

THE TWENTY-SIXTH LEGISLATURE OF AMERICAN SAMOA

Second Regular Session

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

**AN ACT CHANGING THE METHOD OF TAXING TOBACCO PRODUCTS
AND SMOKING ACCESSORIES; AMENDING SECTION 11.1002 ASCA.**

Preamble:

The Legislature finds that the current method of taxing cigarettes, cigars, and other smoking products favors certain manufacturers over others. Assessing excise tax on imported cigarettes, cigars, and other smoking products based on the unit or unit weight is an impartial method of taxing tobacco products and smoking accessories. Due to the urgent need to correct the inequality currently existing with the method of taxing tobacco products and smoking accessories, this act shall become effective immediately upon passage by the Legislature and approval by the Governor.

BE IT ENACTED BY THE LEGISLATURE OF AMERICAN SAMOA:

Section 1. 11.1002 is amended to read:

"11.1002 Amount of tax on each item:

(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 of beer as defined in 27.0501(6), and malt extract; one hundred ninety 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 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 fifty percent (150%) of the basis of beer, malt extract and alcoholic beverages shall be deposited in the general fund and shall be available for appropriation by the Legislature; and forty percent (40%) of the basis of beer, malt extract and alcoholic beverages shall be deposited in the general fund in an account earmarked for and dedicated to the repayment of the government loan approved in 7.1444.3. Upon full repayment of said loan, the assessment and collection of this forty percent (40%) tax shall be repealed;

(B) ~~two hundred fifty percent of the basis of tobacco products and smoking accessories twelve point five 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; ~~one hundred fifty percent (150%) of the basis of tobacco products and smoking accessories~~ Of the revenues collected from the tax on tobacco products and smoking accessories, sixty percent (60%) shall be deposited in the general fund and shall be available for appropriation by the Legislature; and fifty percent (50%) of the basis of tobacco products and smoking accessories ~~twenty percent (20%) shall be deposited into the deficiency-reduction fund and is appropriated for payment of the government's prior year's obligations as provided for in 10.0801 et. seq., and shall be available until September 30, 2004; fifty percent (50%) of the basis of tobacco products and smoking accessories and twenty percent (20%) shall be deposited in an account earmarked for and dedicated to the repayment of the government loan approved in 7.1444.3. Upon full repayment of said loan, the assessment and collection of this fifty percent (50%)~~ twenty percent (20%) tax shall be repealed reverted into the general fund subject upon 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 paragraphs (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, is converted to commercial use after being imported for personal or family use, it shall then be subjected 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) twenty-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 the driver's training control school and 10 cents of it to be placed in an earmarked revenue fund for road maintenance; and 13.5 cents shall be appropriated for the payment of the government's prior years' obligations as provided for in 10.0801 et seq., and shall be available until September 30, 2004;

(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 cents a pound of liquefied petroleum gas such as butane and propane or mixtures, thereof, and ethane, which shall be deposited into the deficiency reduction fund and is appropriated for the payment of the government's prior years' obligations as provided for in 10.0801 et seq., and shall be available until September 30, 2004;

(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) four cents per 12 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; three cents of the four cents shall be deposited in the deficiency reduction fund and is appropriated for the payment of the government's prior years' obligations provided for in 10.0801 et seq., and shall be available until September 30, 2004;

(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 \$150,000 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 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, 4.12001 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:


(1) three percent (3%) of the five percent shall be deposited in the general fund; one percent (1%) shall be used to pay prior years obligations; the oldest obligation to be paid first.


(2) one percent (1%) of the five percent shall be earmarked for the repairs, renovations and upgrading of all public school facilities and equipment in American Samoa beginning in the fiscal year 1995.”

Sec 2. Effective date.

Due to the critical need to correct the enequality that exists with the method of taxing tobacco products and smoking accessories and to provide immediate relief to the shortfall experienced by the government of its revenues due to a drastic decrease on excise taxes collected on imported tobacco products and smoking accessories, this act shall become effective upon passage by the Legislature and approval by the Governor.


