

**Law no. 19/96/M
of 19 August 1996**

Approval of Tourism Tax Regulation

(Unofficial English Translation)

Taking into consideration the proposal of the Governor, and having complied with formality provided for in Article 48, paragraph 2, sub-paragraph a) of the Organic Statute of Macao;

The Legislative Assembly decrees, under the terms of Article 31, paragraph 1, sub-paragraphs h) and n) of the Organic Statute of Macao, that the following shall be enforced as law in the territory of Macao:

Article 1

Approval

The Tourism Tax Regulation is hereby approved and published as provided in the annex to this law, of which it forms an integral part.

Article 2

Amendments

Future amendments to Tourism Tax Regulation shall be inserted in the correct place by means of such replacements, eliminations and additions as may be necessary.

Article 3

Revocation of the legal provision

Law no. 15/80/M of 22nd November is revoked.

Article 4

Entry into force

This law shall come into force on 1st October 1996.

Approved on 30th July 1996.

The President of the Legislative Assembly, Anabela Sales Ritchie.

Enacted on 2nd August 1996

To be published.

The Governor, Vasco Rocha Vieira.

TOURISM TAX REGULATION

CHAPTER 1

Scope and exemptions

Article 1

Applicability acts

1. Tourism tax is levied on services rendered within the scope of the following specific businesses:
 - a) Hotels and similar establishments, as defined by the Regulation on hotel activity and similar activities, approved by Decree-Law no. 16/96/M, of 1st April 1996,
 - b) Health clubs, sauna baths, massage parlours, karaoke bars and similar establishments.
2. The following is outside the scope of tourism tax:
 - a) The price of ancillary services regarding telecommunications and laundries, rendered within the establishments referred to in the above paragraph;
 - b) The service fees not exceeding 10%.

Article 2

Applicable person

Taxpayers of tourism tax shall be any individual person or legal entity who:

- a) Renders the services referred to in paragraph 1 of the previous article,
- b) Improperly mentions the fact that tourism tax has been settled in any invoice or equivalent document.

Article 3

Liability for tourism tax

1. Liability for tourism tax arises at the time the taxable service is rendered.
2. The provision of the above paragraph applies to cases such as those provided for in article above, sub-paragraph b).
3. Where services are continuously rendered, it shall be deemed that services were rendered at the end of the period to which each payment relates.

Article 4

Exemptions

Services shall be exempted from tourism tax when rendered by:

- a) Boardinghouses;
- b) Drinks establishments;
- c) Food establishments.

CHAPTER 2

Determination of taxable value and tax rate

Article 5

Tax value

The taxable value corresponds to price of services rendered.

Article 6

Rate

Tourism tax is charged at the rate of 5%.

CHAPTER 3

Settlement

Article 7

Tax settlement

1. The settlement of tourism tax shall be a responsibility of:
 - a) Passive subjects, or
 - b) Finance Division, either in cases of unsettlement or partial settlement or partial payment of tourism tax.
2. The self-settlement as provided for in previous paragraph 1, sub-paragraph a), shall be filed with the Finance Division through the declaration form no. M/7, up to the end of the month after that to which the declared transactions respect.
3. Where the taxpayer commits errors in assessing or filing that result in miscalculation of tax, and the computed or paid tax is lesser than required by law, he shall compulsorily provide the respective correction through the declaration form no. M/7 if; the move brings no penalties as long as the correction is filed up to the end of the next tax period; where the correction respects to tax computed or paid in excess, it will be optional to taxpayer and can only be filed in a duration of one year.

4. Where due correction is not filed under the terms of above paragraph, the head of Finance Division shall carry out the additional settlement of tax.
5. Passive subjects referred to in article 2, sub-paragraph a), shall file the declaration form no. M/7 even where they did not rendered taxable services at the correspondent period; however, passive subjects that solely render services exempted from tourism tax shall be discharged from such obligation.
6. Additional charges shall not be levied on computed tax.

