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1980, No. 4

**An Act to make provision for the imposition and collection of domestic air travel tax** [4 July 1980]

**BE IT ENACTED** by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

**1. Short Title and commencement—**(1) This Act may be cited as the Domestic Air Travel Tax Act 1980, and shall be read together with and deemed part of the Sales Tax Act 1974 (hereinafter referred to as the principal Act).

(2) This Act shall come into force on the 4th day of July 1980.

**2. Interpretation—**In this Act, unless the context otherwise requires,—

“Domestic air service” means any air service by aircraft for the carriage of passengers for hire or reward, whether regular or casual, in respect of any journey beginning and ending in New Zealand; and includes any such service in which the aircraft used leaves and returns to the same place without any intermediate stop:

“Domestic air travel operator” or “operator” means any person operating a domestic air service in New Zealand:

“Domestic air travel tax” or “tax” means domestic air travel tax imposed by this Act:

“Fare”, in relation to the carriage of any passenger by any domestic air travel operator, means the total amount paid or payable in respect of the carriage of the passenger, including any agent’s commission and any amount paid or payable as being the amount of tax attributable to the carriage of that passenger; but does not include any amount paid or payable in respect of excess baggage:

“Fee”, in relation to the carriage of passengers on any charter flight by any domestic air travel operator, means the total amount paid or payable in respect of the charter flight, including any agent’s commission and any amount paid or payable as being the amount of tax attributable to that charter flight:

“Licence” means a domestic air travel operator’s licence issued under this Act:

“Passenger” means any person carried on an aircraft other than a person assigned by the operator for duty as a member of the crew of the aircraft or a person carried for the sole purpose of receiving or giving instruction in the control or navigation of aircraft in flight.

## PART I

### ADMINISTRATION

**3. Application of provisions relating to sales tax—**(1) The Minister, the Comptroller, and every Collector shall have and may exercise in respect of the collection of domestic air travel tax the like powers and authorities, as far as the same are applicable and with any necessary modifications, as if domestic air travel tax were sales tax.

(2) Except as otherwise provided by this Act, the principal Act shall, as far as it is applicable and with any necessary modifications, apply in all respects as if domestic air travel tax were sales tax, as if a domestic air travel operator under this Act were a wholesaler under the principal Act, and as if a domestic air travel operator liable to pay domestic air travel tax under this Act were a taxpayer under the principal Act.

**4. Act to bind Crown—**This Act shall bind the Crown.

**5. Power of Comptroller to prescribe forms—**(1) For the purposes of this Act, the Comptroller may from time to time prescribe any forms that are not otherwise specifically prescribed.

(2) The production of any document under the hand of a Collector purporting to be a prescribed form or an extract from a prescribed form or a copy of any such form or extract shall in all Courts and in all proceedings be sufficient evidence of the fact that the form was prescribed; and all Courts shall in all proceedings take judicial notice of the signature of the Collector either to the prescribed form or to any such extract or copy.

## PART II

### LICENSING OF DOMESTIC AIR TRAVEL OPERATORS

**6. Domestic air travel operators to be licensed—**(1) Subject to this section, it shall not be lawful after the commencement of this Act for any person to operate as a domestic air travel operator otherwise than pursuant to, and in conformity with, a domestic air travel operator's licence issued under this Act:

Provided that where any person operates as a domestic air travel operator only in respect of the carriage of passengers exempt from tax under section 11 of this Act, that person shall not require to be licensed under this Act.

(2) Notwithstanding anything in this Act, during the period commencing on the 4th day of July 1980 and ending with the 31st day of August 1980, this Act shall apply to any person, not being the holder of a domestic air travel operator's licence, who carries on the business of a domestic air travel operator in the same manner as if he were the holder of a domestic air travel operator's licence.

(3) Every person who, contrary to this section, carries on the business of a domestic air travel operator commits an offence and shall be liable on summary conviction to a fine not exceeding \$1,000 and, if the offence is a continuing one, to a further fine not exceeding \$40 for every day during which the offence has continued.

