

THE THIRTY-FIFTH LEGISLATURE OF AMERICAN SAMOA

Third Regular Session

Begun and held at Fagatogo, Tutuila, American Samoa
on Monday, the eighth day of January
two thousand and eighteen

AN ACT AMENDING THE CALCULATION OF EXCISE TAX FOR BEER AND MALT EXTRACT; AMENDING SECTION 11.1002 (a)(1)(A).

Preamble:

WHEREAS, American Samoa's current excise tax on beer and malt extract, which is based on the reported value of the imported item, may be easily manipulated by to reduce the amount of excise tax due to the American Samoa Government; and

WHEREAS, this practice deprives the American Samoa Government of much needed revenues to operate and provide critical public services such as medical and police services; and

WHEREAS, to avoid these issues, the excise tax on beer and malt extract is amended to provide for a flat rate based on the amount or volume of the imported item instead of its stated value.

BE IT ENACTED BY THE LEGISLATURE OF AMERICAN SAMOA:

Section 1. 11.1002 is amended to read:

"11.1002 Amount of tax on certain items.

(a) The tax on each item is:

(1) beer, malt extract, alcoholic beverage, tobacco products and smoking accessories:

(A) ~~one hundred ninety percent of the basis~~ thirty-five (0.35) cents per twelve (12) fluid ounces, or fraction thereof, of beer as defined in 27.0501(6), and malt extract to be applied to the measure of the container in which it is offered for sale by the importer, except that any person 21 years of age or over may bring into American Samoa tax free an amount of any alcoholic beverage as defined in 27.0501(1) or 27.0501(6) not to exceed 1 liter per trip if such alcoholic beverage is for his personal use and consumption and not for resale; and except further that any alcoholic beverage and tobacco products brought into American Samoa for export at the duty free shop at Pago Pago International Airport is also tax free; ~~one hundred ten percent (110%) of the basis~~ twenty (0.20) cents per twelve (12) fluid ounces, or fraction thereof, of beer or malt extract shall be deposited in the general fund and shall be available for appropriation by the Legislature; and ~~eighty percent~~

~~(80%) of the basis~~ fifteen (0.15) cents per twelve (12) fluid ounces, or fraction thereof, of beer or malt extract shall be deposited in the general fund in an account earmarked for and dedicated to the American Samoa Economic Development Authority for the repayment of its Series 2015 Bonds. Upon full repayment of said bonds, collection of this tax shall be deposited into the general fund and shall be available for appropriation by the Legislature;

(B) alcoholic beverages as defined in 27.0501(1) shall be taxed as follows: fifteen (0.15) cents per one percent (1%) of alcohol by weight per liter, with a minimum tax of two dollars (\$2.00) per liter.

Of the revenues collected from the tax on alcoholic beverages, fifty percent (50%) shall be appropriated to fund the Feleti Barstow Public Library; twenty-five percent (25%) shall be appropriated to fund the Office of Administrative Law Judge; and twenty-five percent (25%) shall be deposited in the general fund in an account earmarked for and dedicated to the American Samoa Economic Development Authority for the repayment of its Series 2015 Bonds. Upon full repayment of said bonds, collection of this tax shall be deposited in the general fund and shall be available for appropriation by the Legislature.

(C) Thirty cents per cigarette, per cigar, or per 10 grams of smoking tobacco, except that any person 21 years of age or over may bring into American Samoa tax free tobacco products not to exceed either 200 cigarettes or 100 cigars and or 2 kilograms of smoking tobacco per trip if such tobacco products are for his personal use and consumption and not for resale; fifty percent (50%) of the basis of tobacco products shall be deposited in the general fund and shall be available for appropriation by the Legislature; and fifty percent (50%) shall be earmarked for and dedicated to the American Samoa Economic Development Authority for the repayment of its Series 2015 Bonds. Upon full repayment of said bonds, collection of this tax shall be deposited in the general fund and shall be available for appropriation by the Legislature.

(2) one hundred fifty percent of the basis of firearms and firearm ammunition;

(3) motor vehicles:

(A) twenty-five percent of the basis of motor bicycles, automobiles, trucks, and vans, to be used for commercial purposes;

(B) notwithstanding the provisions of paragraph (A), the tax levied on motor bicycles, automobiles, trucks, and vans, imported into American Samoa for personal or family use shall be 10 percent of the basis thereof. If a motor bicycle, automobile, truck or van, are converted to commercial use after being imported for personal or family use, it shall then be subject to the balance of the applicable tax imposed under paragraph (A).