Article 8

Official Settlement

1. The head of Finance Division shall, of its own motion, undertake the settlement of tax based on all the elements available to it, namely the accounting records and other documentation, the installed capacity, occupancy rates, situation of premises and prices charged:
 - a) If there is a total or partial failure on the part of taxpayer to settle the tourism tax;
 - b) If there is a failure to present the periodic declaration referred to in article above, paragraph 2, within the required period;
 - c) If there is a failure to present the correction referred to in above article, paragraph 4.
2. Once the official settlement is made, the taxpayer shall be notified through the declaration form no. M/6, by registered mail, to pay the outstanding tax and other dues within 30 days of the date of notification.
3. Where the taxpayer files the missing declaration or the correction of the previous declaration, within the period mentioned in above paragraph, the settlement carried out pursuant paragraph 1 shall be of no effect.

Article 9

Forfeit

Tourism tax must be settled within five years from the date of the occurrence of taxable service rendered.

Article 10

Errors and omissions, minimum limits

1. The errors of fact or law and the omissions in the settlement of tax shall be corrected by the head of Finance Division, by means of additional settlement, adjustment or cancellation settlement.
2. Corrections referred to in above paragraph shall be notified to the taxpayer through declaration form no. M/6, by registered letter.

3. No collection or refund shall be made where its amount is less than 100 patacas, even in cases of additional or differential collections or refunds.

Article 11

Interests for compensation

1. If the full or partial payment is delayed which the taxpayer is liable for, interests for compensation shall be charged at the legal default interest rate.
2. The interest is calculated on a day-to-day basis, starting the following day after the tax payment period expired, until the date that the fault is remedied or corrected.

CHAPTER 4

Payment

Article 12

Payment of tax

1. Tourism tax shall be paid at the Tax Collection Unit of the Finance Division up to the end of the month after that to which the payment relates, together with the filing of declaration form no. M/7.
2. Once the tax is settled pursuant article 8, or in the situation provided for in article 34, paragraph 2, the taxpayer is notified by means of registered letter, through application form no. M/6, in order to pay the outstanding tax and the penalties and interests which may be applicable within 15 days.

Article 13

Impossibility of settlement

If the settlement of tourism tax is impossible due to a reason that the taxpayer is not liable for, the tax shall be deemed not to be due.

Article 14

Interest on deferred payment and 3% on the arrears

If the tax is not paid within the specified period, an additional interest on the deferred payment and 3% on the arrears is to be levied within 60 days after such period expired.

Article 15

Coercive levy

If the settled tax, interest on deferred payment and the 3% on the arrears are not paid by the passive subject within 60 days after such period specified in the previous article expired, the relevant owing amount will be demanded, without interfering the application of penalty to the relevant situation.

CHAPTER 5

Ancillary obligations

Article 16

Documents proving services rendered

1. Issuance of invoices or equivalent documents is mandatory; such documents shall exhibit:
 - a) The name, business or company name and the taxpayer's tax identification number;
 - b) The quantity and usual designation of services rendered, as well as the respective price and the sum of the settled tax.
2. Invoices or equivalent documents shall be dated, sequentially numbered and issued by the fifth working day immediately after that on which the liability for tourism tax arose under the terms of article 3.
3. Records and duplicates of issued documents shall be filed and guarded during the next 5 civil years, in good order.

Article 17

Book-keeping

1. Passive subjects shall record the services subject to tourism tax separately in accounts or folios, follows:
 - a) Taxpayers subject to Complementary Income Tax, classified in group A and group B with organized accountancy, shall record services in sub-accounts of the main income account;
 - b) Taxpayers subject to Complementary Income Tax, classified in group B with no organized accountancy, shall record services in folios of the book - "Sales and services rendered".
2. The record of daily rendered services may be carried out by the total amount received from clients.
3. The settled tourism tax shall be recorded in a specific file.