**7. Issue of licences—**(1) Every application for a licence under this Act shall be made in the prescribed form to the Collector for the district in which the principal place of business of the applicant is situated or is proposed to be situated and shall state the place or places at which the applicant carries on or proposes to carry on business.

(2) The Collector, if satisfied that the conditions of this Act have been complied with, shall issue to the applicant a licence in the prescribed form. Such a licence shall authorise the holder to act as a domestic air travel operator for the purposes of this Act at any place or places in New Zealand specified in the licence, and shall specify the Collector to whom returns pursuant to section 14 of this Act shall be delivered.

(3) Every such licence shall remain in force until it is surrendered or revoked in accordance with this Act.

**8. Extension of licences—**If any licensee applies to the Collector for authority to act as a domestic air travel operator at any place or places not specified in his licence, the Collector shall, by endorsement on the licence, grant authority so to act.

**9. Amendment and revocation of licences—**(1) If any licensee ceases to carry on business at one or more of the places specified in his licence, he shall forthwith notify the Collector and forward his licence to the Collector for amendment.

(2) If any person holding a licence under this Act ceases to carry on the business for which the licence is required, or dies, or, being a corporation, is dissolved, the Collector shall revoke the licence.

(3) Where any person holding a licence as a domestic air travel operator under this Act is convicted of an offence against this Act, the Collector may revoke his licence.

### PART III

#### IMPOSITION OF DOMESTIC AIR TRAVEL TAX

**10. Imposition of domestic air travel tax**—Subject to this Act, domestic air travel tax shall be levied, collected, and paid at the rate specified in the Schedule hereto on every domestic air travel operator in respect of all passengers carried on any aircraft operated by him on any journey beginning and ending in New Zealand:

Provided that this section shall not apply to fares and fees paid before the commencement of this Act in respect of the carriage of any passengers.

**11. Exemptions from domestic air travel tax**—(1) Domestic air travel tax shall not be levied, collected, and paid on the carriage on any aircraft operated by a domestic air travel operator of the following persons:

- (a) Any person carried to or from any ship or offshore installation:
- (b) Any person carried on any aircraft for the specific purpose of assisting in the carriage of air freight:
- (c) Any person carried on any New Zealand military aircraft used for military purposes:
- (d) Any person carried on any aircraft used for the military, diplomatic, or ceremonial purposes of any Government:
- (e) Any person carried on any aircraft operated by the Ministry of Transport.

(2) The Governor-General may, from time to time by Order in Council, exempt a domestic air travel operator from liability to tax on the carriage on any aircraft of any person or any class or classes of persons, and may, in like manner, revoke or amend any such Order in Council.

(3) Any Order in Council made pursuant to subsection (2) of this section may be retrospective so far as it has the effect of exempting from tax any domestic air travel operator who would otherwise be liable to the tax.

**12. Incidence of altered tax**—In the case of any alteration in the law relating to the liability of any domestic air travel operator to tax or to the rate of tax, such liability or rate shall, except where otherwise expressly provided, be determined by the law in force at the time the passenger is carried.

## PART IV

### PAYMENT AND COLLECTION OF DOMESTIC AIR TRAVEL TAX

**13. Domestic air travel tax a Crown debt**—(1) The domestic air travel tax payable by a domestic air travel operator pursuant to section 10 of this Act shall constitute a debt owing to the Crown by the domestic air travel operator.

(2) Such debt shall become due and payable on the delivery of the return to the Collector, within the time specified by section 14 of this Act, or, if such return is not delivered to the Collector within the time specified by the said section 14, the domestic air travel tax shall be payable on the expiration of the time so specified.

(3) Such debt shall be recoverable by action at the suit of the Collector on behalf of the Crown.