(C) No tax exemption, including that provided by Title 11, Chapter 16, shall be granted for any motor vehicle. All other motor vehicles not taxed under this subsection shall be subjected to the tax under 11.1002(a)(7);

(4) petroleum products:

(A) thirty-five cents a gallon on fuel manufactured for use in motor vehicles, other than diesel fuels, 1.5 cents of this to be used for revenue for law

enforcement costs and the driver's training control school and 10 cents of it to be placed in an earmarked revenue fund for road maintenance;

(B) three and one-half cents a gallon on fuel manufactured for use in diesel engines, other than aircraft fuels. An express exception is made for the purpose of extending a full three and one-half cent excise tax credit for fuels which, subject to verification by the Treasurer of American Samoa, were sold to any commercial fishing vessel for the purpose of refueling. For purposes of this section, "Commercial Fishing Vessels" shall be defined as all purse seiners and longliner vessels actively engaged in commercial fishing in excess of five tons dead weight, plus reefers of "Mother Ships" that are used to transship fish products, plus diesel fuel tankers that provide fuel at sea to the commercial fishing vessels;

(C) one and one-half cents a gallon on kerosene and similar petroleum products;

(D) fifteen percent of the basis of lubricating oils,

(E) one cent a gallon on jet and other aircraft fuels, to be placed in the enterprise fund for the operation of Pago Pago International Airport;

(F) three cents a pound of liquified petroleum gas such as butane and propane or mixtures; thereof, and ethane;

(G) thirty-one and one-half cents per gallon, to be collected by the petroleum supplier at the point of sale, on fuel manufactured for use in diesel engines, excluding diesel fuel used by stationary boilers or burners, stationary generators of electric power and marine vessels.

(5) forty percent of the basis of all construction materials, as defined in 26.1501 et seq., which are of a lesser quality than the standard grades established under such chapter;

(6) fifteen cents per 12 fluid ounces or fraction thereof on all soft drinks or nonalcoholic carbonated beverages, to be applied to the measure of the container in which it is offered for sale by the importer.

(7) five percent of the basis of all items not listed in subsections (a) (1) through (a)(6) of this section or exempted by this section which are imported for commercial use or resale purposes. The revenues received from the three percent excise tax shall be deposited in the general fund and shall be available for appropriation by the Legislature, except that \$500,000 is appropriated for the student financial aid provided for in 11.0605.

(b) The minimum tax shall be 25 cents.

(c) Items otherwise taxable under subsection (a)(1) and (a)(7) of this section are exempted from the taxes imposed by this section when they are brought into American Samoa for export sale for consumption outside American Samoa; provided that importation and sale of these items are made pursuant to rules promulgated by the Treasurer under the Administrative Procedures Act 4.1001 et seq., that require, among other things, separate storage of these items clearly identified for export sale and a system of delivery to the purchaser ensuring their exportation.

(d) Payment of the taxes imposed by this section on items brought into American Samoa for consumption within American Samoa may be postponed pursuant to rules promulgated by the Treasurer under the Administrative


Procedures Act, 4.1001 et. seq., that require, among other things, separate storage of those items clearly identified for domestic sale and consumption and a system of delivery to the importer ensuring payment of the taxes at the time of delivery.

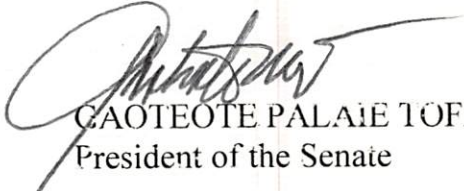
(e) The Treasurer shall promulgate rules under the Administrative Procedures Act, 4.1001 et seq., to ensure that the taxes imposed when the exception set forth in subsection (a)(7) of this section is inapplicable are paid.

(f) One percent (1%) of the five percent excise tax shall be earmarked for the repairs, renovations and upgrading of all public schools facilities and equipment in American Samoa beginning in the fiscal year 1995.”

Sec 2. Effective date.

