

ANTIGUA AND BARBUDA



THE REVENUE RECOVERY CHARGE ACT, 2010

No. 8 of 2010

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THE REVENUE RECOVERY CHARGE ACT, 2010

ARRANGEMENT

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[L.S.]



I Assent,

Louise Lake-Tack,
Governor-General.

19th July, 2010.

ANTIGUA AND BARBUDA

THE REVENUE RECOVERY CHARGE ACT, 2010

No. 8 of 2010

ANACT to provide for the imposition of a charge to be known as the Revenue Recovery Charge upon all goods imported into Antigua and Barbuda and produced in Antigua and Barbuda and for incidental and connected purposes.

ENACTED by the Parliament of Antigua and Barbuda as follows:

1. Short title

This Act may be cited as the Revenue Recovery Charge Act, 2010 and comes into force on June 26th, 2010.

2. Interpretation

In this Act—

“ABST” means the Antigua and Barbuda Sales Tax;

“charge” means the Antigua and Barbuda Revenue Recovery Charge established by section 3;

“CIF” means the cost, insurance and freight value of the goods as landed in Antigua and Barbuda;

“Comptroller” means the Comptroller of Customs under section 4 of the Customs (Control and Management) Act, 1993;

“Customs Appeal Commissioners” means the persons appointed to be Customs Appeal Commissioners under section 136 of the Customs (Control and Management) Act, 1993;

“government entity” means—

- (a) the Government of Antigua and Barbuda or a department, division, or agency of Government;
- (b) an Antigua and Barbuda statutory body, agency, or authority; or
- (c) a body, agency, or authority owned or operated by the Government of Antigua and Barbuda;

“importer” means any owner or other person for the time being possessed of or beneficially interested in any goods at and from the time of importation into Antigua and Barbuda until the same are duly delivered out of the charge of the Comptroller of Customs;

“Minister” means the Minister with responsibility for Finance;

“officer” means an officer under the Customs (Control and Management) Act, 1993; and

“producer” means—

- (a) a person who is a mining operator or primary agricultural producer in Antigua and Barbuda;
- (b) a person who assembles or manufactures goods in Antigua and Barbuda; and
- (c) any business which supplies goods created from naturally occurring materials harvested in Antigua and Barbuda.

3. Application of charge and administration of Act

(1) There is established the Antigua Barbuda Revenue Recovery Charge which shall, subject to section 11—

- (a) apply to all goods imported into Antigua and Barbuda; and
- (b) apply to all goods produced in Antigua and Barbuda.

(2) The Comptroller is responsible for the general administration of this Act.

(3) The Comptroller may delegate in writing a duty, power, or function conferred on him under this Act other than the power of delegation.

(4) A delegation by the Comptroller does not prevent the exercise of that power, duty, or function by the Comptroller himself.

(5) The Comptroller may, at any time, revoke in writing a delegation under this section.

4. Rate

The charge shall apply at the rate of 10% on all goods imported into or produced in Antigua and Barbuda.

5. Imported goods

The charge shall be assessed on imported goods on the CIF value at the point of import and paid by an importer, together with import duties, to the Comptroller.

6. Domestic goods

(1) A producer shall apply the charge to the value of his sales prior to the application of ABST and offset the amount of the charge incurred in that month and remit the balance to the Comptroller on a monthly basis.

(2) The Minister may, by Order published in the Gazette, establish the threshold for the volume of annual sales for which a producer is required to apply the charge.

7. False information

A person who provides false information to the Comptroller or an officer and that information is relied upon for the assessment of the charge on goods, commits an offence and is liable on summary conviction to a fine of ten thousand dollars and to imprisonment for a term of one year or to both.

8. Offences

(1) A person who contravenes a provision of this Act commits an offence and is liable—

- (a) on summary conviction to a fine of ten thousand dollars and to imprisonment for a term of one year or to both; or
- (b) on conviction on indictment to a fine of fifty thousand dollars and to imprisonment for a term of three years or to both.

(2) If an offence under this Act has been committed by a company, every person who at the time of the commission of the offence—

- (a) was director or other similar officer of the company; or
- (b) was acting or purporting to act in such capacity, is considered to have committed the offence;

unless it is proved by that person, that the offence was committed without his knowledge or consent.

