



ANALYSIS

<p>Title</p> <p>1. Short Title, commencement, and application</p> <p>2. Interpretation</p> <p style="text-align: center;">PART I</p> <p style="text-align: center;">ADMINISTRATION</p> <p>3. Application of provisions relating to sales tax</p> <p>4. Act to bind Crown</p> <p>5. Power of Comptroller to prescribe forms</p> <p style="text-align: center;">PART II</p> <p>LICENSING OF INTERNATIONAL TRAVEL VENDORS</p> <p>6. International travel vendors to be licensed</p> <p>7. Issue of licences</p> <p>8. Extension of licences</p> <p>9. Amendment and revocation of licences</p> <p style="text-align: center;">PART III</p> <p style="text-align: center;">IMPOSITION OF INTERNATIONAL DEPARTURE TAX</p> <p>10. Imposition of international departure tax</p>	<p>11. Exemptions from international departure tax</p> <p>12. Incidence of altered tax</p> <p style="text-align: center;">PART IV</p> <p style="text-align: center;">PAYMENT AND COLLECTION OF INTERNATIONAL DEPARTURE TAX</p> <p>13. International departure tax a Crown debt</p> <p>14. Returns by international travel vendors</p> <p>15. Notice by persons supplied with tickets otherwise than by international travel vendors</p> <p>16. Assessment of international departure tax</p> <p>17. Assessment presumed to be correct</p> <p>18. Appeal from assessment to Administrative Division of Supreme Court</p> <p>19. Penalty for late payment of tax</p> <p>20. Minister may waive payment of international departure tax in certain cases</p> <p>21. Duty of owners of aircraft and ships</p> <p style="text-align: center;">PART V</p> <p style="text-align: center;">ABOLITION OF FOREIGN TRAVEL TAX</p> <p>22. Repeal and revocation</p> <p>23. Savings</p> <p>24. Transitional provisions Schedule</p>
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1979, No. 6

An Act to make provision for the imposition and collection of international departure tax [22 June 1979]

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, commencement, and application—(1) This Act may be cited as the *International Departure Tax Act 1979*, and shall be read together with and deemed part of the *Sales Tax Act 1974* (hereinafter referred to as the principal Act).

(2) Except where this Act otherwise provides, this Act shall come into force on the 22nd day of June 1979 and apply to all tickets supplied on or after that date where international travel pursuant to that ticket takes place on or after the 1st day of July 1979.

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

“International travel” means travel between New Zealand and any one or more places outside New Zealand, whether such travel is by air or sea:

“International departure tax” means international departure tax imposed by this Act:

“International travel vendor” means any person, organisation, or public or local authority carrying on in New Zealand the business of supplying tickets:

“Licence” means an international travel vendor’s licence issued under this Act:

“Ticket” means any document or authority validated for use and entitling the holder to use designated transport for international travel.

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 international departure tax the like powers and authorities, as far as the same are applicable and with any necessary modifications, as if international departure tax was 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 international departure tax were sales tax, as if an international travel vendor under this Act were a wholesaler under the principal Act, and as if a person liable to pay international departure 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 INTERNATIONAL TRAVEL VENDORS

6. International travel vendors to be licensed—(1) It shall not be lawful after the commencement of this Act for any person to carry on the business of an international travel vendor otherwise than pursuant to, and in conformity with, an international travel vendor's licence issued under this Act.

(2) Notwithstanding anything in this Act, during the period commencing on the 22nd day of June 1979 and ending with the 31st day of July 1979, this Act shall apply to any person, not being the holder of an international travel vendor's licence, who carries on the business of an international travel vendor in the same manner as if he were the holder of an international travel vendor's licence.

(3) Every person who, contrary to this section, carries on the business of an international travel vendor 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 an international travel vendor 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 an international travel vendor 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 an international travel vendor under this Act is convicted of an offence against this Act, the Collector shall revoke his licence, unless the Comptroller otherwise directs in any particular case.

PART III

IMPOSITION OF INTERNATIONAL DEPARTURE TAX

10. Imposition of international departure tax—(1) Subject to this Act, international departure tax shall be levied, collected, and paid at the rate specified in the Schedule hereto on all tickets supplied in New Zealand or to persons in New Zealand, whether or not by an international travel vendor.