(4) The right to recover domestic air travel tax as a Crown debt shall not be affected by the fact that a bond or security has been given for the payment of domestic air travel tax or that no proper assessment of domestic air travel tax has been made in due course or that a deficient assessment of domestic air travel tax has been made.

**14. Returns by domestic air travel operators**—(1) Every domestic air travel operator shall, within 20 days after the end of each month, deliver to the Collector at the place specified in his licence a return in the prescribed form setting forth the aggregate amount of the domestic air travel tax payable in respect of all passengers carried by him during that month, and such other particulars as the form may require.

(2) Notwithstanding subsection (1) of this section, the Collector may, in his discretion, require any operator to deliver a return in respect of any accounting period longer than one month but not exceeding one calendar year, and this Act shall, with any necessary modifications, apply accordingly.

(3) Every domestic air travel operator who fails to deliver to the Collector the return required by this section commits an offence, and shall be liable on summary conviction to a fine not exceeding \$1,000.

**15. Assessment of domestic air travel tax—**(1) The returns required by section 14 of this Act may be accepted by the Collector as sufficient proof of the matters therein contained and tax may be assessed by the Collector accordingly.

(2) If the Collector has reason to believe or suspect that the amount of tax shown in any return as aforesaid as payable is less than the amount payable under this Act, he may assess the domestic air travel tax at such greater amount as he thinks proper.

(3) If the Collector has reason to believe or suspect that tax is payable by any operator, he may assess the tax at such amount as he thinks proper.

**16. Assessment presumed to be correct—**Every assessment made by the Collector under this Part of this Act shall be taken to be correct, and domestic air travel tax shall be payable accordingly, unless on appeal to the Administrative Division of the High Court under section 17 of this Act, or in proceedings taken for the recovery of the tax, a different amount is proved to be the tax payable, or it is proved that no tax is payable.

**17. Appeal from assessment to Administrative Division of High Court—**(1) Where any taxpayer is dissatisfied with any assessment made by the Collector under this Part of this Act, the taxpayer may appeal to the Administrative Division of the High Court against that assessment.

(2) Every such appeal shall be made by giving notice of appeal within 28 days after the date on which the appellant was notified of the assessment appealed against or within such further time as the Court may allow on application made either before or after the expiration of those 28 days.

(3) In its determination of any appeal, the Court may confirm, modify, or reverse the assessment appealed against.

(4) Subject to the provisions of this section, the procedure in respect of any such appeal shall be in accordance with the rules of the Court.

(5) The obligation to pay and the right to receive and recover any tax shall not be suspended by any appeal; but if the appellant succeeds, the amount (if any) of the tax received by the Collector in excess of the amount which, according to the decision on the hearing of the appeal, was properly payable shall forthwith be refunded to him by the Collector.

**18. Penalty for late payment of tax—**(1) Where any domestic air travel tax remains unpaid after the expiration of 14 days after the time prescribed under section 14 of this Act, 10 percent of the amount of the domestic air travel tax unpaid shall be added thereto by way of additional tax and shall be payable accordingly.

(2) Notwithstanding subsection (1) of this section, the Comptroller may, for reasons which, in his discretion, he thinks sufficient, remit or refund the whole or any part of any additional tax imposed by this section.

**19. Minister may waive payment of domestic air travel tax in certain cases—**Where the Minister is satisfied that the payment of any domestic air travel tax by any operator would entail or has entailed serious hardship or that it would in any particular circumstances be contrary to the public interest or inequitable to impose such tax he may, in whole or in part,—

- (a) Release the operator liable to pay the tax from his liability; or
- (b) Refund that tax.

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## SCHEDULE

Section 10

### RATES OF DOMESTIC AIR TRAVEL TAX

	Rate
(1) Fare paying passengers carried per flight .....	5 percent of the amount of each passenger's fare.
(2) Non-fare paying passengers carried per charter flight .....	5 percent of the amount of the charter fee.

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This Act is administered in the Customs Department.