



DEPARTURE TAX AMENDMENT ACT 2017

No. 339

Contents

1	Title	1
2	Commencement	1
3	Principal Act amended	1
4	Section 2 amended (Interpretation)	1
5	Section 3 amended (Departure tax)	1
6	New sections 4 to 5A substituted	2

An Act to amend the Departure Tax Act 1996 to require carriers who provide international travel to collect the departure tax.

The Assembly enacts as follows—

- 1 Title**
This Act is the Departure Tax Amendment Act 2017.
- 2 Commencement**
This Act comes into force on the day after the date on which this Act becomes law in accordance with Article 34 of the Constitution.
- 3 Principal Act amended**
This Act amends the Departure Tax Act 1996.
- 4 Section 2 amended (Interpretation)**
Section 2 is amended by inserting the following definition in its appropriate alphabetical order—
“carrier means a person who provides international travel, and includes an agent of the carrier”.
- 5 Section 3 amended (Departure tax)**
Section 3(1) is amended by inserting “at the prescribed rate” after “departure tax”.

6 New sections 4 to 5A substituted

(1) Sections 4 and 5 are repealed and the following sections are substituted –

"4 Collection of departure tax

- "(1) A carrier must collect the proper amount of departure tax from a person liable to pay the tax before the person departs Niue.
- "(2) A person liable to pay departure tax must not depart Niue without first paying the tax.
- "(3) A carrier must account to the Customs Department of Treasury for the departure tax collected and pay the amount collected to that Department.
- "(4) A carrier must keep proper records showing –
 - "(a) the amount and date the departure tax was collected; and
 - "(b) the person from whom the departure tax was collected; and
 - "(c) the international travel for which the departure tax was collected; and
 - "(d) any refund of departure tax.
- "(5) A carrier must keep the records required by subsection (4) for at least 7 years from the date of collection.
- "(6) A carrier must, not later than the 20th day of each month, pay to the Customs Department of Treasury without any deduction the departure tax collected for international travel completed in the immediately preceding month.

"5 Departure tax to remain property of Crown

- "(1) The departure tax that is required to be collected under section 4 constitutes a debt due to the Crown payable by the carrier.
- "(2) Departure tax payable in accordance with section 4 and any penalties imposed under section 5A are recoverable at the suit of the Crown in a court of competent jurisdiction.
- "(3) Until the departure tax collected is paid to the Customs Department of Treasury, the tax –
 - "(a) is deemed to be held in trust for the Crown; and
 - "(b) is a charge on the property of the carrier; and
 - "(c) is not property of the carrier that is liable to execution; and
 - "(d) in the event of the carrier's bankruptcy, liquidation, or an assignment for the benefit of the carrier's creditors –
 - "(i) does not form part of the carrier's estate in bankruptcy, liquidation, or assignment; and
 - "(ii) ranks in priority after preferential claims for wages and in priority to all other claims.

"5A Failure of carrier to pay

If a carrier fails to pay departure tax on the due date in accordance with section 4(6), there must be added to the amount

DEPARTURE TAX AMENDMENT ACT 2017

due and owing a penalty of 2% for each month or part of a month that the amount remains outstanding."

I, **Togiavalu Pihigia**, Speaker of the Niue Assembly, certify that the requirements of Article 34 of the Niue Constitution have been complied with.

SIGNED AND SEALED at the Assembly Chambers this *28th* day of *March* 2017.



Speaker of the Niue Assembly

COUNTERSIGNED in the presence of the Speaker



Clerk of the Niue Assembly

This Act is administered by the Customs Department.
This Act was passed by the Niue Assembly on the 22nd day of February 2017





FAKATUFONO-TOHI KE FAKAHUI TUKUHAU FANO FENOGA 2017

Numela 339

Tau Matakupu

1	Matahigoa	1
2	Kamataaga	1
3	Fakahui e Matapatu Fakatufono-tohi	1
4	Fakahui e Matakupu 2 (Fakamaamaaga)	2
5	Fakahui he Matakupu 3 (Tukuhau Fano Fenoga)	2
6	Tau Matakupu foou, numela 4 ke hoko atu kehe numela 5A kua lalafi ki luga	2

Ko e Fakatufono-tohi ke fakahui aki e Fakatufono-tohi he tau 1996 ne higoa ko e Tukuhau Fano fenoga ke he tau Kautū i fafo i Niue 1996 ke lata mo e fakagofua e tau kautaha vakalele lau pasese mo e tau kautaha vakatoga lau pasese ke oko e tau tukuhau fano fenoga ke he tau kautū i fafo i Niue.