(2) Except in such special cases as may be approved by the Comptroller, every international travel vendor shall

state in relation to every ticket supplied by him in respect of which international departure tax is payable, the amount of the tax payable thereon.

(3) The amount of the international departure tax payable shall, if stated in relation to any such ticket, be recoverable by the international travel vendor from the person to whom it is supplied, in addition to the price and any other amount due by that person in relation to that ticket.

11. Exemptions from international departure tax—

(1) All tickets supplied to the following persons shall be exempt from international departure tax:

- (a) Any member of the crew of any aircraft or ship departing from New Zealand:
- (b) Any member of the crew of any aircraft or ship being carried as a passenger on any aircraft or ship departing from New Zealand solely for the purposes of positioning that member to carry out his duties as a member of that crew:
- (c) Any infant under the age of 2 years:
- (d) Any person travelling on any New Zealand military aircraft or ship used for military purposes:
- (e) Any person travelling on any aircraft or ship used for the military, diplomatic, or ceremonial purposes of any Government:
- (f) Any person travelling on any aircraft operated by the Ministry of Transport.

(2) The Governor-General may from time to time, by Order in Council, exempt any class or classes of tickets or any tickets supplied to any class or classes of persons from international departure tax, and may, in like manner, revoke or amend any such Order.

(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 international departure tax tickets that 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 ticket to international departure tax or to the rate of international departure tax to which any ticket is liable, such liability or rate shall, except where otherwise expressly provided, be determined by the law in force at the time the ticket is supplied.

PART IV

PAYMENT AND COLLECTION OF INTERNATIONAL DEPARTURE
TAX

13. International departure tax a Crown debt—(1) The international departure tax payable in respect of any ticket supplied by an international travel vendor shall constitute a debt owing to the Crown by the international travel vendor.

(2) The international departure tax payable in respect of any ticket supplied to any person otherwise than by an international travel vendor shall constitute a debt owing to the Crown by that person.

(3) Such debt shall be payable in accordance with the following provisions, namely:

(a) In the case of international departure tax payable by an international travel vendor, pursuant to subsection (1) of this section, the amount of the international departure tax shall be included in the return required to be lodged pursuant to section 14 of this Act and shall be payable on delivery of that return to the Collector, or, if such return is not delivered to the Collector within the time specified by the said section 14, the international departure tax shall be payable on the expiration of the time so specified:

(b) In the case of international departure tax payable by any person pursuant to subsection (2) of this section, the amount of the international departure tax shall be notified to the Collector pursuant to section 15 of this Act and shall be payable when the amount is so notified, or, if the Collector is not so notified, before that person leaves New Zealand and in any event not later than 14 days after the receipt by that person of the ticket in respect of which the international departure tax is payable.

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

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

14. Returns by international travel vendors—(1) Every international travel vendor shall, within 20 days after the end of each month, deliver to the Collector for the district specified in his licence a return in the prescribed form setting forth the aggregate amount of the international departure tax payable on all tickets supplied by him during that month, and such other particulars as the form may require:

Provided that the Comptroller may, by notice in the *Gazette*, specify any other Collector to whom the return is to be delivered.

(2) Notwithstanding subsection (1) of this section, the Collector may, in his discretion, require—

(a) The aggregate amount of the international departure tax payable on all or any of the tickets supplied by any international travel vendor during any period to be included in the return of any other international travel vendor instead of the return of the first-mentioned international travel vendor:

(b) Any international travel vendor 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 international travel vendor who fails to deliver to the Collector the return required by this section shall be liable on summary conviction to a fine not exceeding \$1,000.

15. Notice by persons supplied with tickets otherwise than by international travel vendors—(1) Every person who has a ticket for international travel supplied to him otherwise than by an international travel vendor shall, before he leaves New Zealand and in any event within 14 days after the receipt of the ticket, notify a Collector of the amount of international departure tax payable in respect of the ticket and such other particulars as may be required by the Collector.

(2) Every such person who fails to notify the Collector as required by this section shall be liable on summary conviction to a fine not exceeding \$1,000.

16. Assessment of international departure 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 in respect of any tickets is less than the amount payable under this Act, he may assess the international departure tax at such greater amount as he thinks proper.

