L.N. 4 of 1993

EXPENDITURE LEVY ACT, 1990
(ACT NO. XXII OF 1990)

Expenditure Levy (Accommodation in Hotels and Similar Establishments) Regulations, 1993

IN exercise of the powers conferred by section 14 of the Expenditure Levy Act, 1990, the Minister of Finance has made the following regulations:—

Citation and commencement.

1. (1) These regulations may be cited as the Expenditure Levy (Accommodation in Hotels and Similar Establishments) Regulations, 1993.

(2) These regulations shall come into force on the 12th January, 1993 except for regulation 8 which shall come into force on the 1st February, 1993.

Interpretation.

2. In these regulations, unless the context otherwise requires:

"Accountant General" means the Accountant General and to the extent of the authority given, includes any officer of the Department authorized by the Accountant General in that behalf for the purpose of these regulations;

"Act" means the Expenditure Levy Act, 1990;

"Inspector" shall have the meaning ascribed to it in section 8 of the Act; and

"Registered" shall have the meaning ascribed to it in section 9 of the Act.

Forms.

3. Forms referred to in these regulations shall be made available free of charge by the Accountant General at the specific request of a registered person or of a person to be registered. No return, statement, certificate or other information required to be submitted by these regulations shall be deemed to have been submitted unless it is made on a form supplied or approved by the Accountant General.

Registration.

4. Any person who is in the business of providing services specified in Item 3 of the Schedule to the Act shall apply for registration by submitting the prescribed form duly signed, in respect of each and every establishment providing such services, to the Accountant General within fifteen days from the issuance of the requisite licence by the Hotels and Catering Establishments Board.

Certificate of Registration.

5. (1) When the Accountant General is satisified that the person submitting the application for registration is in conformity with the Act, he shall issue a Certificate of Registration and the person applying for registration shall not perform such business until such Certificate is issued:

Provided that any person already performing business prior to the coming into force of these regulations shall be entitled to continue perfoming such business unless the Accountant General, by written notice, refuses such registration.

(2) The Certificate of Registration shall be prominently displayed on the premises wherein scheduled services are supplied.

6. (1) The Accountant General is to be notified, within 30 days from the occurrence of the event, of any of the following changes: Changes in circumstances.

(i) closing down of the business supplying scheduled goods and services;

(ii) sale or transfer of business or change in the trading name of the business;

(iii) change in the address of the principal place at which the business is carried on;

(iv) death, bankruptcy, interdiction or incapacity of the registered person;

(v) dissolution of incorporated company or partnership; and

(vi) cessation of supply of scheduled services for any other reason.

(2) Notification shall be made in writing indicating the Registration Number and giving the date on which the change took place. When an individual proprietor dies or becomes bankrupt or interdicted or incapacitated, the person duly authorised to carry on the business shall make the necessary notification. Similarly when the liquidator takes over the affairs of an incorporated company he shall notify the Accountant General of the day from which he became responsible and the circumstances in which he took over.

7. The Expenditure Levy Registration Number indicated on the relative Certificate of Registration by the Accountant General shall be stated in legible characters on the invoice issued in terms of section 7 of the Act and on all returns or other documents required to be submitted by these regulations. Registration Number.

8. An Expenditure Levy shall be charged to the purchaser and collected by the seller at the rate of five per centum (5%) on the price paid or payable for the provision of the scheduled goods and services specified in Item 3 of the Schedule to the Act. Rate of Levy.

9. If the registered person decides to deposit the levy collected in a bank in terms of section 5 of the Act, he is to supply the Accountant General with details of the relevant bank account within a week from the opening of such account and thereafter deposit such levy into the account at intervals not exceeding fifteen days. Any money so deposited Bank deposit of levy collected.

in any such account shall only be payable to, and may only be released by the bank in favour of, the Accountant General on account of any levy collected by the seller.

Information required on the invoice.

10. Invoices are required to be issued by the seller to the purchaser on the date of departure of the resident in terms of section 7 of the Act and these must show in legible characters the following:

(i) a consecutive identifying number;

(ii) Registration Number;

(iii) name and address of registered person and/or establishment;

(iv) name, address, nationality and Passport Number, as applicable, of the purchaser;

(v) a description which identifies the services supplied including quantities, prices and charges;

(vi) date/s of supply of services;

(vii) the total charge made, excluding Expenditure Levy;

(viii) total Expenditure Levy; and

(ix) the total amount paid or payable by the purchaser.

Cash Register receipts.