CHAPTER 6

Investigation

Article 18

Investigation Bodies

1. The investigation on the compliance with the duties provided for in this law shall be incumbent on the officers of Financial Services Bureau, hereafter referred to as FSB, duly accredited for this purpose; such officers shall be responsible for:
 - a) Gathering the relevant elements to determine the taxable value and carrying out examinations on the accountancy of individual persons or legal entities liable for tourism tax;
 - b) Requiring taxpayers clarifications and, where applicable, the presentation of duplicates of documents proving the payments of tourism tax, as well as records and other documentation;
 - c) Informing or drawing up a report on the offences detected;
 - d) Informing higher officers about the infringements that they became aware of during the course of their duties and that may relate to other public bodies, so that such information can be forwarded to concerned public bodies;
2. FSB can request the collaboration of Macao Government Tourist Office, hereafter referred to as MGTO, in order to implement the provisions of this Regulation.

Article 19

Classification of establishments

1. MGTO shall monthly inform FSB the list of establishments whose licenses have been emitted or cancelled, as well as those found in a situation of temporary or definitive closing.
2. The business name and situation of each establishment, the respective industrial register's number, as well as the identification of the proprietor or company and its taxpayer number, shall be compulsorily mentioned in the list referred to in above paragraph.

CHAPTER 7

Penalties

Article 20

Acts of infringement

1. Acts of infringement to provisions set out in this regulation shall be penalized according to the current chapter; when determining the amount of fine, the extent of infringement

act's illicit nature, the amount of outstanding tax, the guilt of the offender and its economic standing shall be considered.

2. The following offences are punishable by a fine of 4,000 to 40,000 patacas:
 - a) Failure on the part of taxpayers to assess tourism tax;
 - b) False statements or false accounting records regarding rendered services;
 - c) Lack of documentation or records regarding rendered services;
 - d) Refusal to exhibit records, invoices and other documents which must be produced regarding rendered services, as well as its concealment, destruction, invalidation, forgery or fraudulent alteration.
3. Exhibition of books, invoices and other documents shall be deemed refused if they are not placed at the disposal of the competent officers, or if the free access to the premises where taxable activities take place is refused to them.
4. The issue of invoices or equivalent documents which do not fulfill the requirements provided for in article 16 is punishable by a fine of 5,000 to 25,000 patacas.

Article 21

Special acts of infringement: failure in delivery of tourism tax

1. The payment of tax at the Tax Collection Unit of Finance Division beyond the deadline prescribed in this Regulation shall be penalized by the following fines:
 - a) A fine of 1,000 patacas, if tax payment is carried out within the month next to that referred to in article 12, paragraph 1;
 - b) A fine up to one-half the outstanding tax amount, but not less than 2,000 patacas, if tax payment is carried out within 15 days of the end of the period set out in above subparagraph.
2. Where tax payment is carried out beyond the deadlines prescribed in the above paragraph the following sanctions are applicable:
 - a) A fine to be fixed between two times and four times the outstanding tax amount, but not less than 10,000 patacas, where is the case of fraudulent offence;
 - b) A fine to be fixed between one-half of and total outstanding tax amount, but not less than 3,000 patacas, where is the case of offence due to negligence.

Article 22

Other acts of infringement

Where an offence committed is not specifically set out in this Chapter, it shall be penalized by a fine of 1,000 to 10,000 patacas.

Article 23

Recidivist

1. The fine of this chapter is raised to double for the recidivists.
2. The offender, who has committed two or more identical offences, within a period of time not longer than one year, will be considered as recidivist.

Article 24

Reduction of fines

1. The fine is immediately reduced to half for the spontaneous payment of fine.
2. The payment of fine carried out by the offender shall be deemed willful only if he informs about the fact, or requests to remedy the deficiencies, prior the presentation of the respective offence report, communication or denunciation at any Tax Administration's office.

