tickets supplied in New Zealand or to persons in New Zealand after the commencement of this Act, whether or not by a foreign travel vendor.

(2) Except in such special cases as may be approved by the Comptroller, every foreign travel vendor shall state in relation to every ticket supplied by him in respect of which foreign travel tax is payable, the price of that ticket, 5 excluding the amount of the tax, and the amount of the tax payable thereon.

(3) The amount of the foreign travel tax payable shall, if stated in relation to any such ticket, be recoverable by the foreign travel vendor from the person to whom it is supplied, in 10 addition to the price and any other amount due by that person in relation to that ticket.

**11. Exemptions from foreign travel tax—**(1) All tickets which have been paid for in full before the 30th day of July 1976 shall be exempt from foreign travel tax.

15 (2) All tickets used for the repositioning of flight crews shall be exempt from foreign travel tax.

(3) All tickets for travel between any 2 or more of the countries or territories specified in the Schedule to this Act only and not including any other destination shall be exempt 20 from foreign travel tax.

(4) The Governor-General may from time to time, by Order in Council, add any country or territory to the Schedule to this Act, and may, in like manner, remove any country or territory from that Schedule.

25 (5) The Governor-General may from time to time, by Order in Council, exempt any class or classes of tickets or any tickets supplied to any class or classes of persons from foreign travel tax, and may, in like manner, revoke or amend any such Order.

30 (6) Any Order in Council made pursuant to subsection (4) or subsection (5) of this section may be retrospective so far as it has the effect of exempting from foreign travel tax tickets that would otherwise be liable to the tax.

**12. Incidence of altered tax—**In the case of any alteration 35 in the law relating to the liability of any ticket to foreign travel tax or to the rate of foreign travel tax to which any ticket is liable, such liability or rate shall, except where otherwise expressly provided, be determined by the law in force at the time the ticket is supplied.



## PART IV

## VALUATION OF TICKETS

**13. Sale value of tickets**—(1) For the purposes of this Act, the sale value of tickets supplied shall be the fair market value of the tickets at the time of supply. 5

(2) If, in the opinion of the Collector, it is inequitable or impracticable to determine that the sale value of a ticket should be the fair market value, the sale value shall be such amount as the Collector considers to be reasonable.

**14. Fair market value**—(1) For the purposes of this Act, 10 the fair market value of any ticket at any date shall be the price which the ticket would fetch if sold by a foreign travel vendor at that date in the open market to an independent purchaser.

(2) Notwithstanding subsection (1) of this section, where 15 a ticket is sold pursuant to a group travel arrangement made by or on behalf of the foreign travel vendor, the fair market value shall be determined in relation to the price at which such tickets are freely offered to members of such a 20 group.

**15. Exclusion of value of additional facilities**—Notwithstanding anything in this Act, where a ticket entitles the holder thereof to any facilities in addition to foreign travel, the Collector may reduce the fair market value of the ticket for the purposes of this Act to such amount as, in his opinion, 25 excludes the value of those facilities.

## PART V

## PAYMENT AND COLLECTION OF FOREIGN TRAVEL TAX

**16. Foreign travel tax a Crown debt**—(1) The foreign travel tax payable in respect of any ticket supplied by a 30 foreign travel vendor shall constitute a debt owing to the Crown by the foreign travel vendor.

(2) The foreign travel tax payable in respect of any ticket supplied to any person otherwise than by a foreign travel vendor shall constitute a debt owing to the Crown by 35 that person.

(3) Such debt shall be payable in accordance with the following provisions, namely:

(a) In the case of foreign travel tax payable by a foreign travel vendor pursuant to subsection (1) of this 40 section, the amount of the foreign travel tax shall

be included in the return required to be lodged pursuant to section 17 of this Act and shall be payable on delivery of that return to the Collector, or, if such return is not delivered to the Collector within the time specified by the said section 17, the foreign travel tax shall be payable on the expiration of the time so specified.

(b) In the case of foreign travel tax payable by any person pursuant to subsection (2) of this section, the amount of the foreign travel tax shall be notified to the Collector pursuant to section 18 of this Act and shall be payable when the amount is so notified, or, if the Collector is not so notified, before that person leaves New Zealand and in any event not later than 14 days after the receipt by that person of the ticket in respect of which the foreign travel tax is payable.

(4) Such debt shall be recoverable by action at the suit of the Collector on behalf of the Crown.

(5) The right to recover foreign travel tax as a Crown debt shall not be affected by the fact that a bond or security has been given for the payment of foreign travel tax or that no proper assessment of foreign travel tax has been made in due course or that a deficient assessment of foreign travel tax has been made.

**17. Returns by foreign travel vendors**—(1) Every foreign travel vendor shall, within 20 days after the end of each month, deliver to the Collector for the district specified in his licence a return in the prescribed form setting forth the aggregate amount of the sale value of all taxable tickets supplied by him during that month, the amount of foreign travel tax payable in respect of those tickets, and such other particulars as the form may require.