(3) If the Collector has reason to believe or suspect that international departure tax is payable on any ticket by any person who has not notified him in respect thereof pursuant to section 15 of this Act, he may assess the international departure tax at such amount as he thinks proper.

17. Assessment presumed to be correct—Every assessment made by the Collector under this Part of this Act shall be taken to be correct, and international departure tax shall be payable accordingly, unless on appeal to the Administrative Division of the Supreme Court under section 18 of this Act, or in proceedings taken for the recovery of the international departure tax, a different amount is proved to be the international departure tax payable, or it is proved that no international departure tax is payable.

18. Appeal from assessment to Administrative Division of Supreme 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 Supreme 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.

19. Penalty for late payment of tax—(1) Where any international departure tax remains unpaid after the expiration of 14 days after the time prescribed under section 13 of this Act, 10 percent of the amount of the international departure tax unpaid shall be added thereto by way of additional international departure 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 international departure tax imposed by this section.

20. Minister may waive payment of international departure tax in certain cases—Where the Minister is satisfied that the payment of any international departure tax by any person 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 person liable to pay the tax from his liability; or
- (b) Refund that tax.

21. Duty of owners of aircraft and ships—(1) The owner and agent of every passenger-carrying aircraft and passenger-carrying ship shall take all reasonable steps to ensure that the proper amount of international departure tax has been paid in respect of the tickets of the passengers carried thereon.

(2) Every owner or agent who fails to comply with subsection (1) of this section commits an offence and shall be liable on summary conviction to a fine not exceeding \$5,000.

PART V

ABOLITION OF FOREIGN TRAVEL TAX

22. Repeal and revocation—(1) The Foreign Travel Tax Act 1976 is hereby repealed.

(2) The Foreign Travel Tax Exemption Order 1976 is hereby revoked.

(3) This section shall come into force on the 1st day of July 1979.

23. Savings—(1) For all purposes whatsoever in respect of any foreign travel tax which at the commencement of this Act has been already assessed or paid or is still assessable or payable in accordance with the provisions of any enactment hereby repealed, that enactment and all the provisions thereof, including its penal provisions, and all Orders in Council, warrants, and other acts of authority originating thereunder, shall, notwithstanding the repeal thereof, be deemed to remain in full force and effect; and all proceedings under any such enactment, including proceedings for the recovery of any fine or penalty in respect of any offence committed, whether before or after the commencement of this Act, may be instituted or continued accordingly as if the enactment concerned had not been repealed.

(2) All proceedings in respect of offences committed or alleged to be committed, whether before or after the commencement of this Act, against any enactment hereby repealed may be instituted or continued as if this Act had not been passed.

24. Transitional provisions—(1) For the purposes of this section, unless the context otherwise requires, expressions defined in the Foreign Travel Tax Act 1976 have the meanings so defined.

(2) Notwithstanding anything in the Foreign Travel Tax Act 1976 or the foregoing provisions of this Act,—

(a) Where, before the commencement of this Act, a person has been supplied with a ticket for international travel which takes place on or after the 1st day of July 1979—

(i) He shall be deemed for the purposes of this Act to have been supplied with his ticket on the 30th day of June 1979; and

(ii) He shall pay international departure tax on that ticket; and

(iii) He shall be entitled to a refund of the foreign travel tax (if any) paid by him on that ticket in accordance with paragraphs (c) and (d) of this subsection:

(b) Where that person has not paid international departure tax to the international travel vendor who actually supplied that ticket to that person, that person shall pay the international departure

tax to the owner or agent of the passenger-carrying aircraft or passenger-carrying ship on which that person is to travel, and that owner or agent shall, for the purpose of Parts III and IV of this Act, be deemed to be the international travel vendor who supplied that ticket to that person:

- (c) Where the foreign travel tax was so paid by that person to a foreign travel vendor, the foreign travel tax shall be refunded to that person by that foreign travel vendor:
- (d) Where the foreign travel tax was so paid by that person to the Collector in accordance with section 16 (3) (b) of the Foreign Travel Tax Act 1976, the foreign travel tax shall be refunded to that person by the Collector.

SCHEDULE

Section 10

RATES OF INTERNATIONAL DEPARTURE TAX

	Rate per ticket
International travel by children under the age of 12 years	\$5.00
International travel by all other persons	\$25.00

This Act is administered in the Customs Department.