This bill shall become effective 60 days after passage by the Legislature and approval by the Governor.


SAVALI TALAVOU ALE
Speaker, House of Representatives


GAOTEOTE PALAIE TOFAU
President of the Senate

Hereby Approved this 23 day of Feb 20
Lolo M. Maliga
Governor of American Samoa

NOFOAIGA TOLUSEFULU-LIMA FONOFAITULAFONO AMERIKA SAMOA

Fono Tele Lona Tolu

Nofioia ma usua i Fagatogo, Tutuila, Amerika Samoa
 Aso Gafua, aso valu o Ianuari
 Lua afe sefuluvalu

O SE TULAFONO E SUIA AI LE FUA O LE LAFOGA OLOA MO LE PIA MA OLOA E MAUA MAI LE MOLO; SUIA AI LE MAGA 11.1002(a)(1)(A).

Faatomuaga:

- TALUAI, o le lafoga oloa o i ai nei mo le pia ma le molo, lea e faavae i luga o le tau e lipotia mai o le oloa mai fafo, e faigofie lava ona faatogafiti lona faiga ina ia faalaititi ai le lafoga e totogi atu i le Malo o Amerika Samoa; ma
- TALUAI, o lenei faiga ua le mafai ai ona maua e le Malo tupe maua o loo matua manaoinia e faagaioioia ai ma tuuina mai auaunaga mo le lautele e pei o galuega tau falemai ma leoleo; ma
- TALUAI, ina ia taofia faaletonu nei, o le a suia ai le lafoga oloa mo le pia ma meainu fai mai le molo ma aiaia ai se fua tutusa e faavae i luga o le aofai ma le tele o oloa ia mai fafo, nai lo le faalafoga e faavae i luga o le tau e tuuina mai.

IA FAATULAFONOINA E LE FONOFAITULAFONO A AMERIKA SAMOA:

- Maga 1. O le 11.1002 ua suia nei e faitauina faapea:**
- "11.1002 Aofai o lafoga o nisi o oloa.**
- (a) O le lafoga mo oloa taitasi e faapenei:**
- (1) pia, molo, taumafa e iai le 'avamalosi (alakaholo), tapaa ma mea e fa'aaoga mo le taumafaina o le tapaa:**
- (A) O le 190% o le faavae o le 0.35 sene i le tai 12 aunese o se vai, poo se vaega foi, o le pia e pei ona faauiga mai i le 27.0501(6), ma le molo ia avane e fa'aaoga i le fua o le koneteina o loo aumai ai e le faioloa e faatau atu ai, vagana ai se tagata ua 21 tausaga le matua pe sili atu foi e mafai ona ia aumaia e aunoa ma se lafoga soo se taumafa 'ava malosi e tusa ai ma le mea o loo ta'u mai i le 27.0501(1) poo le 27.0501(6) ia le silia le lita i le malaga pe afai o sea 'avamalosi e fa'aaoga mo ia lava ae le mo se toe faatauina atu; ma sei vagana foi o se taumafa 'avamalosi poo ni oloa tau tapaa e aumai i Amerika Samoa mo le toe avatua i fafo e le faleoloa e leai se tiute i le Malaevaalele Faale-va-malo o Pago Pago e leai se lafoga o ia mea; selau sefulu pasene o le faavae 0.20 sene o le ta'i 12 aunese vai poo se vaega foi, o le pia poo le molo o le a teuina i le teugatupe tele ma fa'aavanoa mo le faasoaso a le Fonofaitulafono; ma le 80% o le faavae 0.15 sene o le tai 12 aunese vai/ma isi meainu, poo se vaega o lena, o le pia poo le molo e teu i le teugatupe tele ma ia**

faailoga ese mo le Pulega o le Atinae o le Tamaoaiga a Amerika Samoa e toe totogi ai Pone o le 2015. A mae'a loa ona toe totogi pone ona avane loa lea o le lafoga leni e aoina e teu i le teugatupe tele a le malo e avanoa ai mo le faasoasoina e le Fonofaitulafono;

(E) o taumafa 'avamalosi e pei ona ta'ua mai i le 27.0501(1) o le a faalafogaina faapenei: e sefululima sene i le tai 1% o le alakaholo e fua i le mamafa o le lita e tasi, e i ai ma le lafoga aupito maulalo e \$2.00 i le lita.