(2) Notwithstanding subsection (1) of this section, the Collector may, in his discretion, require—

(a) The sale value of all or any of the taxable tickets supplied by any foreign travel vendor during any period and the amount of foreign travel tax payable in respect of those tickets to be included in the return of any other foreign travel vendor instead of the return of the first-mentioned foreign travel vendor:

(b) Any foreign travel vendor to deliver a return in respect of any accounting period longer than 1 month but not exceeding 1 calendar year,—

and this Act shall, with any necessary modifications, apply accordingly.

(3) Every foreign travel vendor who fails to deliver to the Collector the return required by this section shall be liable on summary conviction to a fine not exceeding \$1,000.

**18. Notice by persons supplied with tickets otherwise than by foreign travel vendors—**(1) Every person who has a ticket for foreign travel supplied to him otherwise than by a foreign travel vendor shall, before he leaves New Zealand and in any event within 14 days after the receipt of the ticket, notify a Collector of the amount of the sale value of the ticket, the amount of foreign travel tax payable in respect of the ticket and such other particulars as may be required by the Collector.

(2) Every such person who fails to notify the Collector as required by this section shall be liable on summary conviction to a fine not exceeding \$1,000.

**19. Assessment of foreign travel tax—**(1) The returns required by section 17 of this Act may be accepted by the Collector as sufficient proof of the matters therein contained and tax may be assessed by the Collector accordingly.

(2) If the Collector has reason to believe or suspect that the amount of tax shown in any return as aforesaid as payable in respect of any tickets is less than the amount payable under this Act, he may assess the foreign travel tax at such greater amount as he thinks proper.

(3) If the Collector has reason to believe or suspect that foreign travel tax is payable on any ticket by any person who has not notified him in respect thereof pursuant to section 18 of this Act, he may assess the foreign travel tax at such amount as he thinks proper.

**20. Assessment presumed to be correct—**Every assessment made by the Collector under this Part of this Act shall be taken to be correct, and foreign travel tax shall be payable accordingly, unless, on appeal to the Minister under section 21 of this Act, or in proceedings taken for the recovery of the foreign travel tax, a different amount is proved to be the foreign travel tax payable, or it is proved that no foreign travel tax is payable.

**21. Appeal from assessment to Minister—**(1) From any assessment made by the Collector under this Part of this Act the taxpayer may appeal to the Minister.

(2) Every appellant shall give to the Collector a written notice of appeal stating shortly the grounds of appeal, within 28 days after a demand for foreign travel tax is made by the Collector in accordance with his assessment, or within 5 such further time as the Minister may allow.

(3) On any such appeal the Minister shall, by himself or his lawful delegate, after giving a reasonable opportunity to the appellant to be heard, determine the amount of foreign travel tax (if any) payable, and on all questions of fact his 10 decision shall be final, except in the case of fraud.

(4) The Minister may delegate his power of hearing and determining any such appeal to any specified person or to the holder for the time being of any specified office or appointment, but no such delegation shall be made to any person 15 employed in the service of the Customs.

(5) Every such delegation shall be revocable at will by the Minister, but until revoked shall continue in force according to its tenor, notwithstanding the fact that the Minister by whom it was made has ceased to hold office, and shall 20 continue to have effect as if made by the successor in office of the Minister.

(6) On the hearing of any such appeal, the appellant shall be limited to the grounds stated in his notice of appeal, and the burden of proving that the assessment is incorrect shall 25 be on the appellant.

**22. Penalty for late payment of tax—**(1) Where any foreign travel tax remains unpaid after the expiration of 14 days after the time prescribed under section 16 of this Act, 10 percent of the amount of the foreign travel tax unpaid shall be added 30 thereto by way of additional foreign travel tax and shall be payable accordingly.

(2) Notwithstanding subsection (1) of this section, the Comptroller may, for reasons which, in his discretion, he thinks sufficient, remit or refund the whole or any part of any additional 35 foreign travel tax imposed by this section.

**23. Minister may waive payment of foreign travel tax in certain cases—**Where the Minister is satisfied that the payment of any foreign travel tax by any person would entail or has

entailed serious hardship or that it would in any particular circumstances be contrary to the public interest or inequitable to impose such tax he may, in whole or in part,—

- (a) Release the person liable to pay the tax from his liability; or
- (b) Refund that tax.

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**24. Duty of owners of aircraft and ships—**(1) The owner and agent of every passenger-carrying aircraft and passenger-carrying ship shall take all reasonable steps to ensure that the proper amount of foreign travel tax has been paid in respect of the tickets of the passengers carried thereon.

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(2) Every owner or agent who fails to comply with subsection (1) of this section commits an offence and shall be liable on summary conviction to a fine not exceeding \$5,000.

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## SCHEDULE

### Section 11 (3)

### COUNTRIES OR TERRITORIES

1. New Zealand
2. Cook Islands
3. Fiji
4. Niue
5. Tokelau Islands
6. Tonga
7. Western Samoa