

REPUBLIC OF NAURU

(Act No.9 of 2009)

AN ACT

to levy a telecommunications service tax

(Certified: 31 August 2009)

Republic of Nauru
Telecommunications Service Tax Act 2009
(No.9 of 2009)

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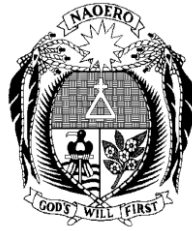
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REPUBLIC OF NAURU

An Act

(No.9 of 2009)

To levy a telecommunications service tax

(Certified: 31 August 2009)

Enacted by the Parliament of Nauru as follows:

PART I - PRELIMINARY

1. Short Title and Commencement

- (1) This Act may be cited as the *Telecommunications Service Tax Act 2009*.
- (2) This Act shall come into force on the date on which it receives the certificate of the Speaker.

2. Interpretation

- (1) In this Act, unless the context otherwise requires –

'Minister' means the minister responsible for finance;

'monthly statement' means the statement prescribed in subsection (2) of section 6;

'records' means the records described in subsection (1) of section 6 including the monthly statements prescribed in subsection (2) of section 6;

'Secretary' means the head of the department responsible for finance;

‘service’ means a telecommunications service;

‘service provider’ means a provider of a telecommunications service licensed or authorised under the *Telecommunications Act*;

‘tax’ means the telecommunications service tax levied under section 4;

‘telecommunications’ means the carriage of communications by means of guided or unguided electromagnetic energy or both.

3 Act to bind the Republic

This act binds the Republic.

PART II – TELECOMMUNICATIONS SERVICE TAX

4 Telecommunications Service Tax

- (1) A service provider becomes liable on the last day of each month to pay to the Republic the telecommunications service tax calculated in accordance with subsection (2) in respect of the telecommunications services provided by it in that month.
- (2) The amount of telecommunications service tax payable is fifteen per cent of the total gross sales revenue received by the service provider in respect of sales of telecommunications services in a calendar month.
- (3) A service provider must pay the telecommunications service tax within one month of having become liable under subsection (1) to pay the tax.
- (4) A service provider must submit the monthly statement within one month of having become liable to pay tax under subsection (1).

History: Subsection (2) amended by the Telecommunications Service Tax (Amendment) Act 2016 (Act No. 47 of 2016) by deleting “ten” and substituting “fifteen”.

The Telecommunications Service Tax (Amendment) Act 2016 (Act No. 47 of 2016) came into force on 8 September 2016.

Subsection (4) amended by the Telecommunications Service Tax (Amendment) No. 2 Act 2016 (Act No. 52 of 2016). Subsection (4) formerly read:

- “(4) A service provider must submit the monthly statement at the time of payment.”

The Telecommunications Service Tax (Amendment) No. 2 Act 2016 (Act No. 52 of 2016) came into force on 4 November 2016.

PART III – ADMINISTRATION

5 Payment and collection

The mode of payment and collection of tax shall be in accordance with Part 7 of the Revenue Administration Act 2014.

History: Section 5 amended by the Telecommunications Service Tax (Amendment) No. 2 Act 2016 (Act No. 52 of 2016). Section 5 formerly read:

“The mode of payment and collection of tax shall be determined by the Minister on the recommendation of the Secretary, and notified in the Gazette.”

The Telecommunications Service Tax (Amendment) No. 2 Act 2016 (Act No. 52 of 2016) came into force on 4 November 2016.

6 Records

- (1) A service provider must keep complete and accurate records of prices charged for each of the telecommunications services it provides and of the details of all transactions for the sale of telecommunications services.
- (2) A service provider must produce a monthly statement that includes a full and true disclosure of all transactions for the sale of telecommunications services in a calendar month.
- (3) The Secretary or his delegate is authorised to inspect the records of any service provider for the purposes of administering this Act.
- (4) Where the Secretary authorises a delegate to inspect the records of any service provider he must issue the delegate with a written and signed authorisation, which authorisation must relate to the specific inspection proposed, and the delegate shall produce such written authorisation upon the request of the specified service provider.
- (5) In addition to any penalty to which a service provider may be liable under section 12, 14 or 15 for an offence relating to records, a service provider that fails to keep records as required under this section may have their licence or authorisation suspended or cancelled.

7 Administration of the Act

This Act shall be administered by the Secretary.

History: Section 7 amended by the Telecommunications Service Tax (Amendment) No. 2 Act 2016 (Act No. 52 of 2016). Section 7 formerly read:

“This Act shall be administered by the Minister responsible for finance.”

The Telecommunications Service Tax (Amendment) No. 2 Act 2016 (Act No. 52 of 2016) came into force on 4 November 2016.

8 Regulations

Cabinet may make regulations prescribing matters necessary or convenient to be prescribed to give effect to this Act, including provisions for waiver or exemption from tax liability on specified grounds.

9 Application of Revenue

All revenues received by the Republic from the collection of the tax must be paid into the Treasury Fund.

10 Interest in respect of tax defaults

- (1) If a tax default occurs, the service provider is liable to pay interest on the unpaid tax.
- (2) Interest is calculated at a reasonable commercial rate on a daily basis from the date the tax default occurs to the date of payment.

PART IV – OFFENCES AND PENALTIES

11 Tax Evasion

- (1) A service provider must not knowingly evade the tax.
- (2) A service provider that commits an offence under this section is liable to a penalty of \$100,000.

12 Falsifying or concealing records

- (1) A service provider must not falsify or conceal records.
- (2) A service provider that commits an offence under this section is liable to a penalty of \$50,000.

13 Failure to pay tax

A service provider that fails, without lawful excuse, to pay the tax in accordance with subsections (1), (2) and (3) of section 4 commits an offence and is liable to a penalty of \$50,000.

History: Section 13 amended by the Telecommunications Service Tax (Amendment) Act 2016 (Act No. 47 of 2016) by deleting “section 3” and substituting “section 4”.

The Telecommunications Service Tax (Amendment) Act 2016 (Act No. 47 of 2016) came into force on 8 September 2016.

14 Failure to keep records

A service provider that fails to keep records in accordance with the requirements of section 6 commits an offence and is liable to a penalty of \$10,000.

15 Failure to submit monthly statement

A service provider that fails to submit the monthly statement required under subsection (4) of section 4 commits an offence and is liable to a penalty of \$10,000.

16 Application of Revenue Administration Act 2014

The Revenue Administration Act 2014 is subject to this Act and applicable only for the purposes of the administration of this Act.

History: Section 16 inserted by the Telecommunications Service Tax (Amendment) No. 2 Act 2016 (Act No. 52 of 2016).

The Telecommunications Service Tax (Amendment) No. 2 Act 2016 (Act No. 52 of 2016) came into force on 4 November 2016.