

THE TWENTY-FIRST LEGISLATURE OF AMERICAN SAMOA

Fourth Regular Session

Begun and held at Fagatogo, Tutuila, American Samoa  
on Monday, the ninth day of July  
one thousand nine hundred and ninety

AN ACT CLARIFYING THE IMPOSITION AND BASIS FOR COMPUTATION OF THE EXCISE TAX ON IMPORTS; IMPOSING A FIVE PERCENT EXCISE TAX ON THE IMPORTATION FOR COMMERCIAL RESALE FOR DOMESTIC CONSUMPTION OF ALL ITEMS NOT EXPRESSLY TAXED AT DIFFERENT RATES OR EXEMPTED; AUTHORIZING CERTAIN DUTY FREE EXPORT SALES; AUTHORIZING A BONDED SYSTEM FOR IMPORTS FOR DOMESTIC SALE; REPEALING THE TWO PERCENT SALES TAX; AMENDING SECTIONS 11.1001 AND 11.1002 ASCA; AND REPEALING CHAPTER 3 UNDER TITLE 11 ASCA.

PREAMBLE:

This act is effective immediately upon passage by the Legislature and approval by the Governor due to the emergency need to replace the Sales Tax with a tax that can be administered in a fairer, and more uniform and efficient manner.

BE IT ENACTED BY THE LEGISLATURE OF AMERICAN SAMOA:

Section 1. 11.1001 is amended to read:

"11.1001 Imposition--Basis for computation--Conditional release.

(a) An excise tax shall be levied and paid at the point of entry, on the items listed in 11.1002, except those items imported by the government or United States Government.

(b) The basis for computing the tax is the purchase price of the items, except for certain petroleum products, and shall include costs, charges, and expenses incident to placing the items in condition, packed and ready for shipment to American Samoa. The basis for computing the tax on certain petroleum products shall be gallons. Freight charges, insurance, and other shipping expenses shall not be included in the basis for computing the tax.

(c) All items released by customs officers as duty free at the time of entry shall be entered as conditionally duty free and subject to the duty if within 90 days of entry it is discovered that the items should have been taxed."

Sec 2. 11.1002 is amended to read:

"11.1002 Amount of tax on each item:

(a) The tax on each item is:

(1) one hundred fifty percent of the basis of beer as defined in 27.0501(6), and malt extract; one hundred fifty percent of the basis of an alcoholic beverage as defined in 27.0501(1), except that any person 21 years of age or over may bring into American Samoa tax free an amount of alcoholic beverage 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 an alcoholic beverage brought into American Samoa for export sale at the duty-free shop at Page Page international airport is also tax-free;~~ one hundred fifty percent of the basis of tobacco products and smoking accessories, except that any person 21 years of age or over may bring into American Samoa tax free tobacco products not to exceed 200 cigarettes, 100 cigars and 2 kilograms of smoking tobacco per trip if such tobacco products are for his personal use and consumption and not for resale; the resulting funds 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 ~~and parts:~~

(A) twenty-five percent of the basis of motor bicycles, automobiles weighing less than 4,600 pounds, trucks and other commercial vehicles, including taxis, ~~and parts and accessories for all motor vehicles, and the definition of "commercial vehicle" as set out in 19.0101 applies to this subdivision;~~

(B) fifty percent of the basis of automobiles weighing 4,600 pounds or more;

(C) notwithstanding the provisions of subparagraphs (A) and (B), the tax levied on motor bicycles and automobiles imported into American Samoa for personal or family use shall be 10 percent of the basis thereof; if such vehicles are converted to commercial use after being imported for personal or family use, they shall then be subject to the taxes in such subparagraphs (A) and (B);

(4) petroleum products:

(A) eleven and one-half 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 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;

(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 and one-half cents a gallon on "Bunker C" and other fuel oils and petroleum products except gasoline, kerosene, diesel, aircraft fuel, and lubricating oils, used, distributed or sold in American Samoa;

(5) twenty 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) one cent per 8 fluid ounces or fraction thereof on all soft drinks or nonalcoholic carbonated beverage, to be applied to the measure of the container in which it is offered for sale by the importer. This tax shall apply to all carbonated beverages or still drinks, fruit or vegetable juices which have been diluted, whether sweetened, unsweetened, unseasoned or seasoned with salt or spice, mineral waters when ready for use as a beverage, whether still or carbonated, and all other nonintoxicating drinks. It does not apply to undiluted or concentrated fruit or vegetable juice, or such juice when reconstituted to its original volume, or flavored or unflavored natural whole milk, skim milk, cream, buttermilk or other dairy products or to tea or coffee, all of which shall be taxed at the rate stated in subsection (a)(7) below;

(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 resale purposes; except that the taxes imposed by this subsection (a)(7) shall not be applicable to items brought into American Samoa for manufacturing into products more than ninety percent of which are exported for consumption outside American Samoa.

(b) The minimum tax shall be 25 cents.

(c) Items otherwise taxable under subsections (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) The five percent excise tax shall be earmarked as follows with sunset provisions stipulated in each subsection.

(1) One percent (1%) of the five percent shall be earmarked for the payment of the local match for the individual family grant program to the Federal Emergency Management Agency for Hurricane Ofa damages to residential properties. At the end of fiscal year 1992, at which time the local match will have been paid, the excise tax rate shall be reduced to four percent (4%) from five percent (5%).

(2) One percent (1%) of the five percent shall be earmarked for the repairs, renovations and upgrading all public school facilities and equipment in American Samoa beginning the fiscal year 1991 and ending in fiscal year 1992. At the end of this program, the excise tax rate shall be reduced to three percent (3%) from four percent (4%).

(3) Three percent (3%) of the five percent shall be earmarked to fund emergency needs and other general fund requirements."

Sec 3. Repealer.

"Chapter 3 under Title 11 ASCA is repealed."

Sec 4. Effective date.

This act is effective immediately upon passage by the Legislature and approval by the Governor due to the emergency need to replace the Sales Tax with a tax that can be administered in a fairer, and more uniform and efficient manner.

  
LETULI TOLOA

President of the Senate

  
TUANA ITAU F. TUIA

Speaker of the House

2:55 AM.  
Hereby Approved this 18<sup>th</sup> day of October, 1990

  
Governor of American Samoa