

Ministry of Finance
GENERAL COMMISSION for TAXES

GUIDE

to

SALES TAX
on Hotels and Restaurants

Baghdad

January 2005

General Commission for Taxes

Sales Tax Guide

This Guide has been prepared by the General Commission for Taxes (GCT) to assist taxpayers to fulfill their obligations under the Sales Tax. It clarifies the legal provisions stipulated in the Resolution No.36 and respective implementing Administrative Instruction No.7. This document is not a legal document. For further clarification please contact any branch office of the General Commission for Taxes.

1. Definitions

"Hotel" means any establishment in Iraq that, for the purpose of realizing a profit, rents sleeping accommodation and related services to persons who occupy such accommodation as guests.

"Restaurant" means any establishment in Iraq with seating capacity, whether indoor or outdoor or as a combination of both, where food and/or beverages are served to customers for consumption at that place or elsewhere in exchange for payment in cash or in kind for the purpose of realizing profit.

"Deluxe and First Class Restaurants and Hotels" means any hotel and restaurant referred to above which:

- Is licensed by the proper tourism agency and has obtained four or more hotel stars, or is licensed as a first class restaurant by competent authority, or
- Gives the GCT reason to believe that such an establishment falls within the group of Deluxe Hotels and First Class Restaurants. In this case, the burden to prove that the decision of GCT is erroneous falls on the taxable person.

"Tax Period" is a calendar month.

"Taxable Person" means a hotel and a restaurant authorized to charge, collect and remit the tax on behalf of the Government.

"Filing period" is the period that starts on the first day of the month following the tax period and ends on the 10th of the same month. For a business that closes before the end of the month the filing period starts the day the business closes and ends 10 days after the close of the business. For a business that starts operating during the tax period the filing period start in the first day of the month following the tax period and ends on the 10th of the month following the tax period.

"Taxable Supplies" means services (other than exempt supplies) supplied by a taxable person and subject to tax at the current rate of 10%.

“Exempt Supplies” means supplies of services rendered to the following persons or entities who are exempt under CPA Order #37 or conducting work in Iraq under a contract as defined in CPA Order #17 –

- The Multinational Forces - Multinational Forces means all non-Iraqi military and civilian personnel under the command of the MNF contingent commanders.
- Sending States - mean a State providing personnel, consultants, services, equipment, provisions, supplies or construction work to the MNF, international reconstruction or humanitarian efforts and Diplomatic or Consular Missions.
- Contractors - Contractors mean non-Iraqi legal entities or individuals not normally resident in Iraq, including their non-Iraqi employees and subcontractors not normally resident in Iraq supplying goods or services in Iraq under a contract.
- Not-for-profit organizations providing technical, material, financial and human resource assistance to Iraq.

2. How does the Sales Tax work?

The Sales Tax is an indirect tax whereby deluxe and first class hotels and restaurants are required to charge, collect and remit the tax to the government in conformity with the rules given here below. The hotels and restaurant required to charge the tax are considered taxable persons.

Tax is to be listed separately on the invoices issued by those establishments subject to tax. For example, if a guest stays at hotel XY for three nights and the price per night is 90,000 ID; in preparing the bill, the hotel shall add a 10% tax on the total value of the bill, which is $90,000 \times 3 = 270,000 \times 10\% = 27,000$. Thus the total value to be paid by the customer is $270,000 + 27,000 = 297,000$ ID.

If for any reason tax is not listed separately on the invoice it should be replaced by words ‘*tax included*’. In this case the tax constitutes 1/11th part of the total value of the services rendered. For example, if, as in the above example, the hotel prepares the bill for 270,000 ID and adds the note “*tax included*”, then, the tax within this price is $270,000/11 = 27,000$.

3. Registering for the Sales Tax

Every taxpayer must have a unique Taxpayer Identification Number (TIN). If you are already filing returns and/or making payment of tax to the Tax Commission you will be automatically allocated a TIN and this will be advised to you by letter. If you are a new business then you will be obliged to register with the General Commission for Taxes. Your local branch office will assist you.

Once you have been allocated a TIN you must include this number on all invoices you issues and in all communications with the General Commission for Taxes.

4. Books and records

Taxable Persons are required to create and maintain proper books and records in accordance with the rules noted below. All records must be retained for a minimum of 7 years unless formal approval is granted by the General Commission for Taxes for a lesser period.

4.1 Invoices

An invoice must be issued for each supply of services made by hotels and restaurants to their customers. Each hotel and restaurant authorized to collect the tax must produce two copies of an invoice for each payment received in exchange for supplies of services rendered. The first copy of the receipt must be given to the recipient of services. The second copy of the invoice must be retained by the establishment for a period of at least seven years and must contain at least the following information:

- Name and address of the establishment
- Taxpayer Identification Number (TIN)
- A sequential serial number
- Date of issue
- Description of services rendered
- Value of the service rendered
- Tax at 10% of the value of the service rendered.

Each series of receipts must be numbered consecutively. Establishments that have more than one point of issuance of receipts, i.e. several waiters, should establish transparent rules in assuring that all receipts are properly recorded in the book.

4.2 Sales Record

Each hotel and restaurant authorized to collect the tax should also maintain a daily record of sales for each month. The sales record must contain at least the following information on a daily basis:

- the date that the service is rendered;
- the number of the first receipt in each series used;
- the number of the last receipt in each series used;
- total value of exempt supplies;
- total value of net taxable supplies;
- total value of gross supplies: and
- total tax changed on supplies.