Lutu Tenari S. Fuimaono
PRESIDENT OF THE SENATE


Aina Saoluaga T. Nua
SPEAKER OF THE HOUSE

Hereby Approved this 1st day of OCTOBER, 1999

Governor of American Samoa

NOFOA'IGA LUASEFULU-ONO FONO FAITULAFONO O AMERIKA SAMOA

Fono Tele Lona Lua

**Nofoa ma usua i Fagatogo, Tutuila, Amerika Samoa
Aso Gafua, aso sefulu-lua o Iulai
tasi le afe iva selau iva sefulu iva**

**O SE TULAFONO E SUIA AI LE AUALA E FA'ALAFOGAINA AI OLOA
TAPA'A MA OLOA ŪLAULA; SUIA AI LE MAGA 11.1002 TTAS.**

Fa'atomuaga:

Ua silafia e le Fono Faitulafono, o le auala o lo'o fa'alafogaina ai nei sikareti, sikā, ma isi oloa ūlaula e fa'aitū'au i nisi fai'oloa ae fa'atuatua'ia i isi. O le fa'alafogaina o lafoga oloa mo sikareti auina mai, sikā, ma isi oloa ūlaula e fa'avae i fua tausisia po'o fua o le mamafa ma o se metotia fa'aitū'au i le fa'alafogaina o oloa tapa'a ma oloa ūlaula. Taluai ona o se mana'oga fa'anatinati e fa'asa'o ai le metotia e fa'alafogaina tutusa ai oloa tapa'a ma oloa ūlaula, o le mea lenā o le a taualoa vave ai lenei tulafono taufa'aofi pe a pasia e le Fono Faitulafono ma fa'amaonia e le Kovana.

IA FA'ATULAFONOINA E LE FONO FAITULAFONO O AMERIKA SAMOA:

Maga 1. 11.1002 ua suia e faitauina:

"11.1002 Aofa'i o lafoga i mea-ta'itasi.

(a) O le lafoga i mea-ta'itasi e:

(1) pia, molo fa'amamā, meainu alakaholo, oloa tapa'a ma oloa ūlaula;

(A) selau iva-sefulu pasene o le fa'avae o le pia e pei ona fa'amatalaina i le 27.0501(6), ma le molo fa'amamā; selau iva-sefulu o le fa'avae o meainu alakaholo e pei ona fa'amatalaina i le 27.0501(1), vagana fa'apea o so'o se tagata ua 21 tausaga o le soifuaga pe sili atu i malaga ta'itasi e mafai ona aumai i Amerika Samoa e aunoa

ma se lafoga se aofa'i o meainu alakaholo e lē silia atu i le litala e l pe afai o ia meainu alakaholo e fa'aaoga mo ia lava ma e lē toe fa'atauina atu; ma e vagana fo'i e fa'apea o so'o se meainu alakaholo ma oloa tapa'a e aumai i Amerika Samoa mo le auina atu i fafo i le faleoloa ua fa'agafuaina i tiute (lafoga) i le malaeva'alele fa'ava-o-malo o Pago Pago ua fa'agafuaina fo'i mai le fa'alafogaina; selau lima-sefulu pasene (150%) o le fa'avae o pia, molo fa'amamā meainu alakaholo o le a teuina i le teugatupe lautele ma ia fa'aavanoaina mo le fa'asoasoaina e le Fono Faitulafono; ma le fasefulu pasene (40%) o le fa'avae o pia, molo fa'amamā meainu alakaholo o le a teuina i le teugatupe lautele i se tusi tupe e fa'aleoleoina mo, ma fa'agaaga mo le toe totogiina o le nogātupe a le malo sa fa'amaonia i le 7.1444.3. Afai e mae'a ona totogi uma lea nogātupe, o le fa'ae'eina atu ma le aoina o lenei fa-sefulu pasene (40%) o le a soloia loa.

(E) Lua selau lima-sefulu pasene o le fa'avae o oloa tapa'a ma oloa ulaula, sefululua ma le afa sene i le sikareti, i le sikā, po'o i le 10 karama o tapa'a ulaula, vagana fa'apea o so'o se tagata ua 21 tausaga o le soifuaga pe sili atu e mafai ona aumai i totonu o Amerika Samoa e fa'agafuaina i le lafoga oloa o tapa'a e lē silia a le o le 200 sikaleti po'o le 100 sikā ma po'o le 2 kilokalama o tapa'a ulaula i le malaga e tasi pe afai o ia tapa'a e fa'aaoga mo ia lava ma e lē toe fa'atauina atu; tasi-selau lima-sefulu pasene (150%) o le fa'avae o oloa tapa'a ma oloa ulaula. O tupe e maua mai ai i lafoga o oloa tapa'a ma oloa ulaula, o le ono-sefulu pasene (60%) o le a teuina i le teugatupe lautele ma ia avanoa mo le fa'asoasoaga a le Fono Faitulafono; ma o le lima-sefulu pasene (50%) o le fa'avae o oloa tapa'a lua-sefulu pasene (20%) o le a teuina i le teugatupe e fa'aitiitia ai aitalafu ma ia fa'asoasoaina mo le totogia o aitalafu o tausaga ua tuana'i a le malo e pei ona fa'atulagaina mai i le 10.0801 ma isi., ma o le a fa'aavanoaina e o'o ia Setema 30, 2004; lima-sefulu pasene (50%) o le fa'avae o oloa tapa'a ma oloa ulaula ma le lua-sefulu pasene (20%) o le a teuina i se teugatupe fa'aleoleo mo le, ma o le fa'agaaga mo le toe totogiina o le nogātupe a le malo ua fa'amaoniaina i le 7.1444.3 Afai o le a mae'a ona toe totogi atoa lea nogātupe, o le fa'ae'eina atu ma le aoina o lenei lafoga lima-sefulu pasene (50%) lua-sefulu pasene (20%) o le a soloia loa teuina i le teugatupe lautele ma ia avanoa mo le fa'asoasoaga a le Fono Faitulafono.

