



ST. HELENA

(Chapter No. not allocated yet)

SERVICES TAX ORDINANCE

Non-authoritative Consolidated Text

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Whilst it is intended that this version accurately reflects the current law, users should refer to the authoritative texts in case of doubt. Enquiries may be addressed to the Attorney General at Essex House, Jamestown [Telephone (+290) 2270; Fax (+290) 2454; email pa.lawofficers@legalandlands.gov.sh]¹

Visit our [LAWS page](#) to understand the St. Helena legal system and the legal status of this version of the Ordinance.

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¹ These contact details may change during 2011 or early in 2012. In case of difficulty, email shgwebsite@sainthelena.gov.sh or telephone (+290) 2470.

SERVICES TAX ORDINANCE

(Ordinance 7 of 2011)

AN ORDINANCE TO IMPOSE A TAX ON CHARGES LEVIED OR RAISED IN RESPECT OF THE PROVISION OF INSURANCE AND TELECOMMUNICATIONS SERVICES; AND TO AMEND THE STAMP DUTIES ORDINANCE, CAP. 152, TO REMOVE STAMP DUTIES ON INSURANCE POLICIES; AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

Commencement

[1 July 2011]

Citation and commencement

1. This Ordinance may be cited as the Services Tax Ordinance, 2011, and comes into force on 1 July 2011.

Interpretation

2. In this Ordinance, unless the context otherwise requires—

“**Collector**” means the Financial Secretary and includes any person authorised in writing by him to act on his behalf for the purposes of this Ordinance;

“**insurance service**” means underwriting (or selling, whether as an agent, broker, or otherwise) any policy of insurance, but excludes policies in the nature of life assurance and policies specifically designed to make provision for the costs of the policyholder’s funeral;

“**service provider**” means any person who provides, in or from St. Helena, any taxable service;

“**taxable service**” means any insurance service or telecommunications service;

“**telecommunications service**” means any service which is provided for fee or reward and is regulated by the Telecommunications Ordinance, Cap 106, and (for the avoidance of doubt includes the provision of internet services).

Tax on service charges

3. (1) There shall be charged, levied, paid, and collected, in accordance with the provisions of this Ordinance, a tax (to be known as ‘Services Tax’), on all fees, charges, commissions, or other sums charged by any service provider in respect of the provision of any taxable service

(2) The tax under subsection (1), shall be levied at a rate of ten per cent of the chargeable amount determined under section 4.

Chargeable amount

4. (1) For purposes of section 3(2), the chargeable amount shall be the total of all fees, charges, commissions, or other sums charged by any service provider during any calendar month in respect of the provision of taxable services; and, for the purposes of this subsection, sums are charged by a service provider on whichever is the earlier of the date on which he issues an invoice for the sums charged or the date on which he receives payment thereof.

(2) The following charges are not chargeable amounts, namely—

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- (a) charges for the sale of hardware such as telephone handsets, modems, and decoders (but charges for the rental of such items are chargeable amounts);
- (b) interest on accounts in arrears, late payment penalties, and similar charges.
- (3) Regulations made under section 13 may provide that prescribed categories of charges for taxable services shall not be treated as chargeable amounts.

Tax to be included in invoice for service charge

5. The amount of the Services Tax payable in respect of any taxable service shall be added to, and itemised in, the invoice issued by the service provider or (if no invoice is issued) in a receipt for the payment.

Tax to be paid and returns made to Collector

6. (1) The service provider shall, not later than the 15th day of each month,—
- (a) pay to the Collector the total amount of Services Tax payable in respect of the immediately preceding month; and
 - (b) together with such payment, submit to the Collector a return, in such form as may be prescribed by the Collector, setting out the total amount of fees charged during such preceding month in respect of taxable services provided by such provider.
- (2) A person who fails to pay any Services Tax as and when required by subsection (1) shall be liable for interest on any overdue amounts at such rate as may from time to time be prescribed.
- (3) A person who fails—
- (a) to pay any Services Tax to the Collector in accordance with subsection (1)(a);
 - (b) to submit a return as and when required by subsection (1)(b), or who furnishes a return knowing it to be false or incorrect in any material particular,
- is guilty of an offence and liable on summary conviction to a fine not exceeding £2,000 or imprisonment for a period of six months.

Records and accounts

7. (1) Every service provider shall keep adequate records and accounts relating to the provision of any taxable services, and shall preserve them for a period of five years after the end of the month to which they relate.

(2) A person who fails to keep adequate records or accounts or preserve them as required by subsection (1) is guilty of an offence and liable on summary conviction to a fine not exceeding £2,000 or to imprisonment for a period not exceeding six months.

Powers of Collector

8. (1) The Collector may—
- (a) enter any premises at any reasonable time and inspect the records of a service provider that relate to taxable services or the payment of tax under this Ordinance; and
 - (b) at any time require any service provider to produce any books or records of the service provider that relate to taxable services or payment of tax under this Ordinance.

(2) A person who hinders the Collector or any person authorised by him in exercising any power under section 8(1)(a) or fails to comply with any requirement to produce books or records under section 8(1)(b) is guilty of an offence and liable on summary conviction to a fine not exceeding £2,000 or to imprisonment for a period not exceeding six months.

Refund of tax where account not paid

9. (1) Where it is shown to the satisfaction of the Collector that any amount of Services Tax, in respect of which an invoice has been issued by a service provider to any person, has not been paid by such person and it appears unlikely that such amount will in future be paid by such person, the Collector shall refund the amount of such Services Tax paid to him by the service provider:

Provided that if the amount of such refunded Services Tax is at any time thereafter paid by such person to the service provider, the service provider shall pay such amount over to the Collector.

(2) If a person to whom a service provider issues an invoice in respect of taxable services pays to the service provider only part of the amount of the invoice, the service provider shall allocate the payment made so as to discharge the Services Tax before discharging any part of the relevant chargeable amount.

Appeal procedures

10. (1) Any person aggrieved by a decision of the Collector may, within 21 days after the date of notification of such decision, appeal against such decision to the Magistrates' Court.

(2) Upon any such appeal, the Court may confirm, reverse or vary the decision of the Collector.

Collection of tax by Commissioner

11. (1) Services Tax (and any interest due under section 6(2)) may be recovered as a civil debt due to the Crown by suit taken before the Magistrates' Court in the name of the Collector.

(2) Notwithstanding any financial limitations on the jurisdiction of the Court under the Magistrate's Court Ordinance, Cap. 10, any suit under subsection (1) may be heard and determined by the Court irrespective of the amount for which the suit is brought.

Liability in case of body corporate

12. (1) Where any offence under this Ordinance is committed by a body corporate, and it is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary, or other person concerned in the management of the body corporate, he (as well as the body corporate) is guilty of that offence and liable to be proceeded against accordingly.

(2) Where, if it were a body corporate, an unincorporated body of persons would be guilty of any offence under this section, and it is proved that the relevant unlawful act or omission was committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary, or other person concerned in the management of that body, he is guilty of that offence and liable to be proceeded against accordingly.

Regulations

13. The Governor in Council may make Regulations for the further and better execution of this Ordinance.

Amendment of legislation

14. The Stamp Duties Ordinance, Cap. 152, is amended by repealing Item E of the Schedule.
