



Sociaal Economische Raad
Social Economic Council

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Richardson
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To the President of the Parliament of Sint Maarten
Drs. Rudolphe E. Samuel
Wilhelminastraat #1
Philipsburg
Sint Maarten

Philipsburg, April 4th, 2013

Our reference: SER 13DCB/024

Re: solicited advice on "the draft initiative for the amendment of the Ordinance on Guest Accommodation Tax Sint Maarten"

Honorable President Samuel,

In accordance with the Federal Ordinance Social Economic Council, article 2, we hereby present you the solicited advice of the Social Economic Council, entitled "the draft initiative for the amendment of the Ordinance on Guest Accommodation Tax Sint Maarten".

This advice process started with receipt of your advice request, dated February 19th, 2013, it was completed in March 2013 and discussed in board meetings of the Social Economic Council (SER).

With six (6) out of nine (9) votes, this advice is a majority advice, mentioning the dissenting views of the minority.

For elucidation regarding the content of the advice we refer you to the attached document.

Respectfully,

R.A. Richardson
Chairman

G. Richardson
Secretary-general

Attachment:

SER advice nr. 2013 – 002 on the draft initiative for the amendment of the Ordinance on Guest Accommodation Tax Sint Maarten".

Cc: Minister of General Affairs, Prime- Minister S. Wescot- Williams
Minister of Tourism, Economic Affairs, Transport and Telecommunication, Mr. Romeo F. Pantophlet



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To the President of the Parliament of Sint Maarten
Drs. Rudolphe E. Samuel
Wilhelminastraat #1
Philipsburg
Sint Maarten

Philipsburg, April 4th, 2013

LETTER OF ADVICE

Our reference: SER /13/DCB/024

Re: Letter of advice concerning “draft initiative for the amendment of the Ordinance on Guest Accommodation Tax Sint Maarten”.

Honorable President Samuel,

In reply to your request for advice of February 19, 2013, concerning the “draft initiative for the amendment of the Ordinance on Guest Accommodation Tax Sint Maarten” the Social Economic Council informs you as follows:

The Council took into consideration that it is desirable to change the Ordinance on Guest Accommodation Tax Sint Maarten on the following points:

- The charging of the timeshare tax on a daily basis instead of a weekly basis.
- Set the amount for the daily fee at USD 10.- per night.
- Incorporate a provision for monitoring the implementation of the timeshare guest accommodation tax in the Ordinance, since such a monitoring provision has never been implemented.
- As a result of the (new) constitutional status of country Sint Maarten, adjust the wording in the existing Ordinance accordingly.

Background on the timeshare industry in Sint Maarten:

Timeshare in the Caribbean was perfected in Sint Maarten when the Pelican Resort was set up in 1982. In the 1990's the sale of timeshare units generated approximately USD 40 million in revenues annually. Sint Maarten is the second largest timeshare island in the Caribbean after Aruba. After 1999 the sales of timeshares slowed as more hurricanes damaged timeshare projects. But sales gradually increased again to USD 35 million in 2008. With the start of the economic crises in 2008 sales of timeshare units declined, but in early 2012 the market regained its strength¹.

¹ Ecorys, Economic Outlook Sint Maarten 2012- 2013 page 40.



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Currently Westin Dawn Beach Resort and Casino are selling the traditional timeshare product as well as Divi Little Bay, Oyster Bay and Caravanserai. Other properties, like Diamond's Flamingo, have smaller programs or multi-site projects and Royal Palm provides active off-island sales programs.

According to the Sint Maarten Timeshare Association, the impact of timeshares on the economy of Sint Maarten exceeds that of the regular hotel sector: there are more timeshare units compared to regular hotel rooms and the occupancy rate of timeshare is higher than of hotels. Also, the daily expenditure of timeshare owners is significantly higher than that of visitors staying in hotels.

Occupancy rate hotel and timeshare in Sint Maarten 2011- 2012

| | 2012 | | 2011 | |
|-----------|-------|-----------|-------|-----------|
| | Hotel | Timeshare | Hotel | Timeshare |
| January | 77.9% | 81.2% | 62.8% | 81.4% |
| February | 81.4% | 87.3% | 66.8% | 84.2% |
| March | 73.9% | 79.8% | 59.9% | 65.8% |
| April | 62.0% | 73.6% | 54.3% | 66.1% |
| May | 52.5% | 65.7% | 37.1% | 61.9% |
| June | 47.5% | 61.9% | 32.8% | 58.8% |
| July | 42.3% | 69.2% | 36.5% | 67.0% |
| August | 39.8% | 62.1% | 35.0% | 63.5% |
| September | 28.7% | 49.1% | 23.1% | 47.4% |
| October | 38.2% | 56.8% | 29.1% | 60.2% |
| November | 56% | 71.0% | 55% | 72.9% |
| December | 54.6% | 68.9% | 44.8% | 66.3% |

- *Source: Sint Maarten Timeshare Association.*

According to the Tax Administration Sint Maarten (Receivers Office), Sint Maarten received NAF 4,200,000. - on the Timeshare Guest Accommodation Tax over 2012 and NAF 878,000. - over January and February 2013.

