



ST HELENA

REVISED EDITION OF THE LAWS, 2017

PUBLIC FINANCE & REVENUE

SERVICES TAX ORDINANCE, 2011

*Ordinance 7 of 2011
In force 1 July 2011*

No amendments to 1 November 2017

No subsidiary legislation to 1 November 2017

SERVICES TAX ORDINANCE, 2011

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AN ORDINANCE to impose a tax on charges levied or raised in respect of the provision of insurance and telecommunications services; to amend the Stamp Duties Ordinance, 1987, to remove stamp duties on insurance policies; and for connected or incidental matters.

Short title and commencement

1. This Ordinance may be cited as the Services Tax Ordinance, 2011, and comes into force on 1st 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 the Financial Secretary to act on his or her 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, 1989 and includes the provision of internet services.

Tax on service charges

3. (1) There is to be charged, levied, paid, and collected, in accordance with 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) is to be levied at a rate of 10% of the chargeable amount determined under section 4.

Chargeable amount

4. (1) For purposes of section 3(2), the chargeable amount is 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 the provider issues an invoice for the sums charged or the date on which the provider receives payment of those sums.

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

- (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 are not to 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 must 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 must, 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 a form approved by the Collector, setting out the total amount of fees charged during that preceding month in respect of taxable services provided by the provider.

(2) A person who fails to pay any Services Tax as and when required by subsection (1) is liable for interest on any overdue amounts at the prescribed rate.

- (3) It is an offence for a person to—
- (a) fail to pay any Services Tax to the Collector in accordance with subsection (1)(a);
 - (b) fail to submit a return as and when required by subsection (1)(b); or
 - (c) submit a return knowing it to be false or incorrect in any material particular.

Penalty: A fine of £2,000 or imprisonment for 6 months, or both.

Records and accounts

7. (1) Every service provider must keep adequate records and accounts relating to the provision of any taxable services, and must preserve them for a period of 5 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) commits an offence.

Penalty: A fine of £2,000 or imprisonment for 6 months, or both.

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) It is an offence for a person to -
- (a) hinder the Collector or any person authorised by the Collector in exercising any power under section 8(1)(a); or
 - (b) fail to comply with any requirement to produce books or records under section 8(1)(b).

Penalty: A fine of £2,000 or imprisonment for 6 months, or both.

Refund of tax where account not paid

9. (1) If -
- (a) 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 that person; and
 - (b) it appears unlikely that the amount will in future be paid by the person,
- the Collector must refund the amount of such Services Tax paid to the Collector by the

service provider.

(1A) If the amount of Services Tax refunded under subsection (1) is at any time thereafter paid by the person to the service provider, the service provider must pay the 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 must 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 the decision, appeal against the 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, 2011 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)** If 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 person who is a director, manager, secretary, or otherwise concerned in the management of the body corporate, that person (as well as the body corporate) commits that offence and is liable to be proceeded against accordingly.

(2) Where, if it were a body corporate, an unincorporated body of persons would by virtue of subsection (1) have committed an offence under this Ordinance 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 person who is a director, manager, secretary, or otherwise concerned in the management of that body, that person commits that offence and is 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. *Omitted*
