

## AN ACT

To levy and collect state taxes on sales of tangible items, possession of alcoholic beverages, room occupancy, and motor vehicle and boat rental; to provide civil and criminal penalties for non-payment of such taxes; to repeal Chapters 1, 5, 9 (as enacted by Truk State Law No. 1-1-13), and 13 of Title 29 of the Truk State Code, and Truk State Law No. 5-1-3; and for other purposes.

Be it enacted by the Legislature of Truk State:

Section 1. Title. This Act shall be known and may be cited as the "State Tax Act of 1985."

Section 2. Purpose. The purpose of this act is to levy and collect State taxes in order to generate revenue necessary to the provision of essential public services.

Section 3. Definitions. For the purpose of this Act:

- 1) "Unprocessed" means substantially in a natural state without having been added to or altered.
- 2) "Unpackaged" means that for sale to the customer the items to be sold is offered in bulk and not packaged in discrete sale units.
- 3) "Motor Vehicle" means any self-propelled vehicles including but not limited to automobiles, trucks, jeeps, motorcycles, buses, scooters, dumptrucks, and flatbeds other than heavy equipment.
- 4) "Boat" means any inboard and outboard motor boat and sailing boats.
- 5) "Heavy Equipment" means any heavy self-propelled equipment including but not limited to dozers, cranes roadgraders, rollers, backhoe, loaders, and such other related heavy machineries.
- 6) "Imported" means having been brought or carried into Truk from outside by any means.
- 7) "First Sale" means the sale first made after the date of receipt in Truk State of tangible items taxable pursuant to this act.

Section 4. Sales Tax-Imposition. There is hereby levied a tax on the first sale in the State of Truk of all tangible items, except gasoline and diesel fuel, and unprocessed and unpackaged items, as follows:

- (1) tobacco at the rate of twenty-five percent (25%) of the sales price;
- (2) cigarettes at the rate of fifteen cents per pack of twenty cigarettes; and
- (3) all other items at the rate of three percent (3%) of the sales price.

Section 5. Notice of Sales Tax to Customer. The seller of items listed in Section 4 of this Chapter shall show the base price of the item and the amount of sales tax on the item as follows:

- 1) The base price and the amount of sales tax shall be marked on each item; or
- 2) the base price and the amount of sales tax shall be shown and prominently displayed at the place of sale; or
- 3) a receipt provided to the customer shall show separately the base price and the amount of sales tax.

Section 6. Sales Tax--Payment. The sales tax levied under Section 4 of this Chapter shall attach at the time of the first sale in Truk State. All taxes shall have been attached during a calendar month shall be paid by the first seller to the State Department of Finance on or before the fifteenth day of the succeeding month; PROVIDED, that the Director of Finance may make special provision for the payment of taxes due from islands outside of the Truk Lagoon. Tax revenues not paid within the time specified in this Section shall be considered delinquent.

Section 7. Sales Tax--Payment. The first seller of the items listed in Section 4 of this Chapter shall have the option of prepaying all the sales taxes due under that Section in accordance with regulations to be issued by the Department of Finance.

Section 8. Sales Tax--Presumption. It shall be presumed that:

- 1) All items listed in Section 4 of this Act imported into the State of Truk for resale purposes by any person who is a licensed importer of such items, have been sold within a period of four calendar months after their date of receipt, unless the licensed importer can prove to the contrary to the satisfaction of the Director of the Department of Finance; and

2) Any sales of items taxable under this chapter are subject to such tax until the contrary is proven, and the burden of proving that a sale is not taxable under this Act shall be upon the seller or purchaser, as the case may be.

Section 9. Alcoholic Beverage Possession Tax--Imposition. A tax on possession of alcoholic beverages within the State of Truk is imposed at the following rates:

- 1) Beer and malt beverages:
  - a) in containers of twelve fluid ounces or less, twenty cents per container; or
  - b) in containers of more than twelve fluid ounces, ten cents for every four fluid ounces, or fraction thereof;
- 2) distilled alcoholic beverages, seven dollars per gallon;
- 3) wine, one dollar per gallon; PROVIDED, that possession of sacramental wines by religious institutions shall be exempted from this tax.

Section 10. Alcoholic Beverage Possession Tax--Payment. Within five days after bottling or importation of an alcoholic beverage the tax is due and payable by the possessor thereof within the State of Truk. The possessor shall pay to the Department of Finance the tax and receive appropriate tax stamps to place on the containers of alcoholic beverage. For any container without tax stamps, it shall be presumed that no tax has been paid. This tax shall only apply to alcoholic beverages committed for sale and use in Truk State. Such beverages in import transit outside the state are not taxable. A refund on taxes shall be provided to the taxpayer who later proves alcoholic beverages were exported outside the State of Truk. It is assumed that alcoholic beverages are sold or committed for use in the state after the expiration of twelve months of importation or bottling. The Director of the State Department of Finance shall establish procedures to implement this act.

Section 11. Room Occupancy Tax. There is hereby levied a tax of ten percent of the occupancy of a hotel, motel and apartment room.

Section 12. Motor Vehicle Rental Tax. There is hereby levied a tax of ten percent of the rental of a motor vehicle.

Section 13. Boat Rental Tax. There is hereby levied a tax of ten percent of the rental of a boat.

