

CHAPTER 205

THE HOTELS TAX ACT

Arrangement of Sections

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HOTELS TAX

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5/1963.
20/1968.
31/1973.
1/1974.
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23/1976.
31/1977.
21/1982.
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1. This Act may be cited as the Hotels Tax Act. **Short title.**
2. In this Act unless the context otherwise requires — **Interpretation.**

"Commissioner" means the officer for the time being performing the duties of Commissioner of Inland Revenue and includes any officer duly authorised to act on his behalf;

"guest" means any person residing in a hotel or guest-house in consideration of the payment of a sum of money for such residence, but shall not include a guest who is a permanent resident:

Provided that notwithstanding anything to the contrary in this Act, for the purposes of section 3(1) (6) and the proviso thereto and item (6) of the First Schedule, any reference therein either direct or by implication to a guest shall be construed as including a reference to any person who incurs expenditure for any service specified in item (ii) of the definition of "hotel-bill" in this section whether or not such a person resides in or is a permanent resident in the hotel or guest-house; **First Schedule.**

"guest-house" means a hotel containing more than four but less than ten bedrooms;

"hotel" means any building or group of buildings within Antigua and Barbuda (including all structures within the curtilage thereof) which are occupied together for the purpose of accommodating guests therein, and which contains, or is intended to contain when completed, not less than ten bedrooms;

"hotel-bill" includes any account, bill, invoice, receipt or other document for or in relation to any sum of money paid or due and payable to a proprietor for or in connection with or in consequence of—

- (i) accommodation of a guest at the hotel or guest-house of that proprietor; or
- (ii) food, drink and other services supplied by, through or on behalf of the hotel or guest-house of that proprietor; or
- (iii) both such accommodation and food, drink and other services,

but does not include in such account, bill, invoice, receipt or other document for or relating to any sum of money paid or due and payable as aforesaid for or in respect of telephone bills, service charges, telegrams, or the hire of taxis or other motor vehicles;

"Inspector" means an Inspector of Hotels appointed under section 8 of this Act;

"Minister" means the Minister to whom responsibility for Tourism is assigned;

"night" means the interval between eight o'clock in the evening of any day and five o'clock in the morning of the next succeeding day;

"permanent resident" means—

(a) a person who during the period of twelve months immediately preceding the date of coming into operation of this Act, has been a guest in a hotel or guest-house or partly in a hotel and partly in a guest-house for a period of at least sixty consecutive days;

(b) a person who, during any period of twelve months commencing on the first day of January in any year after the date of coming into operation of this Act, has been a guest in a hotel or guest-house, or partly in a hotel and partly in a guest-house, for at least sixty consecutive days during such period of twelve months;

“proprietor” means the owner of a hotel or guest-house or any person on whose behalf guests are admitted to a hotel or guest-house; and where a proprietor is absent from Antigua and Barbuda, or is a body corporate, includes the person for the time being responsible for the management of the hotel, or guest-house, as the case may be.

3. (1) A tax, to be called hotel tax, shall be charged and collected, subject to and in accordance with the provisions of this Act— Imposition of tax.

- (a) in respect of each guest accommodated during a night or part of a night, in a hotel or guest-house; and
- (b) upon each hotel-bill:

Provided that any portion of the tax that is charged upon a hotel-bill pursuant to paragraph (b) of this subsection and to item (b) of the First Schedule hereto shall be paid by the guest to whom that hotel-bill relates and shall be collected from that guest by the proprietor. First Schedule.

(2) The proprietor of every hotel or guest-house shall account for the tax charged by this Act in such manner as the Commissioner may from time to time direct. Such tax shall be payable by the proprietor accountable for the same, and shall be paid into the general revenue on such day in each week as the Commissioner may from time to time direct.

(3) Directions given by the Commissioner in accordance with the provisions of the preceding subsection shall be in writing under his hand, and shall be served on the proprietor of every hotel or guest-house, as the case may be.

(4) Any proprietor who wilfully omits or neglects to collect the tax pursuant to subsection (1) of this section, or to account for the tax in the manner directed by the Commissioner, or any person who makes any false entry in accounting for the tax imposed by this Act with intent to evade payment by himself, or by any other person, of the said tax, shall be guilty of an offence against this Act.

Rates of tax.

First Schedule.

4. (1) The amount of tax to be charged and collected under the provisions of this Act shall be in accordance with the rates set out in the First Schedule hereto.

(2) For the purposes of this section hotels and guest-houses shall be grouped in such manner, not exceeding four groups, as the Minister may by Order published in the *Gazette* specify and such Order may from time to time by similar Order be amended by the Minister by adding thereto or deleting therefrom any such group and specifying in the Order the date upon or from which such amendment shall have effect.

Proprietors to supply certain information.

5. (1) The Commissioner may at any time by notice published in the *Gazette* require all or any proprietors in Antigua and Barbuda to furnish him, in writing, by a date to be specified in such notice (which date shall not be less than seven days after the date of publication of such notice), with the following information in relation to their hotels and guest-houses—

(a) the name and address thereof;

(b) the maximum number of guests that may be accommodated therein during the night; and

(c) the name of the person responsible for the management thereof.

(2) Every notice published in accordance with the preceding subsection shall also be published in three consecutive issues of a daily newspaper circulating in Antigua and Barbuda. The date of the first such issues shall be the same as the date of the issue of the *Gazette* in which the said notice is published.

(3) Every proprietor shall without delay furnish to the Commissioner in writing such information with respect to the ownership and management of his hotel or guest-house as the Commissioner may from time to time require.

(4) Any person who begins to use, or ceases to use, any premises for the purposes of conducting a hotel or guest-house therein shall forthwith notify the Commissioner in writing of the fact; and where any person begins to use any

premises as aforesaid he shall forthwith furnish the Commissioner with the information required to be furnished under the provisions of subsection (1) of this section.