9. Compounding offences

(1) Subject to subsection (2), where a person has committed an offence under this Act, the Comptroller may at any time before conviction compound the offence and order the person to pay such sum of money as the Comptroller thinks fit, not exceeding the amount of the maximum fine and any special penalty to which that person would have been liable if he had been convicted of the offence.

(2) The Comptroller shall not exercise his powers under subsection (1) unless the person in writing admits that he has committed the offence and requests Comptroller to deal with the offence under this section.

(3) An order made by the Comptroller under subsection (1) shall—

- (a) be in writing and signed by the Comptroller; and
- (b) specify—
 - (i) the offence committed;
 - (ii) the sum of money ordered to be paid; and
 - (iii) the date on which payment is to be made or the dates on which instalments of that sum are to be paid, as the case may be.

(4) The Comptroller shall attach the written admission and request referred to in subsection (2) to the order, and give a copy to the person who committed the offence.

(5) Where the order provides for payment by instalments and there is default in payment of any instalment, the whole of the balance then outstanding shall become due and payable forthwith.

(6) Where the Comptroller compounds an offence in respect of a person, that person shall not be liable to any prosecution or, as the case may be, any further prosecution in respect of the offence and, if any such prosecution or further prosecution is brought, it shall be a good defence for that person to prove that the offence has been compounded under this section and the provisions of the order under subsection (1) have been complied with.

(7) An order under subsection (1)—

- (a) may be enforced in the same way as the judgment for the payment of the amount stated in the order or the amount outstanding, as the case may be;
- (b) shall, on production to any court, be treated as proof of the commission of the offence by the person and of the other matters set out therein; and
- (c) is final and shall not be subject to any appeal.

10. Recovery of amounts due

Any amount due and payable to the Comptroller under this Act may be recovered by him in any court of competent jurisdiction.

11. Exemptions from the charge

(1) The following are exempted from the application of the charge—

(a) entities with which the Government of Antigua & Barbuda has International Assistance Agreements including the following—

- (i) Caribbean Open Trade Support Foundation Inc (COTS);
- (ii) Caribbean Agricultural Research & Development Institute (CARDI);
- (iii) Eastern Caribbean Civil Aviation Authority;
- (iv) Embassy of the Peoples Republic of China;
- (v) Embassy of the Republic of Cuba;
- (vi) Embassy of Venezuela;
- (vii) Organisation of American States (OAS);
- (viii) United States Defence Area;
- (ix) USAID;
- (x) University of the West Indies – Open Campus, Antigua;
- (xi) Eastern Caribbean Central Bank Resident Representative Office;
- (xii) International Monetary Fund Resident Representative Office; and
- (xiii) Churches of Internationally Recognised Religious Organisations as approved by the Ministry of Ecclesiastical Affairs (Church includes Chapel, Mosque, Synagogue and other analogous descriptions);

(b) Government entities with the exception of the following—

- (i) the St. John's Development Corporation;
- (ii) the Antigua and Barbuda Development Bank;
- (iii) the Central Marketing Corporation; and

- (iv) the State Insurance Corporation;
- (c) supplies and imports of fuel, as defined under the following Customs Tariff Headings—
 - (i) 2710.10 – Motor spirit (gasoline) and other light oils and preparations;
 - (ii) 2710.20 – Kerosene and other medium oils (excluding Gas Oils);
 - (iii) 2710.30 – Gas Oils;
 - (iv) 2710.40 – Fuel oils; and
 - (v) 2711.00 – Petroleum gases and other gaseous hydrocarbons;
- (d) imports of goods which will be consumed in the creation of other goods or services intended solely for export;
- (e) supplies or imports of the items under the following Customs Tariff Headings—
 - (i) 4901.91 and 4901.999 - Books of Printed matter including but not limited to Encyclopaedias, Dictionaries, Text Books, Bibles but excluding novels, periodicals, magazines, drawing and colouring books, exercise books;
 - (ii) 3004.101 to 3004.909 - Medicines in retail quantities including but not limited to Penicillin, Insulin, Aspirins, Paracetamol, Cough Preparations but not including vitamins;
 - (iii) 3006.10 to 3006.60 - Pharmaceutical Goods including but not limited to Sterile catgut, blood grouping reagents, first aid kits and dental cements;
- (f) a supply or imports of live animals or insects, other than domesticated animals generally held as pets;
- (g) supplies or import of goods falling within one of the following categories of agricultural inputs—
 - (i) seedlings, cuttings, and fertilizers;
 - (ii) hay, fodder, silage, and animal feed other than food for domesticated animals generally held as pets;
 - (iii) ventilated boxes and packing film specifically designed for use in transporting unprocessed agriculture products;

