

Dubai Tourists to face the new Tourism Dirham Fee

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In our March edition of Law Update, we reported on the introduction of the Tourism Dirham Fee in Dubai.

Further clarifications have now been issued by the Department of Tourism and Commerce Marketing ("DTCM"), and we have taken the opportunity to report on these below.

The DTCM have held various workshop sessions for hotel industry finance personnel to introduce DTCM's dedicated team who will be supporting the implementation of the Tourism Dirham Fee. Attendance at the sessions is mandatory and is required in order to acquire an 'Administrative Account Number' for each establishment, which will be registered on DTCM's system.

(A) Executive Council Resolution No. 2 OF 2014

As mentioned in the March edition, Executive Council Resolution No. 2 of 2014 introduced the Tourism Dirham Fee in Dubai ("ECR 2 of 2014") which is applicable to all hotel establishments operating in Dubai, including hotel apartments, holiday homes, and any such establishments which are located in special development zones and free zones such as DIFC.

The Tourism Dirham Fee is payable for each night of occupancy per room in accordance with Schedule 1 of the ECR 2 of 2014. We have provided a summary of ECR 2 of 2014 as follows:

- The hotel establishment shall submit the proceeds collected towards the Tourism Dirham Fee to DTCM before the 16th day of the month following collection of such fees;
- The hotel establishment shall maintain books and records regarding collection of the Tourism Dirham Fee in accordance with recognized accounting standards for at least five (5) years. A monthly account report on occupancy and fees collected shall be provided to DTCM;
- The hotel establishment shall have its final accounts audited by an licensed auditor at the end of the financial year and provide DTCM a copy within six (6) months;
- In the event of suspension of the hotel establishment's activities, no Tourism Dirham Fee shall be collected during this period subject to the prior notification and approval of the suspension by DTCM;
- The hotel establishment shall be deemed to have evaded payment of the Tourism Dirham Fee in the event that it, (i) fails to pay the Tourism Dirham Fee within the stipulated time frame to DTCM; (ii) fails to collect the Tourism Dirham Fee from guests; (iii) fails to maintain accounting books recording payment of the Tourism Dirham Fee and submission to DTCM; (iv) manipulates accounting data or provides false information; (v) obstructs DTCM employees in performing inspections or audits; (vi) performs any act deemed by DTCM as an evasion of payment of the Tourism Dirham Fee.
- Failure to pay the Tourism Dirham Fee to DTCM within the stipulated time frame or failure to collect such fee from guests would entail a fine of ten per cent (10%) of the unpaid fee amount provided that the fine is not less than AED 1,000. The complete list of violations and fees payable by the hotel establishment are provided in Schedule 2 of ECR 2 of 2014.
- In addition to imposition of the various fines, DTCM may also adopt additional stringent measures such as temporary closure of the hotel establishment up to three (3) months or more serious

cases, permanent closure.

- DTCM employees nominated by a resolution of the Director General of DTCM, in coordination with the Director General of the Government of Dubai Legal Affairs Department, shall work in the capacity of law enforcement officers pursuant to ECR 2 of 2014.
- An affected party shall be entitled to submit his written grievance to the Director General of DTCM against any decision, procedure or measure issued or taken against him within fifteen (15) days of its notification. Upon receipt of the grievance, a DTCM committee formed specifically to consider the grievance shall issue its final decision within thirty (30) days with this decision being final and binding.

(B) DTCM Circulars

Since the issue of ECR 2 of 2014, three circulars have been issued by DTCM to clarify certain matters, and to introduce guidelines for implementation of the scheme.

The key issues addressed by these Circulars can be summarized as follows. The Tourism Dirham Fee:

- is a separate fee to be listed separately on any invoice/receipt. It should not be included in a room rate for calculation of the existing Dubai Municipality Fee and Service Charges;
- is not applicable to:
 - any late checkout extension (even if a fee for same is charged by the hotel); or
 - a room which is not classified by DTCM to be rented to guests as part of the hotel establishment's inventory (ie. rooms designated as accommodation supplied by the hotel to its own employees that are registered under the hotel trade licence).
- is charged on a room per night basis, irrespective of the number of guests occupying the room (eg. a 2 room suite would be subject to a charge for 2 rooms);
- is calculated at a maximum stay of 30 (thirty) nights in respect of any guest's stay which exceeds 30 (thirty) nights.

For your information, we have provided more detailed summaries of the Circulars below:

(1) Circular no. D/000/152/187 dated 23 February 2014 ("Circular 1")

Circular 1 provides the guidelines for the implementation of the Tourism Dirham Fee together with a form of notice which has been approved by the DTCM for use by hotels to provide to their guests at the time of check-in.

Summary:

- A notification in accordance with the template attached to Circular 1 shall be provided to the customers at the time of check-in by the hotel establishment. The Tourism Dirham Fee shall be paid by the guest at the time of check-out in accordance with Schedule 1 of ECR 2 of 2014;
- The Tourism Dirham Fee is also applicable to commercial stays, complimentary stays, promotional stays, upgrades and short stays less than 24 hours. However the Tourism Dirham Fee is not applicable in cases of late checkout and house use rooms (i.e. rooms in a hotel designated for its employees);
- The Tourism Dirham Fee shall be calculated based on each day's stay and the number of bedrooms. For example, a guest staying two (2) nights in a one bedroom hotel apartment in the Standard Hotel Apartment category will be charged: 2 nights x 1 bedroom x AED 10 = AED 20;
- Transition Period: The Tourism Dirham Fee shall be applicable for the transition period i.e. any stays on or before 31 March 2014 irrespective of payment as well as booking made for a stay

prior to 1 June for which payment was completed prior to 23 February 2014. Any extension or contract renewals on or after 31 March 2014 would attract the Tourism Dirham Fee.

(2) Circular No. D/000/152/187/1 dated 30 March 2014 (“Circular 2”)

Circular 2 provides clarity on the following two matters namely:

- In case of stays exceeding 30 consecutive nights, the Tourism Dirham Fee would be capped and payable at 30 nights; and
- The last date for exempted bookings was 31 March 2014 where bookings were fully paid up prior to 23 February 2014, regardless of the date of payment collected by the hotel establishment.

(3) Circular No. D/000/152/187 dated 26 March 2014 (“Circular 3”)

Circular 3 announced the formation of the dedicated team at DTCM and the dates of those workshops which shall take place on the implementation of the Tourism Dirham Fee.