Section 14. Room Occupancy, Motor Vehicle Rental and Boat Rental Taxes--Due Date. Taxes levied by Section 11, 12 and 13, shall attach upon the occupancy of a hotel, motel and apartment room, or the rental of a motor vehicle or a boat. All hotel, motel and apartment room occupancy taxes and all motor vehicle and boat rental taxes that attach during the month shall be paid to the State Department of Finance on or before the fifteenth day of the succeeding month. The Department of Finance shall make allowance for payment of taxes outside of Truk Lagoon.

Section 15. Records. The seller of items listed by Section 4 of this act, hotel, motel and apartment proprietors, and lessors of motor vehicles and boats, and possessors of alcoholic beverages shall keep accurate records of all sales, room charges, motor vehicle and boat rentals and stocks of alcoholic beverage and shall provide the Department of Finance with all accurate records and supporting documents to substantiate the accuracy of records.

Section 16. Waybills and Bills of Lading. All carriers entering the State of Truk shall deliver to the Department of Finance a copy of the air and sea waybill or bill of lading for all items imported into the State of Truk not less than seven days after such items are released from the carrier.

Section 17. Penalties--Civil and Criminal.

1) Sellers of items listed by Section 4 of this act, hotel, motel and apartment proprietors, lessors of motor vehicles and boats, and possessors of alcoholic beverages who fail to collect or timely pay the taxes levied by this act shall be charged a penalty of five percent per month on the balance of taxes due and unpaid.

2) Sellers of items listed by Section 4 of this act, hotel, motel and apartment proprietors, lessors of motor vehicles and boats, and possessors of alcoholic beverages who fail to keep and provide to the Department of Finance accurate records and supporting documents pursuant to Section 15 of this act, shall be guilty of a misdemeanor and shall, upon conviction, be fined not more than \$3,000 for each fiscal quarter such failure occurs.

3) A carrier violating Section 16 of this act shall be guilty of a misdemeanor and shall, upon conviction, be fined not more than \$3,000.

4) Any person convicted of possession of a container of alcoholic beverage for which no tax has been paid shall be punished by imprisonment of not more than one year, or a fine of not more than \$5,000, or by both.

5) Any person, company or corporation who knowingly, wilfully and unlawfully violates or refuses to comply with any regulation duly issued by the Department of Finance for the enforcement of this act, shall, upon conviction thereof, be fined not more than \$500, or imprisoned for not more than ninety days, or both such fine and imprisonment. Such penalties are in addition to those which may be due under Subsections (1) through (3) of this Section.

Section 18. Liens. Taxes levied by this act, which are due and unpaid including penalties charged are debts to the State and shall constitute liens in favor of the State upon all property and rights to property, whether real or personal, belonging to any person, business, association, or corporation liable for the tax, and such taxes and penalties may be collected by levy upon such property and rights to property in the same manner as the levy of an execution.

Section 19. Regulations. The Department of Finance, with the approval of the Governor, shall prescribe such regulations as may be necessary for the collection of all taxes levied under this act, provided, that such regulations promulgated pursuant to this Section shall be reviewed by the Truk State Legislature or a committee it shall designate for that purpose, prior to their effectiveness.

Section 20. Disposition of Revenue--General Fund. All taxes, penalties and fines collected pursuant to this act shall be deposited into the General Fund of the State.

Section 21. Civil Action of Enforcement. Any taxes imposed or authorized under this act may also be collected by civil suit brought by the Attorney General of the State, either in the name of the State or in the name of the Director of the Department of Finance, or the Chief of the Division of Revenue. In such civil suit a written statement by the Director or the Chief as to the amount of tax due, the fact that is unpaid, and who is authorized to collect it, shall be sufficient evidence to create a rebuttable presumption that the taxes are owing.

Section 22. Challenge to Tax Payment.

1) No person shall have a right of action to challenge the validity of any tax levied by this act unless that person shall first pay the tax in question, under protest, to the State

2) No person shall have a right of action to challenge the validity of any tax levied by this act unless that person is the actual taxpayer having liability for payment of the tax.

3) Any action to challenge the validity of any state tax must be brought within one year after the cause of action arose.

Section 23. Repeal. Except as provided by the Savings Clause of this act, Chapters 1, 5, 9 as enacted by TSL No. 1-1-13, and 13 of Title 29 of the Truk State Code, and TSL No. 5-103, are hereby repealed.

Section 24. Savings Clause.

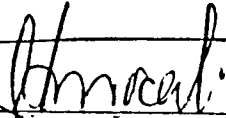
1) Truk State Law No. 1-1-7, creating an Environmental Improvement Tax and the Truk Environmental Protection Agency, remains in full force and effect.

2) The Department of Finance shall take all necessary steps for the collection of taxes, after the effective date of this act, on items taxable under Truk State Law No. 5-103, which items were imported into the State after the November 20, 1984, and prior to the effective date of this act. Failure of taxpayers to pay the taxes due to this act, shall make such taxpayers subject to the penalties, fines and liens as provided by Section 11 and 12 of Truk State Law No. 5-103.


Section 25. Severability. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of this act, or the application of the provision to other person or circumstance is not affected.

Section 26. Effective Date. This act shall take effect upon approval by the Governor, or upon its becoming law without such approval.

Signed by:

  
Simeon Innocenti, Speaker  
Truk State Legislature

Attested to:

  
Datasi Albert, Chief Clerk  
Truk State Legislature

Date:

August 27, 1985

Approved by:

Erhart Aten, Governor  
Truk State

Date:

"Became Law"