- (iv) machinery and equipment specifically designed for agricultural or horticultural use, but only if the treatment of the supply as exempt has been approved by the Minister responsible for Agriculture;
- (h) a supply or import of goods falling within one or more of the following categories of fishing inputs—
 - (i) fibreglass or wooden boats;
 - (ii) anchors;
 - (iii) grapnels;
 - (iv) global positioning systems (G.P.S), compasses, very high frequency (V.H.F.) Radios, or other similar means for identifying the position or location of a fishing vessel or for allowing communication from the fishing vessel to other persons;
 - (v) fish finders;
 - (vi) flare guns and flares, life vests, life rings, buoys and floats, and other similar safety equipment for use on fishing vessels;
 - (vii) monofilament fishing lines, gaffs, harpoons, spools, line haulers, and jigging reels;
 - (viii) outboard engines up to 100 hp, inboard diesel engines, winches, and propellers, but only if the goods are to be used in carrying on a taxable activity and the treatment of the supply as exempt has been approved by the Minister responsible for Fisheries;
- (i) supplies or imports of the following pesticides, insecticides, herbicides, fungicides and other treatments approved for use in agriculture by the Ministry of Agriculture—

INSECTICIDES

| | <u>TRADE NAME</u> | <u>ACTIVE INGREDIENT</u> |
|----|-------------------|-----------------------------|
| 1. | Actara | Thiamethoxan |
| 2. | Amythurim | |
| 3. | Actellic | Pirimiphos-methyl |
| 4. | Admiral 10 EC | Pyriproxyfen |
| 5. | Admire | Imidac Imidacloprid |
| 6. | Agro-IBA 98 SP | 3 Indole-butyric Acid (IBA) |
| 7. | Aza Direct 1.2 EC | Azadirachitin 1.2% E.C |
| 8. | Bio Neem Oil | Azadirachitin |

| | | |
|-----|---|---------------------------------|
| 9. | BioLife 20SL | Ascorbic Acid, Glucose |
| 10. | Caprid 20 SL | Acetamiprid |
| 11. | Chlorpyrifos Gpro4 | Chlorpyrifos (RESTRICTED USE) |
| 12. | Control | Chlorothalonil |
| 13. | Cure | Abamectin |
| 14. | Cyper EC | Cypermethrin |
| 15. | Cyper TC | Cypermethrin |
| 16. | Cyprp 440 EC | Cypermethrin |
| 17. | Deadline | Metaldehyde |
| 18. | Delta-M 2.5% EC | Deltamethrin |
| 19. | Demand | Lambdacyhalothrin |
| 20. | Demon | Cypermethryn |
| 21. | Diazinon | Diazinon |
| 22. | Dipel | Bacillus thuringiensis |
| 23. | Discipline Flowable | Bifenthrin |
| 24. | Wisdom Flowable | Propylene glycol |
| 25. | Discipline TC Flowable | Bifenthrin |
| 26. | Wisdom TC flowable | Propylene glycol |
| 27. | Fastac 5 EC | Alphacypermethrin |
| 28. | Imidacloprid | Imidacloprid |
| 29. | Karate Zeon | Lambdacyhalothrin |
| 30. | Lannate | Methomyl |
| 31. | Malathion | Malathion |
| 32. | Mapcid 12.5 EC | Fenoxaprop-ethyl |
| 33. | Masterline Kontrol 30-30 | Permethrin, Piperonyl, Butoxide |
| 34. | Mollusk | Metaldehyde |
| 35. | Neem X | Azadirachtin |
| 36. | New Bt-2X | Bacillus thuringiensis |
| 37. | New Mectin 1.8 EC | Abamectin |
| 38. | Onslaught Microencapsulated Insecticide | Esfenvalerate |
| 39. | Ovation SC | Clofentezine |
| 40. | Phyton 27 | Copper Sulphate Pentahydrate |
| 41. | Pirate | Chlorfenapyr |

