COMMITTEE ON FINANCE

02/16/2017-REPORTED OUT TO THE COMMITTEE ON RULES AND THE JUDICIARY

RECEIVED
FEB 16 2017
Office of Sen. Novelle E. Francis, Jr.
Time

BILL NO. 32-0005

Thirty-Second Legislature of the Virgin Islands

January 24, 2017

An Act amending title 33, sections 42 and 54 of the Virgin Islands Code to enhance revenues for the Territory of the United States Virgin Islands as a part of the implementation of initiatives set forth in the Government's Five-Year Financial Plan towards attaining fiscal stability and economic growth, and for other purposes, including the establishment of a new timeshare fee, all through enactment of "The Virgin Islands Revenue Enhancement and Economic Recovery Act of 2017"

PROPOSED BY: Senators Neville A. James, Kurt A. Vialet, Nereida Rivera O'Reilly and Myron D. Jackson

Be it enacted by the Legislature of the Virgin Islands:

SECTION 1. This Act may be cited as "The Virgin Islands Revenue Enhancement and Economic Recovery Act of 2017".

TITLE 1 AMENDMENTS RELATING TO TAXES ON CERTAIN PRODUCTS

SECTION 2. Title 33 Virgin Islands Code, subtitle 1, chapter 3, section 42, subsection (a) is amended by striking all the language in schedule 1 and inserting new language that reads as follows:

"(1) Beers of foreign manufacturers of 24.12 ounce containers, or the equivalent-——$6.08

(2) Beers manufactured in the United States of 24.12 ounce containers, or the equivalent --------$5.00

(3) Beers of foreign manufacturers, per reusable keg of 1382.4 ounces, or the equivalent $8.25

(4) Beers manufactured in the United States, per reusable keg of 1328.4 ounces, or the equivalent --------$5.70

(5) Carbonated drinks in reusable canisters--------4%

(6) Self-propelled vehicles (excluding motor vehicles requiring licensing for highway use) and apparatuses (excluding airplanes), boats, firearms, ammunition and bicycles--------10%

(7) All boats, including launches, with or without auxiliary engines or outboard engines------------3%

(8) Marine engines (excluding outboard motors)------3%"

SECTION 3. Title 33 Virgin Islands Code, subtitle 1, chapter 3, subsection (a) is amended in Schedule 11 in the following instances:

(a) Paragraph (l) is stricken in its entirety and the remaining paragraphs renumbered; and

(b) Paragraph (2) is amended after "45%" by inserting "plus $8.00 per carton".

SECTION 4. Title 33 Virgin Islands Code, subtitle 1, chapter 3, section 42, subsection (a) is amended as follows:

(a) Schedule VII is amended by striking all the language in that schedule and inserting new language that reads follows:

"(A) Carbonated Drinks----------- (a) 3% plus $0.36 per case of 24.12 ounce containers, or the equivalent;

(B) plus $0.005 cent per fluid ounce added to the value of subparagraph (A)".

(b) Schedule VIII is amended by striking all the language in that schedule and inserting new language that reads:" Spirits, Cruzan Rum and Tafia, Diageo Brands, Irish and Scotch Whiskies, Whiskies other than Scotch Whiskies, including Bourbon and Rye, Liqueurs and Cordials, vodka, tequila, vermouth and other wine and fresh grape beverages flavored with plants or aromatic substances, Acquavit, Bitters, Brandy and Cognac, Gin and Geneve, Kirschwasser and Ratafia, Wines, Rums, Scotch, and similar items commonly known as or referred to as distilled spirits--------- 10%".

SECTION 5. Title 33 Virgin Islands Code, subtitle 1, chapter 3, section 42, subsection (e) is amended by striking paragraph (10) in its entirety.

SECTION 6. Sections 4 (a) of this title takes effect on March 1, 2017.

TITLE II DELETION OF TIMESHARE ROOM TAX: ESTABLISHMENT OF AN ENVIRONMENTA/INFASTRUCTURE IMPACT FEE FOR TIMESHARES.

SECTION 1. Title 33 Virgin Islands Code, chapter 3, section 54, subsection (b) is amended by striking paragraph (2) a new paragraph (2) and paragraph (3) to read as follows:

"(2) The Environmental/ Infrastructure fund is established and applicable to timeshares, for purposes of this section, the term, "Environmental/Infrastructure Impact Fee" means the new occupancy lodging fee that is levied on timeshare owners users by the Virgin Islands Government per night of occupancy described in paragraph (3).

(3) The Environmental/Infrastructure Impact Fee must be assessed, collected, managed, and dispersed in the following manner:

(A) Each timeshare unit is assessed an Environmental/Infrastructure Impact Fee of $25.00 per day of occupancy.

(B) The timeshare plan manager is responsible for collecting the Environmental/Infrastructure Fee, filing the tax returns and paying the fee, plus any applicable interest or penalties, as required by this section to the V.I. Bureau of Internal Revenue. The timeshare association is responsible for any and all assessments or liens.

(C) The Timeshare plan manager shall prepare and maintain the Environmental/Infrastructure Fee worksheet and shall produce it upon request by the V.I. Bureau of Internal Revenue or the Internal Revenue Service.

(D) 25% of the Environmental/Infrastructure Impact Fee revenue collected pursuant to this section must be allocated to the V.I. Tourism Advertising Revolving Fund.