(2) selau lima-sefulu pasene o le fa'avae o fana ma ututau o fana;

(3) ta'avale afi:

(A) luasefulu-lima pasene o le fa'avae o uila afi, ta'avale afi, loli, ma veni, e fa'aaogaina mo fa'amoemoega tau fefa'ataua'iga;

(E) e lē afaina ai aiaiga o parakalafa (A), o le lafoga ua fa'ae'eina atu i uila afi, ta'avale afi, loli, ma veni, ua aumaia i totonu o Amerika Samoa mo le fa'aaogaina e se tagata po'o aiga, o le a a'afia loa i le paleni o le lafoga aiaia ua fa'ae'eina atu i lalo o le parakalafa (A);

(I) e leai se fa'agafuaina o lafoga, e aofia ai le lafoga na aiaia i le Ulutala 11, Mata'upu 16, o le a tu'uina atu mo so'o se ta'avale afi. O isi ta'avale afi uma e lē fa'alafogaina i lalo o lenei soamaga o le a a'afia i le lafoga i lalo o le 11.1002 (a)(7).

(4) oloa suā'u:

(A) luasefulu-lima sene i le kalone o suāu'u gaosi mo le fa'aaogaina i ta'avale afi, e 'ese mai ai suāu'u tiso, o le 1.5 sene o le a fa'aaogaina mo tupe maua mo le a'oga tau a'oa'oga aveta'avale pulea ma le 10 sene e teuina i se teugatupe o tupe maua fa'aagaaga mo le fa'aleleia o auala; ma le 13.5 sene o le a fa'asoasoina mo le: totogia o le aitalafu a le malo i tausaga ua mavae e pei ona aiaia i le 10.0801 ma isi., ma o le a avanoa e o'o atu ia Setema 30, 2004;

(E) tolu ma afa sene i le kalone o suāu'u gaosi mo le fa'aaogaina i masini tiso, e 'ese mai i suāu'u va'alele;

(I) tasi ma le afa sene i le kalone o karesini ma oloa suāu'u fa'apena;

(O) sefulu-lima pasene o le fa'avae o suāu'u e fa'asuau'u ai mea;

(U) tasi sene i le kalone o suau'u mo va'alele saosasoa ma isi va'alele, e teuina i le teugatupe fa'aleoleo mo le fa'agaioiga o le malaeva'alele fa'ava-o-malo o PagoPago;

(F) tolu sene i le pauna o kesi suāu'u ua fa'aliusuavaia e pei o piutane ma poropene po'o lonā tu'ufa'atasiga, ma le etane, o le a teuina i totonu o le teugatupe mo le fa'aitiitia o aitalafu ma e fa'asoasoina atu mo le totogia o aitalafu a le malo i tausaga ua mavae e pei ona aiaia i le 10.0801 ma isi., ma o le a fa'aavanoaina e o'o ia Setema 30, 2004;

(5) fasefulu pasene o le fa'avae o mea faufale uma, e pei ona fa'amalamalamaina i le 26.1501 ma isi. e maualalo le anagatā nai lo tulaga tausisia ua aiaia i lalo o lea mata'upu;

(6) fa sene i le 12 aunese suavaia po'o lona vaegamea i meaina suavaia uma po'o mainu e leai se aseta alakaholo, e fa'aaogaina i le fua o le fagu/apa e tu'uina atu ai mo le fa'atauina e faioloa e aumaia; tolu sene o le fa sene o le a teuina i le teugatupe o le fa'aitiitia o aitalafu ma e fa'asoasoina atu mo le totogia o aitalafu a le malo i tausaga ua tuana'i e pei ona aiaia i le 10.0802 ma isi., ma o le a fa'aavanoaina e o'o ia Setema 30, 2004;