An example sales record is given below:

Date	First Receipt No.	Last Receipt No.	Exempt Supplies	Taxable Supplies	Total Supplies	Tax
01.01.2005	00000001	00000021	5,000,000	20,000,000	25,000,000	2,000,000
02.01.2005						
.....						
31.01.2005						

5. Submitting Tax Declarations

Tax Declarations must be submitted within the filing period. Hotels and restaurants authorized to collect the tax shall submit a declaration, one original and one copy within 10

days after the last day of each month to the HQ or branch office of the General Commission for Taxes. When the filing date is a holiday the declaration is to be submitted on the working day immediately after the holiday.

6. Tax Declaration Form

Tax declaration forms are available at HQ or any branch office of the General Commission for Taxes. The tax declaration is issued together with respective instruction on how to fill it in preprinted on the reverse side. The format of the tax declaration is at Appendix 1 of this Guide.

7. Exemption from Tax

In order to claim exemption from the tax, an eligible person (see definitions) must provide to the hotel or restaurant a statement certifying that the service has been supplied on official business in the course of performing contracts in Iraq. An example of such certification is attached as Appendix 2 to this Guide. This certification must be attached to the invoice and retained by the hotel or restaurant. No exemption may be applied unless a properly completed certificate has been supplied by the customer.

8. Payment in Foreign Currency

The tax must be calculated and paid to the General Commission for Taxes in Iraqi Dinars only. Payments for supplies rendered must be converted to Iraqi Dinars on the date of supply using the exchange rate published by the Central Bank of Iraq for that day.

9. Penalties and Interest

Payment of the tax due made after the due date (10th day of the month following the tax period) will be subject to interest from the day following the due date until the tax is paid in full. The interest rate will be that charged by commercial banks on overdraft facilities.

If the tax is not paid within 21 days of the due date an additional penalty of 5% of the tax due shall be imposed. If the tax due is not paid within this period, a further penalty of 5% of the tax due will be imposed after an additional 21 days.

10. Collection of Outstanding Taxes

The General Commission for Taxes has wide powers, including the seizure of assets and property, to use against tax debtors.

APPENDIX 1

**Ministry of Finance
General Commission for Taxes**

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(for official use only)

Monthly Sales Tax Declaration

[1] Tax Period

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[2] Taxpayer Identification Number

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[3] Name of Facility
(Hotel/Restaurant)

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[4] Address of the Facility

[5] Mark a cross in one of the boxes when applicable:

[5a] **a** Original Declaration

[5b] **t** Amended Declaration

[6] Taxable supplies for the month (tax exclusive)	
[7] Exempt Supplies for the month	
[8] Tax due for the month (10% of [6])	

[9] The above data represent supplies according to invoices starting from invoice no. _____ issued on ___/___/___ to invoice no. _____ issued on ___/___/___.

I, the undersigned, declare under penalty of perjury that at the best of my knowledge facts reported in this tax declaration are true and accurate.

Designated Person's Name and Signature
(_____)

Day/Month/Year
___/___/___

(for official use only)

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Official Stamp

Date of Reception

Day/Month/Year
___/___/___

Instructions on how to fill out the Monthly Sales Tax Declaration

Tax Declaration has three parts:

Part 1. Identification Data Part

Box [1]: Enter the month in two digits and the year in four digits, i.e. for the month of January 2005, enter 01.2005.

Box [2]: Enter the Taxpayer Identification Number provided by the General Commission for Taxes.

Box [3]: Enter the name of the facility.

Box [4]: Enter the address of the facility.

Box [5]: This box has two options. You should cross one of the boxes in accordance with the following situations: **a) Original Declaration** is to be crossed when you want to file an original return for the first time for a tax period and **b) Amended Declaration** is to be crossed when you want to amend the original declaration.

Part 2. Activity Data Part

Box [6]: Enter the taxable sales for the month which should be the sum of both supplies in ID and in foreign currency converted in ID according to the rate announced by The Iraqi Central Bank on the date services were performed (www.cbiraq.org).

Box [7]: Enter the amount of exempt supplies provided to eligible persons. An eligible person (Multinational Forces, Sending States, Foreign Contractors) must provide to the hotel or restaurant a statement certifying that the service is used on official business in the course of performing contracts in Iraq as stated by CPA Order #17 (as revised) or the person is exempted by virtue of CPA Order #37. This certification must be kept by the facility and be available for future checks by tax officials.

Box [8]: Enter the amount of tax charged for the month which should equal 10% of the amount entered in box [6].

Box [9]: Enter the first and last serial number of invoices issued during the month and the date of the first and last invoice issued during the month.

Enter the name and signature of the designated person and also the date in which declaration is prepared. **Do not forget:** This Declaration is signed under penalty of perjury.

Part 3.

Leave the third part blank to be completed by an official of the General Commission for Taxes.

APPENDIX 2

**CERTIFICATION
of exemption from Sales Tax**

Purchaser (Customer)

(Name & Address)

Supplier (Hotel and restaurant)

(Name & Address)

Hereby it is certified that the services noted on invoice number _____ will be exclusively used for the purpose for which the exemption from tax has been allowed and that the purchaser is conducting work in Iraq under a contract as defined in CPA Order #17 or is an exempt person/organisation as defined in CPA Order #37.

(signature)

(date)

(full name of authorized signatory)