11. A receipt produced by a Cash Register may serve the purpose of the invoice required by the Act provided that the till rolls include all the details required for a normal invoice and a product coding system is used clearly identifying the different services supplied. Product code lists must be made readily available to purchasers, inspectors and the Accountant General.

Payment by Credit Card.

12. The bank shall process a payment order given by a Credit Card holder in respect of which order levy is payable, notwithstanding any arrangements that may exist between the bank and the Credit Card holder.

Computer invoice.

13. Any invoice produced by a computer, either on paper, magnetic media or for direct transmission, must include all the information required for a normal invoice.

Purchaser to show invoice/ receipt.

14. A purchaser of scheduled services shall, on demand, show an invoice or receipt for services supplied to any inspector or to any police officer within one hundred metres of the place where the levy was paid.

Records.

15. (1) Every registered person must keep up to date records of all scheduled services supplied in the course of his business. Records shall be kept in a way which will enable an inspector or the Accountant General to check and reconcile the data used to fill in Expenditure Levy monthly returns. Such records shall be preserved for at least two years and made readily available to the Accountant General on request.

(2) Business records shall include:

(i) copies of invoices or cash register till rolls;

(ii) a record of daily takings;

(iii) bank statements and paying-in slips of the designated bank account opened in terms of section 5 of the Act; and

(iv) the business Expenditure Levy Account.

Computer Records.

16. Records may be kept on a computer, on magnetic tape, disc or any other medium provided that they can be readily converted into satisfactorily legible form and made available to the inspector or the Accountant General on request. An inspector or the Accountant General is to have access of such records and may check the computer's operation. The registered person or anyone else having charge of, or otherwise concerned with, the operation of the computer or its software shall, on request, provide the necessary information and/or clarification to the inspector or the Accountant General. A registered person is to inform the Accountant General immediately he decides to use the services of a computer bureau and guarantee access to records pertaining to his business which are kept by the bureau as if they were kept at his principal place of business.

Monthly returns.

17. Every registered person shall by the last day of the month submit a return to the Accountant General, including a nil return, made out in triplicate on the form provided or approved by the Accountant General containing the following details in respect of the third preceding month:

(i) full name and address of registered person and/or establishment;

(ii) Registration Number;

(iii) the total value of services supplied and Expenditure Levy collected during the month as itemized into accommodation and catering services;

(iv) identifying number of the first and last invoice/receipt issued by the seller during the month; and

(v) any other details or information which the Accountant General may consider necessary.

Remittance of levy.

18. The total Expenditure Levy collected shall be remitted to the Accountant General together with the submission of the monthly return and an appropriate receipt shall be issued. Proof of payment shall be the receipt issued by the Accountant General.

Adjustments and refunds.

19. Where the circumstances of the case warrant an adjustment to the satisfaction of the Accountant General, the registered person shall, on the occasion of the next remittance to the Accountant General, be entitled to set-off and recoup from the total amount of Expenditure Levy to be remitted to the Accountant General an amount corresponding to the amount overpaid provided that he shall quote on that monthly return the Accountant General's authority for such set-off.

Assessment by Accountant General of levy due.

20. The Accountant General may make assessments in terms of section 10 of the Act within two years form the day on which such levy was due or had been collected.

Imposition of compromise penalties.

21. Notwithstanding any other provision of the Act, in the case of any irregularity of small importance which, if undetected, may involve loss of revenue but which does not seem to have been committed maliciously, the Accountant General, may, with the concurrence of the seller of scheduled services, impose a penalty not exceeding Lm50 as an alternative to proceedings in court.

Time limits for appeals.

22. An appeal to the Appeals Board established by the Act against an assessment of levy made in accordance with the Act, may be entered by the seller of scheduled services upon whom the assessment is made within fifteen days of the service of the assessment; while an appeal against a decision of the Accountant General may be entered by an aggrieved person within fifteen days from the date that the decision was communicated to him.

Collection by unregistered persons.

23. When the Accountant General becomes aware than an unregistered person has collected the Expenditure Levy prior to registration, such levy shall have to be remitted to the Accountant General before consideration can be given to the person's application for registration, and this without prejudice to any action that may be taken in terms of the Act and any other law or regulation in force. If, for any reason whatsoever, the person cannot be registered by the Accountant General, such levy shall not be refunded to the applicant.

Transitory period.

24. Persons who on the date of publication of these regulations are in possession of a licence to supply the scheduled services, issued by the Hotels and Catering Establishments Board shall nonetheless apply for registration with the Accountant General for the purposes of these regulations by the 29th January, 1993.

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