O tupe maua mai le lafoga o 'avamalosi, e faasoa le 50% mo le Faletusi o le Feleti Barstow; 25% e faasoa mo le Ofisa o le Faamasino o Tulafono tau Galuega (ALJ); ma le 25% e faailoga ese mo le Pulega o le Atinae o le Tamaoaiga a Amerika Samoa e toe totogi ai Pone o le 2015. A mae'a loa ona toe totogi pone ona avane loa lea o le lafoga leni e aoina e teu i le teugatupe tele a le malo e avanoa ai mo le faasoasoina e le Fonofaitulafono.

(I) E 30 sene mo le sikaleti e tasi, le sika, poo le tai 10 kalama o le tapaa, sei vagana ai soo se tagata e 21 tausaga le matua pe sili atu, e mafai ona ia aumaia e aunoa ma se lafoga ni oloa tau tapaa e le silia i le 200 sikaleti poo le 100 sika ma se/poo le 2 kilokalania o tapaa i le malaga pe afai o ia tapaa e fa'acoga e ia lava ae le mo se toe faatau atu; o le 50% o le faavae o oloa tapaa o le a tuu i le tupe tele a le malo ma o le a avanoa e faasoasoa e le Fonofaitulafono; ma le 50% e faailoga ese mo le Pulega o le Atinae o le Tamaoaiga a Amerika Samoa e toe totogi ai Pone o le 2015. A mae'a loa ona toe totogi pone ona avane loa lea o le lafoga leni e aoina e teu i le teugatupe tele a le malo e avanoa ai mo le faasoasoina e le Fonofaitulafono.

(2) o le 150% o le faavae o auupega ma ututau;

(3) taavale a'fi;

(A) 25% o le faavae o uilaafi, taavale, loli, ma veni e fa'aaoga mo pisinisi;

(E) E le afaina ai aiaiga o le palakalafa (A), o le lafoga mo uilaafi, taavale, loli, ma veni e aumai i Amerika Samoa mo le tagata lava ia poo le fa'aaoga foi e le aiga, e 10%. Ae afai o se uilaafi, taavale, loli poo se veni e toe sui mulimuli ane ma fa'aaoga mo se pisinisi e tatau la ona toe totogiina le paleni o le lafoga e pei ona ta'ua i le palakalafa (A).

(I) E leai se faagafuaga, e aofia ai ma lea o loo ta'u mai i le Uitutala 11, Mataupu 16, e tuuina atu mo soo se taavale a'fi. O isi taavale uina e le o faalafogaina i lalo o le soamaga leni e tatau ona faalafoga i lalo o le 11.1002(a)(7):

(4) oloa tau suauu:

(A) 35 sene i le kalone o le suauu e gaosia mo le fa'aaoga i taavale, e ese mai ai i le tiso, o le 1.5 sene o lea tupe e fa'aaoga e totogi ai le faamalosi o le tulafono ma le a'oga avetaavale ma le 10 sene o lea tupe e ave i se teugatupe e faailoga mo le tausia lelei ai o le auala.

(E) tolu ma le 'afa sene i le kalone o suauu e gaosia mo le fa'aaoga i a'fi tiso, e ese mai ai i le suauu vaalele. E i ai se faagafuaga faapitoa lava mo le faaopoopoina o le taimi o le toe faafo'ia o le lafoga atoa lava e tolu ma le 'afa sene mo suauu sa faatau atu i soo se vaafagota faapisinisi e utuina ai, pe afai e faamaonia mai lea e le Teutupe o Amerika Samoa. Mo leni lava maga, "o Vaafagota Faapisinisi" o lona uiga o vaafagota e fa'aaoga ai upega tetele ma vaa e fa'aaoga 'afa'afaloloa e fafagota faapisinisi e silia i le ta'ilima tone le mamafa, faatasi ai ma vaa e la'u i ai

uta i'a a "Vaa-Faatinā" ma vaa la'usuauu latou te avatua le suauu e utu ai vaa ia i luga o le sami;

(I) tasi ma le 'afa sene i le kalone ole kalasini ma isi oloa faapena;

(O) 15% o le faavae o suauu e faasuauu ai u'amea;

(U) tasi le sene i le kalone o suauu vaaelele e tuu i le tupe a le Malaevaalele

Faale-va-o-malo mo ana galuega;

(F) 3 sene i le pauna o soo se ituaiga o kesi suauu faasuavaia (LPG);

(G) 31 ma le 'afa sene i le kalone, e aoina mai e le kamupani o loo aumaia le suauu i le nofoaga na te faatau atu i ai le suauu, mo le suauu gaosi mo afi tiso, e le aofia ai le tiso o loo fa'aaoga i ogaumu tetele ma mea e faapupuna ai le vai, o afi tetele gaosi eletise ma vaa o le sami.