Article 25

Competence and procedure to impose fines

1. The imposition of fines is in the competence of the head of FSB's Taxes and Duties Department.
2. Fines shall be imposed according to the procedure set out in Legislative Act no. 922, of April 27, 1946.
3. Proceedings concerning fines shall be barred by limitation five years of the date that offence has been committed.
4. Where the proceeding is stayed for more than 5 years, the procedure for the application of the fine shall be extinct.
5. Notice of the administrative decision concerning fine, as well as its grounds, shall be served on the offender within 15 days.

Article 26

Payment of fines

1. Fines should be paid within a period of 10 days from the date of notification in regards to the decision of imposing the fine.
2. The payment of fines does not exempt the offender from the payment of tourism tax and any other due charges.

Article 27

Responsibility for payment of fines

1. Payment of fines is the responsibility of the offender.

2. Should liability fall upon a legal entity, its directors, administrators, managers, members of the supervisory board and liquidators shall be jointly and severally liable for the payment of fines.
3. Should the infringed acts be committed by authorizers or non-legally obliged managers, delegating persons or non-legally obliged managers will bear the associated responsibilities for payment of fines.

Article 28

Non-payment of fines

The relevant fine in arrears will be demanded, if the fine provided by this Chapter is unpaid within the specified period.

Article 29

Time period for fines

The time period for fines imposing is 5 years.

Article 30

Proceeds of fines

The proceeds of fines revert fully to the Territory.

Article 31

Reservation for criminal liability

The provisions of this Chapter shall not preclude the enforcement of criminal liability that may occur in the case.

CHAPTER 8

Guarantees

SECTION 1

Objection and administrative appeal

Article 32

Measures available to persons concerned

1. Any person has the right to ask for suspension, vacation or variation of decisions and actions rendered pursuant this Regulation.
2. The right referred to in the above paragraph can be exercised by means of:
 - a) An objection, to be lodged with the authority that rendered the decision;
 - b) A compulsory administrative appeal, under general terms of law, to be lodged with the FSB's director;
 - c) A facultative administrative appeal, to be lodged with the Governor where it concerns the decision on the objection referred to in article 34.

Article 33

Objection

All objections must be:

- a) Lodged within 15 days;
- b) Decided within 30 days of its presentation.

Article 34

Objection to settlement

1. The objection against an act by the Head of Finance Division in regards to the fixation of a settled tax amount, must be lodged within 15 days from the date of notification in regards to the settlement referred in article 12, paragraph 2.
2. If the decision is totally or partially justified, a new settlement shall take place.
3. The Objection referred to in above paragraph 1 shall not have the effect of suspension.

Article 35

Periods to lodge administrative appeals

1. The administrative appeal referred to in article 32, paragraph 2, subparagraph b), must be lodged within 30 days.
2. The administrative appeal referred to in article 32, paragraph 2, subparagraph c), and must be lodged within 2 months.

SECTION 2

Judicial appeal

Article 36

Object

Any person has the right to lodge a judicial appeal against:

- a) Decisions given on the administrative appeals referred to in article 32, paragraph 2, sub-paragraphs b) and c);
- b) Decisions and actions imposing or aggravating duties, charges, obligations or penalties;
- c) Any other decisions or actions harmful to those citizen's rights and interests that are protected by law.

Article 37

Lodge Period

The judicial appeal must be lodged within 45 days; whereas the judicial appeal in regards to the decision or act of the Governor or any of the Undersecretaries must be lodged within 2 months.

Article 38

Effect

The judicial appeal shall not have the effect of suspension.

CHAPTER 9

Final provisions

Article 39

Allotment of collected tax

Tourism tax collected shall be allotted to Tourism Fund.

Article 40

Forms

1. FSB shall adapt the forms currently in use to the provisions of this Regulation and shall draw up those forms that may be necessary.
2. Updating and replacement of forms shall be determined by decision of the Governor, under the proposal of FSB's director.