



Tonga

**PACIFIC GAMES 2019 TAXATION
INCENTIVES BILL 2017**



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PACIFIC GAMES 2019 TAXATION INCENTIVES BILL 2017

A BILL FOR AN ACT TO MAKE PROVISION IN RELATION TO SPECIAL TAX INCENTIVES FOR OFFICIAL SPONSORS OF THE 2019 PACIFIC GAMES AND RELATED TAXATION INCENTIVES

BE IT ENACTED by the King and Legislative Assembly of Tonga in the Legislature of the Kingdom as follows:

1 Short Title

This Act may be cited as the Pacific Games 2019 Taxation Incentives Act 2017.

2 Interpretation

In this Act, unless the context otherwise requires –

“**Minister**” means the Minister responsible for revenue and customs;

“**Ministry**” means the Ministry responsible for revenue and customs;

“**Official sponsor**” means a person or company whose status of an official sponsor has been verified and approved by the Minister;

“**Pacific Games**” means the Pacific Games to be held in the Kingdom in 2019;

“**special tax incentive**” means a tax incentive granted by the Minister under section 5 of this Act; and

“taxation laws” means the Consumption Tax Act 2003, Customs Act 2007, Customs and Excise Management Act 2007, Excise Tax Act 2007, Income Tax Act 2007, Revenue Services Administration Act 2002, as amended, and all subsidiary legislation made under those Acts or the successors of those laws, currently in force in the Kingdom.

3 Act to prevail over other taxation laws

- (1) Subject to the Constitution and subsection (2), the provisions of this Act shall prevail when any of its provisions conflict with the provision of any other law.
- (2) This Act shall only be applied for the benefit of persons eligible to a special tax incentive.

4 Administration of the Act

This Act shall be administered by the Minister.

5 Special Tax Incentives

- (1) A person may apply to the Minister for a special tax incentive under this Act.
- (2) Subject to taxation laws, and section 7(1)(e), a special tax incentive may be granted by the Minister to eligible persons as follows –
 - (a) 200% of the donation made to a national sports federation, to be allowed as a deduction for income tax purposes if the following requirements are met –
 - (i) the donation is made in cash or in kind;
 - (ii) the donation is \$50,000 or more;
 - (iii) the donation is made to a national sports federation registered under the Incorporated Societies Act (Cap. 28) or TASANOC; and
 - (iv) the accounts of the recipient national sports federation are audited by an accounting firm recognised by the Ministry;
 - (b) 200% of the value of an investment made to a tourism entity, approved by the Minister, and made during a time period prescribed by the Minister, to be allowed as a deduction for income tax purposes, where such investment is equivalent to \$3,000,000 or more; and
 - (c) for an Official sponsor of the Pacific Games, a special incentive enabling the Minister to either –
 - (i) allow as a deduction for income tax purposes up to 200% of the value of its sponsorship;
 - (ii) grant exemption from customs duties and taxes for goods to a maximum of up to 200% of the value of its sponsorship; or

- (iii) apply a maximum amount of up to 200% of the value of its sponsorship towards a combination of both –
 - (A) a deduction for income tax purposes; and
 - (B) a customs duty and tax exemption for goods imported by the official sponsor with a customs value equivalent to the balance value of its sponsorship following any allowable deductions in sub-paragraph (A).

6 Report on financial implications of determination

- (1) Before making a determination of any matter under this Act, the Minister shall receive and consider a report from the Chief Executive Officer for Revenue and Customs in relation to all financial implications of a proposed determination, including matters relating to -
 - (a) the actual effect on the revenue of Government arising from the grant of any special tax incentive or the reduction of any tax liability under this Act;
 - (b) a cost benefit analysis of the proposed special tax incentive as a comparison of the net value of the sponsorship in relation to the loss of Government revenue arising from the grant of any special tax incentive;
 - (c) any other relevant matter relating to the finances and revenues of Government in relation to an application, or generally arising as a result of the special tax incentives that may be granted under this Act; and
 - (d) such other matters as may be prescribed.
- (2) The Minister shall determine the procedures to be applied relating to this section.
- (3) The Ministry shall maintain a record of all the business and determinations of the Minister under this Act.