(5) 40% o le faavae o meafaufale uma, e pei ona ta'ua i le 26.1501 ma isi maga e mulimuli mai ai, lea e maualalo ifo lona tulaga nai lo le mea o loo ta'u mai i lea lava mataupu;

(6) 15 sene i le 12 aunese o mea faasuavaia poo sona vaega foi, i fagu/apaina uma e leai se alakaholo o i ai, ina ia faaopoopo atu i le fua o le 'apa poo le fagu lea e faatau mai ai;

(7) O le 5% o le faavae o oloa uma lava e le o lisiina i soamaga (a)(1) e oo i le (a)(6) o lenei maga pe faagafua foi i lenei maga a o loo aumaia mo le fa'aaogaina taapisinisi poc le toe faatauina aiu foi. O tupe maua mai le 3% o le lafoga o oloa o le a teuina i le teugatupe tele mo le faasoaina e le Fonofaitulafono, vagana ai le \$500,000 faasoaina mo le fesoasoani tau tupe mo tamaiti a'oga e pei ona aiaia ai i le 11.0605.

(e) O le lafoga aupito maualalo e 25 sene.

(i) O olca o loo faalafogaina i lalo o soamaga (a)(1) ma le (a)(7) o lenei maga e faagafua lea mai lafoga o loo faaee i le maga lenei pe afai e aumai iinei mo le toe faatauina atu i fafo atu o Amerika Samoa; pe afai lea o le aumaia i totonu ma le faatauina atu o nei oloa e faia e tusa ai ma tulafono galue ua faalauaiteleina e le Teutupe i lalo o le Tulafono o le Faagasologa o Galuega 4.1001 ma faasolo mai ai, e manaomia ai le teuina ese o ia oloa ia manino lelei io latou faailoaina mo le toe faatau atu i atunuu i fafo atoa ai ma se faiga e tiliva atu ai ia oloa ina ia maualalo ai ua ave i fafo.


(o) O le totogia o lafoga o loo faaee i le maga lenei mo oloa o loo aumaia mo le fa'aaoga i Amerika Samoa e mafai lava ona tolopoina e tusa ai ma tulafono ua faalauaiteleina e le Teutupe i lalo o le Tulafono o Faagasologa o Galuega 4.1001 ma faasolo mai ai, lea e manaomia ai le teuina ese o ia oloa ia manino lelei ona faailoaina e faapea o oloa ia e faatauina atu mo le fa'aaoga i totonu lava o le tatou lotoifale atoa ai ma se faiga e tiliva ai i le faiolele ma ia maualalo ai le totogia o le lafoga i le taimi e tiliva ai.

(u) E faalauaiteleina e le Teutupe tulafono galue i lalo o le Tulafono o Faagasologa o Galuega, 4.1001 ma luma mai, ina ia maualalo ai ua totogi lafoga na faaee i le taimi na faia ai le faagafua lea e aiaia i le soamaga (a)(7) o lenei lava maga.

(f) O le 1% o le 5% o le lafoga o olca e faailega mo le lipea, toe faafou ma faaleleia atili falea'oga uma o le malo ma mea e fa'aaoga ai e amata mai le tausaga faaletupe e 1995."

Maga 2. Asc e taualoa ai.

O le a taualoa leni pili i le 60 aso tau ona mae'a ona pasia ai e le Fonofaitulafono ma faamaonia e le Kovana.


SAVALI TALAVOU ALE
Fofoga Fetalai, Maota o Sui


GAOTEOTE PALAIE TOFAU
Peresetene, Maota Mauuluga

Hereby Approved this 23 day of FEB 2018
Lolo M. Maliga
Governor Of American Samoa