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|-----|-----------------------------------|---|
| 42. | Prelude | Permethryn |
| 43. | Prevail FT | Cypermethrin |
| 44. | Pronto | Imidacloprid |
| 45. | Regent | Fipronil |
| 46. | Ronstar | |
| 47. | Sevin 85% | Carbaryl |
| 48. | Speckoz AggresZor 75 WSP | Imidacloprid |
| 49. | Speckoz Border | Lambda-cyhalothrin |
| 50. | Speckoz Evercide Esfenvalerate | Esfenvalerate |
| 51. | Speckoz Evercide TR | Pyrethrins, Piperonyl butoxide, N-octyl bicycloheptene |
| 52. | Speckoz Tengard SFR | Permethrin |
| 53. | Spectracide Fire Ant Granules | Lambda-cyhalothrin |
| 54. | Spectracide Terminate | Lambda-cyhalothrin |
| 55. | Trigard | Cyromazine |
| 56. | Trilogy Extract of Neem Oil | Clarified Hydrophobic, |
| 57. | Tryclan 50 SP | Thiocyclan Hydrogen Oxalate |
| 58. | Vendex | Fenbutatin Oxide |
| 59. | Vertimec | Abamectin |
| 60. | Vydate | Oxamyl |
| 61. | Warrior | Lambda-cyhalothrin |
| 62. | Xenic | Polyethylene Glycol Ester |
| 63. | Xentari | Bacillus thuringiensis |

FUNGICIDESTRADE NAME

| | | |
|-----|--------------------|--|
| 64. | Acrobat | <u>ACTIVE INGREDIENT</u> Dimethomorph, mancozeb |
| 65. | Aliette | Aluminum tris (O-ethyl phosphonate) |
| 66. | Amistar | Azoxistrobin |
| 67. | Bellis | Boscalid, pyraclostrobin |
| 68. | Carbendazim 50% SC | Carbendazim |
| 69. | Copper Plus SP | Copper Sulphate Pentahydrate |
| 70. | Ridomil | Metalaxy-M Mancozeb |

| | | |
|------|--|--|
| 71. | Rizolex | Tolclofos-methyl |
| | HERBICIDES | |
| | <u>TRADE NAME</u> | <u>ACTIVE INGREDIENT</u> |
| 72. | Amythurim (Evik) | |
| 73. | Broadtril | Bromoxynil |
| 74. | Chemquat | Pyrethrin, Piperonyl Butoxide |
| 75. | Fusilade | Fluazifop-P-Butyl |
| 76. | Goal | |
| 77. | Glyfos | Glyphosate |
| 78. | Gramocil | Paraquat + Diuron |
| 79. | Gramoxone | Paraquat |
| 80. | Herbadox | Pendimethalin |
| 81. | Lorox | Linuron 3-(3,4-dichlorophenyl) |
| 82. | Reglone | Diquat |
| 83. | Round-up | Glyphosate |
| 84. | Touchdown | Glyphosate-N-(Phosphonomethylglycime) |
| 85. | Hyvarex | Bromacil |
| 86. | Karmex | Diuron |
| | RODENTICIDE | |
| | <u>TRADE NAME</u> | <u>ACTIVE INGREDIENT</u> |
| 87. | Klerat | Brodifacoum |
| | FERTILISERS & PLANT HEALTH PRODUCTS | |
| 88. | Agri Cal | 89. Bountiful Harvest |
| 90. | Cytokin | 91. Sugar Express 10-5-40 |
| 92. | Nutrient Express | 93. ZMC Express |
| 94. | Greenstim | 95. Bio 20 Foliar 20-20-20 + Amino acids |
| 96. | Omex Calmax | 97. Omex Foliar Boron Foliar Calcium |
| 98. | Powergizer 8-32-5 | 99. Water pH Adjuster |
| 100. | Breakthru | 101. Etephon |
| 102. | Vitazyme | 103. Peters All Purpose 20-20-20 |
| 104. | Peters B/Blossom Booster 10-30-20 | 105. Peters Calcium Nitrate |
| 106. | New Gibb Gibberellic Acid | 107. Ethnil |
| 108. | Urea | 109. Murate of Potash |
| 110. | Peters Potassium Nitrate | 111. Scotts Solinure 12-6-36 |

