

Operational Statement – Number of Business Licences Required

(Able to be published externally)

INTRODUCTION

These guidelines have been developed to clarify the number of Business Licences required to be held by business owners under the new Business Licence Regulations 2012. They outline the way in the Commissioner of Inland Revenue (CIR) will administer the new regulation requiring only a single licence to be held for related businesses operating from one location. They are allowed to be published outside Inland Revenue Services (IRS).

CURRENT INLAND REVENUE SERVICES PRACTICE

Under the existing Business Licence Act 1998, IRS requires that businesses obtain a separate business licence for each and every activity that they operate. This is even if the activities are closely related. Examples include:

- A supermarket selling freshly baked goods must have two licences; Supermarket and Bakery
- A resort would need separate licences for accommodation, restaurant, beauty salon, car rental, conference venue, etc

This was based on the interpretation of various sections in the Business Licence Act 1998 and earlier Regulations, which stated that licences were required for any business or economic activity carried on at specified location/premises.

Relevant Legislation

Section 4(a)(ii) of the Business Licence Regulations 2012 stipulates that a licence is issued for each business or economic activity, where more than one business or economic activity is conducted in the same place or premises except if a written determination is issued by the Commissioner of Inland Revenue for a single licence to be issued for multiple (related) businesses or economic activities on the same premises;

In effect, section 4(a)(ii) means that the CIR can make a written determination (this Operational Statement) that gives guidance as to when a single business licence can be issued for multiple activities conducted on the same premises.

Section 4(a)(iii) of the Business Licence Regulations 2012 stipulates that a licence is issued for each place or premises, where such business or economic activity is conducted at more than one place or premise;

Our new interpretation of how many business licences are required has been determined having regard to the original intent of the Business Licence Act 1998 (to allow only authorised people to operate businesses in Samoa). It further hinges on the word “related”. The dictionary defines related as something that is associated, connected, allied by nature, or being of the same family.

When considering whether something is related, the CIR has also looked at the definition of closely and complementary. These are defined in the dictionary as:

“Closely” something that is connected, associated, having a part or element near to another, being in or having proximity in space or time, marked by similarity in degree, action, near or together.

“Complementary” something that is balancing, matching or harmonizing; things or activities that complement each other or support each other, things that have to go together or can’t go without the other.

NEW INLAND REVENUE SERVICES PRACTICE

With effect from the start of the 2013 Business Licence year the CIR will only require a single (one) business licence to be held by taxpayers who own and operate related business activities from a specified location.

It is assumed that the majority of businesses who trade will be operating related business activities, **unless** these activities are obviously unrelated. It does not matter whether the business is a retailer, wholesaler or exporter, nor whether they deliver their goods to its customers. The critical test is the extent to which the business activities are related (or not).

In determining whether they are un-related, IRS will look at the nature of business and the physical location from which it is operated. If the business activities are the type of activities that you would expect to find operating together, then only one licence will be required. If they are unrelated activities, operated from the same physical location then they must have multiple business licences.

The following examples have been developed to help further explain the treatment.

Examples of Related Business Activities
Restaurant; where you can dine in or take away and where you can purchase alcohol when dining or to take home. A liquor licence will still be required
Supermarket; selling a wide variety of fresh, frozen, dry, baked, etc goods and general household items.
Hairdressers; providing hair-cutting services and the retail of associated hair products
Resort; providing accommodation, sporting activities, restaurant, children minding services, car/bike hire, etc
Beauty Salon; where you can get your hair and nails done, have a massage or buy beauty products
Village Store that sells BBQ

Examples of Un-related Business Activities
Video Hire and Toy Shop (Hiring and Selling are unrelated)
Village Store and a Tyre Repair Shop
Fast-food shop and rental of bicycles
Transport Operator and Rental Accommodation

The CIR retains final discretion as to whether single or multiple business licences are required.

If the businesses operating within the same location are owned by different people, then separate business licence will need to be held by each owner.

Examples:

- A beauty salon which is owned and operated by a small business owner who pays rent to utilise floor space within a larger resort **must** have its own Business Licence.
- A landlord who rents out his building space to two different tenants, **must** have a Business Licence for the rental activity, **as must each** of the businesses renting space in the building.

Separate business licences are still required to be held if the business operates from multiple locations.

Examples:

- A supermarket with a branch in Vaitele and Savalalo would need a Business Licence to cover each physical location.
- A Sole Trader who operates a panikeke stall at the Flea Market in Savalalo and an evening and weekend BBQ at Matautu.

This new policy applies to both new businesses and those existing businesses renewing their 2013 Business Licence. Generally the policy will apply from 1 January 2013, however if an existing business comes in to renew their 2013 Business Licence in November/December 2012, they will only be required to renew for a single business licence, provided they meet the criteria contained in this Operational Statement.

Business Licence Certificate

The Business Licence Certificate must be printed with the Legal Name of the business owner, as it is that person who is legally obligated to meet their taxation obligations under the various Acts which IRS administers. Business owners can request that the Trading Name of the business is also printed on the Business Licence Certificate. This will be printed underneath the Legal Name.

Approved



(Pitolau Lusia Sefo Leau)
CHIEF EXECUTIVE OFFICER

Date

19/10/2012