(7) lima pasene o le fa'avae o mea uma ta'itasi e le o lisiina i soamaga (a)(1) e o'o i le (a)(6) o lenei maga pe ua fa'agafuaina e lenei maga o ia oloa ua auina mai mo le fa'aaogaina tau fefa'ataua'iga po'o fa'amoemoega e toefa'atauina atu. O tupemaua e maua mai le tolu pasene o le lafoga oloa o le a teuina i le teugatupe lautele ma o le a avanoa mo le fa'asoasoina a le Fono Faitulafono, vagana ai le \$150,000 ua fa'asoasoina atu mo le fesoasoani tupe mo tamaiti a'oga e pei ona fa'atulafonoina i le 11.0605.

(e) O le lafoga fa'avae o le a 25 sene.

(i) O mea ta'itasi e 'ese mai ai ua fa'alafogaina i lalo o soamaga (a)(1) ma le (a)(7) o lenei maga ua fa'agafuaina mai lafoga ua fa'ae'eina atu e lenei maga pe afai o ia oloa ua aumaia i totonu o Amerika Samoa mo le fa'atauina atu i fafo mo mana'oga i fafo o Amerika Samoa; pe afai o le aumaia ma le fa'atauina atu i fafo o ia meataitasi ua faia e tusa ma tulafono aiaia e le teutupe i lalo o le Tulafono o Taulumaga tau Pulega, 4.12001 ma isi, e mana'omia ai, e fa'aopoopo i isi mea, teu

'eseina o ia meata'itasi ma fa'ailogaina manino mo fa'atauga i fafo ma se auala e tiliva atu ai i tagata fa'atau e mautinoa ai le auina atu i fafo o ia oloa.

(o) O le totogia o lafoga ua fa'ae'eina atu i lenei maga i meata'itasi ua aumaia i totonu o Amerika Samoa mo le fa'aaogaina i totonu o Amerika Samoa e mafai ona tolopo e tusa ma tulafono ua aiaia e le teutupe i lalo o le Tulafono o Taualumaga tau Pulega 4.1001 ma isi, e mana'omia ai, e fa'aopoopo i isi mea, teu'eseina o na meata'itasi ma fa'ailogaina manino mo fa'atauga lotoifale ma mana'oga ma se auala e tiliva atu ai i faioloa na okaina e mautinoa ai le totogiina o lafoga i le taimi e tiliva atu ai.

(u) O le teutupe o le a aiaia tulafono galue i lalo o le Tulafono o Taualumaga tau Pulega, 4.1001 ma isi, e mautinoa ai o lafoga ua fa'ae'eina atu, pe afai o fa'agafuaga ua aiaia i le soamaga (a)(7) o lenei maga e le fa'atautu i ai, ua totogi.


(f) O le lafoga lima pasene o le a fa'aleoleoina e pei ona ta'ua i lalo:

(1) tolu pasene (3%) o le lima pasene o le a teuina i le teugatupe lautele; tasi pasene (1%) o le a fa'aaogaina e totogi ai aitalafu o tausaga ua tuana'i; e totogi muamua le aitalafu e sili atu ona leva.

(2) tasi pasene (1%) o le lima pasene o le a fa'aleoleoina mo le toe ripeaina, toe fa'afouina ma le fa'aleleia o falea'oga a le malo ma mea faigaluega i Amerika Samoa e afua i le tausaga tupe 1995."

Maga 2 Aso taualoha.

Ona o le tāua tele o le mana'oga e fa'asa'o ai le lē tutusa o lo'o i ai nei i le auala ua fa'alafogaina ai oloa tapa'a ma oloa ulaula ma saunia ai se fofō vave o le fa'aletonu ua feagai ma le malo i ana tupe maua e mafua i le matuā fa'aititia o lafoga oloa ua aoina i oloa tapa'a ma oloa ulaula, o le a taualoha vave ai lenei tulafono taufa'aofi pe a pasia e le Fono Faitulafono ma fa'amaonia e le Kovana.


Lutu Te'ehari S. Fuimaono
PERESETENE, MAOTA MAUALUGA


Aina Saoluaga T. Nua
FOFOGA FETALAI, MAOTA O SUI

Hereby Approved this 1st day of October, 1999


Governor of American Samoa