| | | | |
|------|--|------|---|
| 112. | Scotts Solinure 20-20-20 | 113. | Scotts Solinure 22-5-15 |
| 114. | Peters Plant Starter 9-45-15 | 115. | Triple Super Phosphate |
| 116. | Turf Fert. Plus. Iron 25-3-10 | 117. | Turf Fertilizer 36-3-7 |
| 118. | Scotts Solinure 12-36-12 | 119. | Scotts Solinure 24-12-12 |
| 120. | Scotts Solinure 10-5-40 | | |
| | NPK | | |
| 121. | 12-12-17 (2 mg) | 122. | 20-20-20 |
| 123. | 15-15-15 | 124. | 13-13-21 |
| 125. | 16-8-21 | 126. | 12-12-24 |
| 127. | 20-10-10 | | |
| | FERTILISERS & PLANT HEALTH PRODUCTS | | |
| 128. | Miracle Grow 20-20-20 | 129. | Miracle Grow 15-15-15 |
| 130. | Zinc Sulphate | 131. | Magnesium Sulphate |
| 132. | Iron Sulphate | 133. | Potassium Sulphate |
| 134. | Potassium Nitrate | | |
| | TOOLS AND EQUIPMENT | | |
| 135. | Tensiometer | 136. | Greenhouse Netting/Plastic |
| 137. | Produce Crate Container, Egg Tray | 138. | pH Meter |
| 139. | Rotavator | 140. | Mechanical Planter (multi function, mounted on to tractor) |
| 141. | Banker | 142. | Ripper/Harrow |
| 143. | Boom Sprayer | 144. | Manual Seed Planter |
| 145. | Fertiliser Spreader | 146. | Drip Irrigation Lines |
| 147. | Injector Pump for Fertigation | 148. | Plastic Mulch Spreader |
| 149. | Plastic Mulch (4ft. wide X 4,000ft) | 150. | Seed Trays (plastic and Styrofoam) |

(2) The Minister may, by Order published in the Gazette, exempt a person from payment of the charge.

12. Appeals

(1) The Comptroller has the power to determine a dispute against the charge to be paid under this Act in the manner provided under section 135 of the Customs (Control and Management) Act, 1993.

(2) The Customs Appeal Commissioners have the power to determine an appeal against a decision of the Comptroller in the manner provided under section 137 of the Customs (Control and Management) Act, 1993.

(3) An appeal against a charge assessed to be paid under this Act shall be made in the same manner and shall follow the same procedure as that provided under Part XII of the Customs (Control and Management) Act, 1993.

13. Monies to be paid into Consolidated Fund

All monies collected under this Act shall be paid into the Consolidated Fund.

14. Regulations

(1) The Minister may make regulations for the better carrying into effect of the provisions of this Act.

(2) Regulations may prescribe offences for breach of the Regulations, and for penalties for those breaches, but the penalties may not exceed a fine of five thousand dollars and imprisonment for a term of six months.

15. Resolution of the Parliament

An Order made under sections 6 or 11 Regulations made under section 14 are subject to the affirmative resolution of the Parliament.

16. Repeal

The Customs Service Tax Act, Cap. 128 and the Customs Service Tax (Continuation) Act, Cap. 129 are repealed.

Passed by the House of Representatives on
the 27th day of May, 2010.

Passed by the Senate on the 10th day
of June, 2010.

D. Gisele Isaac-Arrindell,
Speaker.

Hazlyn M. Francis,
President.

T. Thomas,
Clerk to the House of Representatives.

T. Thomas,
Clerk to the Senate.