(E) 50% of the environmental /infrastructure impact fee revenue collected must be allocated to the General Fund. The remaining 25% to the hospitals to be distributed equally.

SECTION 2. Pursuant to Title 1 of this act, all new revenue earned pursuant to the increases in excise taxes described in this act, must be deposited into the General Fund and revenue earned under title II of this act must be used to pay the obligations authorized in section I of this title, except as may be provided otherwise by the Director of the Office of Management and Budget acting on sound discretion.

SECTION 3. All provisions in title II of this act take effect on March 1, 2017.

BILL SUMMARY

The bill consists of revenue-enhancing amendments to the Virgin Islands Code to implement a part of the initiatives set forth in Government's Five-Year Financial Plan towards attaining fiscal stability and economic growth. The revenue enhancing measures include two key areas; excise taxes on tobacco products, alcohol beverages and on sugar carbonated beverages, and the establishment of a new timeshare fee. The specific nature of each set of amendments is summarized below.

Title II of this bill enacts new revenue measures with regard to timeshares. Although the Virgin Islands Code establishes a timeshare occupancy tax of 10.5%, going forward, the Bureau of Internal Revenue ("BIR") will assess on and collect from timeshare owners the existing hotel room occupancy tax of 12.5%. Accordingly, Title II of the bill would repeal the timeshare occupancy tax. In addition, the Act establishes a new timeshare fee, the Environmental/Infrastructure Impact Fee, in the amount of $25.00 per day of occupancy of any timeshare in the Virgin Islands. The Act also authorizes revenues generated from the Environmental/Infrastructure Impact Fee to be allocated as follows: (i) 25% to the Virgin Islands Tourism Advertising Revolving Fund. (ii) 50% to the General Fund. (iii) 25% to the Hospitals.

1. Excise Taxes

Title I of the bill provides for the implementation of certain of the planned revenue initiatives outlined in the Government's plan previously submitted to the Legislature. Section 3 significantly amends Title 33, chapter 3, section 42, which establishes the rates and base for certain excise taxes on imported goods. As currently in effect, the statute imposes very low tax rates on most liquor and tobacco products. Imported beers, for example, are taxed at a rate of $2.08 (for foreign beers) or $1.55 (for U.S. beers) per case or each twenty-four (24) bottles Whiskies and other liquors are generally taxed at a rate of just $6.00 per case.

The purposed increases in the excise tax rates on liquor and tobacco will provide the dual benefits of both increasing revenue and supporting public health. Products on which we apply the new the new excise tax rates will include:

Foreign and U.S. beers, from \$2.08 and \$1.55 per case, respectively, to \$6.08 and \$5.00; and

•Cigarettes, from 45% to 45% plus \$8.00 per cartoon; and

•Carbonated beverages, from 3% plus \$0.36 per case plus \$0.005 per fluid ounce (except those in reusable canisters, which will now be taxed at 4%);

•For most spirits and liqueurs from \$6.00 per case (or \$2.50 per wine gallon, if greater) to 10% of value; and

•For wines and brandies, from \$2.04 per case (or \$0.85 per wine gallon, if greater) to 10% of value.

Cumulatively, the proposed excise tax rate increases, are projected to generate approximately \$27 million in new revenues annually. The effective date of such amendments is March 1, 2017

II. Timeshare Fees

The bill repeals the timeshare occupancy room tax. Under the current version of Title 33, chapter 3, section 54(b), hotel guests pay the room tax at a rate of 12.5%. If a time share unit is rented for a period of less than 90 days, the BIR assesses and collects the 12.5% hotel occupancy tax for each day of stay. It must be noted that no revenue has been collected under the provision of the timeshare tax, as there had been no base evaluation on which to effect the tax. Hence, by deleting the timeshare occupancy tax at the rate of 10.5% from the statutes, the loss of revenue to the Territory is zero.

Section 2 of title II of the bill creates a new timeshare fee, the Environmental/Infrastructure Impact Fee, which shall apply to all timeshare units in the

Virgin Islands. There are thousands of timeshare units in the Territory, owned and utilized by over 100,000 persons per year at a reported rate of 70% occupancy of timeshare units currently existing in the Territory. Under current law, there is no financial mechanism, save a real property assessment, for recouping the costs to the Territory of the infrastructure necessary to support the presence of so many welcomed visitors and timeshare owners.

The bill provides the required source for payment of such costs by imposing an "Environmental/Infrastructure Impact Fee" of $25 on each timeshare unit for each day of occupancy. Assuming an average of 300 days of occupancy per year, the fee is projected to generate approximately $10,000 of new revenues annually for every timeshare apartment unit, not per owner. At approximately 2176 occupied units, the estimated revenues from this fee is estimated revenue from this fee is estimated at $21 million annually. The revenue from the Environmental/Infrastructure Impact Fee shall be allocated, Twenty-five percent (25%) to the Virgin Islands Tourism Advertising Revolving Fund for the express purpose of partnering with the timeshare industry to promote timeshare or vacation club sales in the U.S. Virgin Islands. 50% shall be deposited into the General Fund and the remaining 25% to the hospitals. The effective date of the timeshare amendments is March 1, 2017.

III. Appropriations

The Governor estimates Virgin Islands Revenue Enhancement and Economic Recovery Act is estimated to generate, if promptly enacted by the Legislature, approximately $250 million over the next five fiscal years as part of the Plan.

BR17-0125/January 20, 2017/