7 Decisions as to special tax incentives

- (1) Subject to the provisions of this Act, the Minister, with the consent of Cabinet, shall -
 - (a) consider applications from eligible persons for special tax incentive;
 - (b) determine the value of sponsorship, donation or investment proposed by the applicant for a special tax incentive;
 - (c) determine whether any special tax incentive shall be granted and the value of that special tax incentive;
 - (d) determine how any special tax incentive is to be applied towards a tax or duty liability of eligible persons; and

- (e) determine the period over which the special tax incentive is to be spread.

8 Regulations

- (1) The Minister with the consent of Cabinet may make regulations prescribing matters -
 - (a) required or permitted by this Act to be prescribed; or
 - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) Without limiting the generality of subsection (1), regulations may be made for the purposes of -
 - (a) prescribing the manner and form of application for a special tax incentive;
 - (b) prescribing requirements for consultation and negotiation in respect of an application for special tax incentive; and
 - (c) the method of valuation of sponsorship provided by an Official sponsor.

9 Repeal

This Act shall be repealed on 30 June 2020.

Passed by the Legislative Assembly this day of 2017.

Explanatory Notes

(These notes do not form part of the Bill and are only intended to explain its scope and purpose)

1 Short Title

This is the short title of the Act.

2 Interpretation

This section sets out definitions of some of the words used in the Act for clarity.

3 Act to prevail over other taxation laws

Subsection (1) provides that the provisions of this Act shall prevail over the provisions of other taxation laws.

Subsection (2) provides that this Act is to be applied to the benefit of those persons who are eligible to the special tax incentives.

4 Administration of the Act

This section clarifies that the Act is to be administered by the Minister for Revenue and Customs.

5 Special Tax Incentives

- (1) Any person, whether an individual or other legal entity, may apply to the Minister for a special tax incentive under this Act.
- (2) The Minister may grant the following special tax incentive to a person who is eligible –
 - (a) If a person makes a donation to a sporting body, that person will be entitled to declare 200% of that donation as a deduction for income tax purposes (section 25 of the Income Tax Act), provided –
 - (i) the donation is made in cash or in kind;
 - (ii) the donation is \$50,000.00 or more;
 - (iii) the donation is made to a sporting body registered under the Incorporated Societies Act (Cap.28) or TASANOC; and
 - (iv) the accounts of the sporting body receiving the donation is regularly audited by an accounting firm accepted by the Ministry for Revenue and Customs; and
 - (b) If a person makes an investment of \$3million or more to a tourism development approved by the Minister within the period also approved by the Minister, that person will be entitled to declare 200% of that investment as a deduction for income tax purposes (section 25 of the Income Tax Act 2007).
 - (c) The Minister may grant also special tax incentives for an official sponsor of the Pacific Games 2019 as follows:

- (i) by allowing the official sponsor to declare up to 200% of the value of its sponsorship as a deduction for income tax purposes; or
- (ii) as an alternative to subparagraph (i), the Minister may grant the official sponsor exemption from customs duties and taxes applicable to goods imported and belonging to the official sponsor with a total Customs value equal to 200% of the value of its sponsorship; or
- (iii) alternatively, if an official sponsor of the Pacific Games requests, the Minister may permit the official sponsor to split the 200% of the value of its sponsorship towards a deduction for income tax purposes and also for Customs duty and tax exemption for its imported or locally manufactured excisable goods as the case may be.

6 Report on financial implications of determination

The Minister shall consider the report from the Chief Executive Officer in relation to the financial implications of an application made to him before making a decision on whether to grant the special tax incentive to an applicant.

7 Decisions as to special tax incentives

This section provides for the matters the Minister is to take into account with the consent of Cabinet when considering the grant of any special tax incentive.

8 Regulations

This section provides for the regulation making power.

9 Repeal

This section repeals the Act on the same date as the Foreign Exchange Levy Act 2015 on 30 June 2020.

Hon. Tevita Lavemaau
Minister for Revenue and Customs