The timeshare concept initially evolved from the selling of specific weekly ownership in a specific holiday home or apartment to a more flexible right of usage of annual, bi-annual or even quadric-annual weekly use of non-specific accommodations at a timeshare property to an increasingly popular right of usage that can be broken down into nightly usage on a recurring basis. The terms vacation ownership and vacation points are often used to describe this more flexible product. Most commonly, these plans utilize a "currency" denominated in points. In a points-based system, a purchaser may acquire a seven-day use period in mid-range time which is equal to, for example, 1,000 points. These points can be used in a variety of ways. For example, rather than utilizing all 1,000 points for a seven continuous day stay in a one bedroom unit, the purchaser may instead choose to divide his stay into a three-day period and a later four-day period or may choose to upgrade to a two bedroom unit for a five-day period. The points are merely utilized as a currency with the underlying product generally being recorded internally by the developer in seven-day increments in



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order to control inventory, but sometimes broken down by the day. This brings the necessity for the Sint Maarten Timeshare Association to update the definition of timeshare rights. While consumers have

welcomed this increasing flexibility, regulations based upon rigid systems of weekly ownership cannot keep pace with the evolving timeshare market. Here in Sint Maarten the usage pattern has become to stay for periods longer than a week due to travel distance, time and expense.

The SER has taken notice of the point of view of the Sint Maarten Timeshare Association in connection with the amendment of the timeshare tax to a nightly rate of USD 7.-

The current request is based on the fact that the timeshare industry is experiencing a new trend. More and more timeshare users no longer use a one week interval but the point system, which is now being used with the intervals ranging from 8 to 10 days. Within the present fee structure for the additional days (the eight to tenth day), the timeshare user is charged a full USD 50.-, in some cases for a stay of only one night. For this reason the Sint Maarten Timeshare Association promoted the USD 7. - rate per night out of concern not to damage our tourism based economy. The intention is to reflect a fairer fee structure for those persons wanting to use the point system and utilize an interval of one (1) to three (3) extra days more than the average seven (7) days week.

The fee of USD 7. – per night proposed by the Sint Maarten Timeshare Association was derived from dividing the existing fee of USD 50. - in seven (7) (because of the seven days in a week) and incorporating a fee per day/ night. This calculation amounts to USD 1. - short of the current USD 50. - fee:
 $USD\ 50: 7\ days = USD\ 7.142 = USD\ 7. -\ per\ day/night.$

For one week that would be $7\ days \times USD\ 7 = USD\ 49.-$
 $USD\ 50\ (current\ tariff\ per\ week) - USD\ 49. -\ (proposed\ tariff) = USD\ 1.-$

However, the Sint Maarten Timeshare Association is confident that the additional business derived from a longer stay on the island with all the positive consequences of additional spending would more than compensate for the USD 1.-

The SER has the following concerns:

- In a meeting of December 3rd, 2002 the Executive Council of the Island Territory Sint Maarten and the Sint Maarten Timeshare Association, under supervision of its then President Mr. M. Soons, agreed that the timeshare tax would be amended to USD 8. - per day, under the conditions that the National Tourism Organization (NTO) would be established and that USD 1.- out of the USD 8.- would be transferred to the then NTO. It was further agreed that this issue would be regulated in the Timeshare Ordinance and would go into effect upon publication of that Ordinance. Eleven (11) years later, the NTO was never established and the Timeshare Guest Accommodation Tax is still USD 50. - per week. The NTO (recently decided to be called Sint Maarten Tourism Authority- STA) will be an organization sharing the government's macro-economic objective of stimulating tourism as our island's key economic activity. As the destination marketing organization for Sint Maarten, the STA will be responsible for uniting tourism interests amongst the on- and off-island stakeholders/partners for the purpose of coordinating destination marketing, business development and partnerships.



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The SER has reached consensus on the following:

- That it is indeed necessary to change the Ordinance on Guest Accommodation Tax Sint Maarten to a daily rate instead of a weekly rate.
- That all taxes should be verifiable. A government's income or revenue determines the quantity of funds available for it to spend on the implementation of public policies, programs and services. Access to public revenue information is an implicit public right. Accessing information about public revenues is a key step for citizens to effectively engage with government and hold them accountable for the management of public funds. Therefore, it is important for the public at large to know about the sources and amounts of public revenues. There are already regular audits from the Inspectorate on the lodging tax. The timeshare tax on a weekly basis is impossible to accurately audit, whereas a nightly tax is easily controlled due to the way resort computers have nightly folios and audit trails for a nightly type of structure and none exists for a weekly structure.
- That as a result of Sint Maarten's new constitutional status, the wording in the Ordinance on Guest Accommodation Tax Sint Maarten should be adjusted accordingly.

Advice:

Pursuant to the SER meeting on this topic, a meeting with the Vice- President and the second Vice- President of the Sint Maarten Timeshare Association, respectively Mr. Jim Rosen and Mr. Ricardo Perez, the majority of the SER therefore advises as follows:

- To proceed amending the Ordinance on Guest Accommodation Tax Sint Maarten on all proposed points mentioned in the draft initiative for the amendment of the Ordinance on Guest Accommodation Tax Sint Maarten under the following conditions:
- That the Sint Maarten Tourism Authority (STA) be established before this new tariff of USD 10, - per day/ night goes into effect.
- That USD 3, - out of the USD 10, - should be transferred directly to the STA (before NTO).
- That a realistic timeframe should be set, before this new tariff goes into effect.
- If, however, the STA is not established, the SER advises that the daily rate should be set at USD 7.-.

Dissenting vote:

- Member Reed advises to proceed amending the Ordinance on Guest Accommodation Tax Sint Maarten on all proposed points mentioned in the draft initiative for the amendment of the Ordinance on Guest Accommodation Tax Sint Maarten under the following conditions:
 - That the Sint Maarten Tourism Authority (STA) be established before this new tariff of USD 10. - per day/ night goes into effect.
 - That USD 2. - out of the USD 10. - should be transferred directly to the STA.



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We trust to have informed you sufficiently herewith.

Should you require any additional information after reading the above, please feel free to contact us at your earliest convenience.

Respectfully,

R.A. Richardson
Chairman

Gerard Richardson
Secretary-general