Malawi

# Accommodation and Refreshment Tax Act

## Chapter 41:02

Legislation as at 31 December 2014

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Accommodation and Refreshment Tax Act

Contents

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## Chapter 41:02

**Assented to on 8 May 1981**

**Commenced on 1 May 1982**

*[This is the version of this document at 31 December 2014.]*

*[Note: This version of the Act was revised and consolidated in the Forth Revised Edition of the Laws of Malawi (L.R.O. 1/2015), by the Solicitor General and Secretary for Justice under the authority of the Revision of the Laws Act.]*

**An Act to provide for the imposition, payment and collection of a tax on the cost of hiring accommodation and obtaining freshment from certain premises, and for matters incidental to and connected with the foregoing**

## 1. Short title and application

(1) This Act may be cited as the Accommodation and Refreshment Tax Act.

(2) The provisions of this Act apply with respect to the hiring of accommodation and the obtaining of refreshment after the date of commencement from any of the premises listed in the Schedule.

(3) The Minister has power, by Order, to amend the Schedule.

## 2. Interpretation

In this Act—

"**accommodation,** " includes any bedroom, and any room, building or place used for the purpose of any business or social gathering, or for entertainment of any kind whatsoever, but does not include any room, building or place set aside and equipped, whether permanently or temporarily, and used solely for the purpose of any sporting or other similar recreational activity;

"**bill**" means any account, bill, cash sale slip, invoice, or other similar document requiring payment for the hiring of accommodation or obtaining of refreshment;

"**Commissioner**" means the Commissioner of Taxes and includes any officer authorized by him in writing to exercise his functions under this Act;

"**manager**" means any person who exercises overall control over the day-to-day operation of premises, whether or not he is the owner;

"**Minister**" means the Minister for the time being responsible formatters relating to finance;

"**owner**" includes any company or association or body of persons, whether corporate or unincorporate, and an individual;

"**premises**" means any of the premises listed in the Schedule;

"**refreshment**" means food or drink obtained from premises in exchange for money or other valuable consideration, whether consumed on the premises or not, but does not include food obtained in consideration of any sum lawfully deducted in pursuance of a Wages Order or Wages Regulation Order made under the Regulation of Minimum Wages and Conditions of Employment Act, nor to food obtained from premises for his own consumption on those premises by any person who is employed therein;

*[Cap. 55: 01]*

"**tax**" means accommodation and refreshment tax payable under this Act.

## 3. Imposition and calculation of tax, payment, etc.

(1) Tax, to be known as accommodation and refreshment tax, is payable by or on behalf of every person by whom accommodation is hired or refreshment is obtained from any of the premises listed in the Schedule.

(2) The amount of tax payable under subsection (1) is ten *per centum* of the total amount charged in respect of the hire of accommodation and the supply of refreshment to such person, calculated to the nearest tambala.

(3) In calculating—

(a) the amount of tax payable, any sum included or to be included in the bill by way of service charge shall be disregarded;

(b) the amount of service charge, the amount of tax payable shall be disregarded.

(4) The current amount of tax payable—

(a) shall be clearly shown as a separate item on the bill, and charged, at the time of presentment of the bill to the person by whom the bill is payable; and

(b) shall be paid by that person not later than the time of settlement of the bill.

(5) Any person who—

(a) knowingly contravenes the provisions of subsection (3); or

(b) without lawful excuse fails so to show, charge or pay tax in accordance with the provisions of subsection (4),

is guilty of an offence cognizable to the police and liable to a fine of K1,000 or to imprisonment for a term of three months.

## 4. Responsibility of the manager

Where tax is payable by virtue of section 3(1), it is the responsibility of the manager to take reasonably practicable steps to ensure—

(a) that the amount of tax is correctly calculated in accordance with subsections (2) and (3) of section 3;

(b) that the amount of tax so calculated is shown in the manner, and at the time, provided in paragraph (a) of section 3(4);

(c) that the amount of tax is charged.

## 5. Collection of tax

(1) A sum in payment of tax, equal to the total amount of tax charged in each month, shall be sent by the manager by cheque to the Commissioner within 30 days after the last day of that month.

(2) A manager who, without reasonable cause, fails to send a sum equal to the total amount of tax in accordance with the provisions of subsection (1) is guilty of an offence and liable to a fine of five thousand Kwacha or to imprisonment for a term of six months.

(3) A manager who, whether knowingly or by neglect—

 