Kua taute fakamatafakatufono he Fono Ekepule e Fakatufono-tohi tuga i lalo:

- 1 Matahigoa**
Ko e higoa he Fakatufono-tohi nai Ko e Fakatufono-tohi ke Fakahui Tukuhau Fano Fenoga 2017.
- 2 Kamataaga**
To kamata e Fakatufono-tohi nai ke fakagahua he aho fakamua he mole atu e aho ne maopoopo e tau tauteaga tuga he fakakite mai he Matakupu 34 he Fakatufono-tohi Fakavē.
- 3 Fakahui e Matapatu Fakatufono-tohi**
Kua fakahui he Fakatufono-tohi nai e Fakatufono-tohi Tukuhau Fano Fenoga 1996.

4 Fakahui e Matakupu 2 (Fakamaamaaga)

Kua fakahui e Matakupu 2 ke lalafi atu e fakamaamaaga he kupu, ka tuku fakapapahi ke he mataulu he tau vahega kupu ne ha ha i ai -

“kautaha vakalele lau pasese poke kautaha vakatoga lau pasese” - ne maeke ke fai puhala ke lau pasese poke uta e tau tagata o fenoga mai he taha motu, ke he taha motu, mo e aofia ai e eiseni he kautaha vakalele ia poke eiseni he kautaha vakatoga ia.

5 Fakahui he Matakupu 3 (Tukuhau Fano Fenoga)

Ko e Matakupu 3, puipui (1) kua huhui ke lalafi ki ai e alaga kupu, “ ke he tau tupe ne kua fafati,” he matahiku he alaga kupu "Tukuhau Fano Fenoga"

6 Tau Matakupu foou, numela 4 ke hoko atu kehe numela 5A kua lalafi ki luga

(1) Ko e matakupu 4 mo e matakupu 5 kua uta kehe ka e hukui aki e talahauaga foou nai:

“4 Potaaga he tau tupe Tukuhau Fano Fenoga

“(1) To oko he kautaha vakalele poke kautaha vakatoga e tupe kua tofi ke lata mo e tukuhau fano fenoga, mai he tagata kua tū tonu ke totogi e Tukuhau Fano Fenoga, to fano kehe mai a ia i Niue.

“(2) Ko e ha tagata ne kua tū tonu ke totogi e Tukuhau Fano Fenoga, to totogi e ia e tukuhau to toka e ia a Niue.

“(3) To tukuage he kautaha vakalele po ke kautaha vakatoga e tau tupe tukuhau ne kua oko ke he kau Gahua Kasitamu he Faahi Gahua Tanaki Tupe, katoa mo e hokotaki ke he tau tupe tukuhau ne oko.

“(4) To toka mau e tau fakamauaga he tau puhala oko tukuhau he Kautaha Vakalele po ke Kautaha Vakatoga ke kitia e tau mena na i lalo:

“(a) Ko e numela tupe mo e aho ne oko ai e tukuhau Fano Fenoga ; mo e

“(e) Higoa he tagata ne oko mai ai e tukuhau Fano Fenoga ; mo e

“(i) Ko e fenoga ke he taha motu i fafo i Niue ati oko ai e tukuhau Fano Fenoga; mo e

“(o) Fakakite ko e fai tupe tukuhau Fano Fenoga nakai ne liuaki ke he ha tagata.

(5) To tokamau he kautaha Vakalele poke kautaha Vakatoaga e tau fakamauaga gahua mai he matakupu (4) i luga ke he 7 e tau tau poke molea atu e leva tali mai he kamata ke oko e tau tukuhau nā.

(6) To totogi he kautaha Vakalele po ke kautaha Vakatoaga ke he kau Gahua Kasitamu he Faahi Gahua Tanaki Tupe, e tau tupe ne oko he mahina kua mole atu, to hoko e aho ke 20-aki he mahina foou, mo e

nakai fai tupe ka utakehe mai he ha tupe ne oko he tukuhau fano fenoga.

"5 Ko e tonuhia he Tukuhau Fano Fenoga, ko e taha koloa he Kautū ko Niue

"(1) Ko e tukuhau fano fenoga ka oko muiua ke he matakupu 4 i luga ko e tupe fakakaitalofa ke he Kautū he kautaha vakalele po ke kautaha vakatoga

"(2) Ko e tau tupe tukuhau ne moua muiua ke he matakupu 4 mo e kaeke ke fai agahala ka lagā mai he matakupu 5A to ta e hokotaki ke he taha Fakafiliaga kua lata ke moua he Kautū e tupe tukuhau ia.

"(3) Ato totogi e tau tupe Tukuhau Fano Fenoga ke he gahua Kasitamu he Faahi Gahua Tanaki Tupe, ko e potaaga tupe tukuhau ia kua;

"(a) Maama mena kua tuku i loto he taha fakaputuaga tupe ma e Kautū; mo e

"(e) Maama ki ai ko e tupe katoa ia ka fakatau tui aki e taha koloa he kautaha vakalele poke kautaha vakatoga; mo e

"(i) Maama ki ai mena nakai ko e koloa he kautaha vakalele poke kautaha vakatoga ke fakaaoga; mo e

"(o) Kaeke ke tomo e kautaha vakalele poke kautaha vakatoga ti nakai maeke ke tumau ke fakagahua e pisinisi mo e loga atu foki e tau kaitalofa ke totogi-

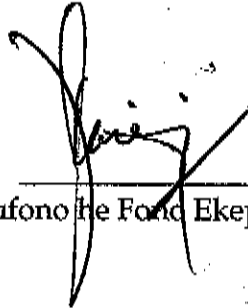
"(i) to nakai eke mo taha he tau koloa he kautaha vakalele poke kautaha vakatoga he magaaho ka tomo ai, poke fakaaoga he tau koloa mo totogi aki e tau kaitalofa, poke tufatufa atu foki; mo e

"(ii) to tumua ke totogi he magaaho ka tufatufa e tau tupe kia lautolu ne fai tupe ne nakaila totogi he kautaha vakalele poke kautaha vakatoga ia.

"5A Fakatokaaga ka Nakai Totogi he kautaha Vakalele poke kautaha Vakatoaga e tau tupe Tukuhau Fano Fenoga ke he Kautū
Kaeke ke nakai totogi he kautaha Vakalele poke kautaha Vakatoaga e tau tupe tukuhau Fano Fenoga, he aho ne fakatoka ki ai tuga ne fakakite he matakupu 4(6) foou, to lalafi ki luga 2% he mahina taha poke taha vala he mahina taha kaeke kua nakaila moua e tau tupe tukuhau ia"

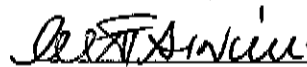
Ko au, TOGIAVALU PIHIGIA, ko e Fakatonufono he Fono Ekepule a Niue, hanai kua fakamooli ko e tau fakavēaga he Matakupu 34 he Tohi Fakavē a Niue kua muitua ki ai.

FAKAMOOI MO E FAKAMAU he poko he Fono Ekepule a Niue he aho he 28 mahina *Mati* 2017.



Fakatonufono he Fono Ekepule a Niue

FAKAMOOI FOKI ki mua he Fakatonufono



Tohi Kupu he Fono Ekepule a Niue



Ko e Faahi Gahua Tanaki Tupe ke fakagahua e Fakatufono Tohi nai.
Kua fakamooli he Fono Ekepule a Niue e Fakatufono Tohi nai he aho 22 he mahina fepeuali 2017