(5) The proprietor of every hotel or guest-house shall forthwith notify the Commissioner in writing of—

(a) any change which occurs in the name or address thereof;

(b) any change in the maximum number of guests that can be accommodated therein during the night; and

(c) any other change in the management or ownership thereof which would affect the accuracy of any information already supplied in accordance with the foregoing provisions of this section.

(6) Any person who fails to furnish the Commissioner with any information required to be supplied in accordance with the foregoing provisions of this section, or otherwise fails to comply with the foregoing provisions of this section, shall be guilty of an offence against this Act.

6. (1) Every proprietor shall keep, or cause to be kept, a register of guests (hereinafter referred to as the register) which shall be made of such durable material and shall be in such form as the Commissioner may from time to time approve; the approval of the Commissioner shall be signified in writing under his hand and affixed to the register. **Register of guests.**

(2) The register shall contain—

(a) the names, permanent address, and qualification (or occupation) of each guest;

(b) the date and time of admission of each guest;

(c) the date and time when any person ceases to be a guest; and

(d) such other particulars as the Commissioner may from time to time require.

(3) Every proprietor, or the person for the time being appointed by the proprietor for the purpose of keeping

the register, shall require each guest to sign the register in the appropriate column—

- (a) at the time of his admission as a guest; and
- (b) immediately before he ceases to be a guest.

(4) Every guest shall sign the register in accordance with the provisions of the preceding subsection unless he is unable to sign his name, in which event the proprietor shall make an entry to that effect in the register.

(5) Any person who fails to comply with the foregoing provisions of this section, or wilfully makes any false entry in a register, with intent to evade payment by himself or by any other person of the tax imposed by this Act, shall be guilty of an offence against this Act.

**Hotel-bills
record.**

7. (1) Every proprietor shall keep, or cause to be kept, in durable form a record of all hotel-bills (hereinafter referred to as the hotel-bills record) which record shall contain either the originals of such hotel-bills or photographs thereof or such other copies thereof as may be approved by the Commissioner. A hotel-bills record shall be in such form as the Commissioner may from time to time approve.

(2) Any person who fails to comply with the provisions of this section, or wilfully makes any false entry in a hotel-bills record, with intent to evade payment by himself or by any other person of the tax imposed by this Act, shall be guilty of an offence against this Act.

**Appointment and
duty of
Inspectors of
hotels.**

8. (1) The Commissioner may, in his discretion, appoint one or more officers of the Inland Revenue Department to inspect hotels and guest-houses in Antigua and Barbuda and every such officer shall be known as an Inspector of Hotels. It shall be the duty of every Inspector to visit such hotels and guest-houses in Antigua and Barbuda as the Commissioner may direct, for the purpose of examining the registers and hotel-bills record thereof and ascertaining the number of guests from time to time resident therein.

(2) Every Inspector shall at least once in each month, and at such other times as the Commissioner may direct,

make a report to the Commissioner on all hotels and guest-houses visited by him, and such reports shall be in such form and contain such particulars as the Commissioner may require.

(3) Every Inspector shall be furnished with a certificate of appointment issued under the hand of the Commissioner and shall produce the same to any proprietor when required so to do.

9. (1) An Inspector may at any reasonable time of the day or night enter upon the premises of any hotel or guest-house for the purpose of examining the register and hotel-bills record thereof, and may require the proprietor to produce the register and hotel-bills record for his examination. An Inspector may remain on such premises as long as may be necessary for the purpose of ascertaining the number of guests residing therein or of examining the hotel-bills record thereof.

**Powers of the
Inspectors and
Commissioner.**

(2) An Inspector, upon the production of his certificate of appointment to any person in a hotel or guest-house whom he has reasonable cause to suspect to be a guest therein, may require such person to give him his name and address; and any such person who wilfully omits or refuses to give the Inspector his correct name and address shall be guilty of an offence against this Act.

(3) If an Inspector, when requested by a proprietor to produce his certificate of appointment in accordance with the provisions of subsection (3) of section 8 of this Act fails to do so, the proprietor may refuse to permit him to remain on his premises, or to examine his register.

(4) Subject to the provisions of the preceding subsection, any proprietor who fails to produce his register or hotel-bills record for examination when required to do so by an Inspector shall be guilty of an offence against this Act, and any person who wilfully hinders or obstructs an Inspector in the performance of his duties shall be guilty of an offence against this Act.

(5) The Commissioner may at all reasonable hours in the daytime enter upon the premises of any hotel or guest-house for the purpose of examining the register and hotel-bills record thereof, and may require the proprietor thereof to produce the register and hotel-bills record for his examination; and any proprietor who fails to produce his register or hotel-bills record to the Commissioner for examination, or any person who wilfully hinders or obstructs the Commissioner in the performance of his duty shall be guilty of an offence against this Act.

Additional charge
on overdue tax.

10. When any tax imposed by this Act, or any part thereof, remains unpaid at the expiration of the fifth day after the date on which it should have been paid into general revenue, the proprietor liable to pay the same, shall be charged an additional sum equivalent to ten per centum of the amount of the tax so remaining unpaid, and such sum shall be collectable in the same manner as if it were part of the said tax then due and owing.

Charge and
collection of tax.

11. Any such tax due and owing under the provisions of this Act shall be a first charge on the goods and chattels of the proprietor accountable for the same, and shall take priority over any other charge or debt due by speciality or otherwise, except debts due to the Crown; and such tax shall be levied and collected by the seizure and sale of the goods and chattels of the proprietor accountable for the same.

Second Schedule.

(2) The Commissioner may at any time prepare, date and sign a list (hereinafter called a defaulters list) which shall be in the form set out in the Second Schedule to this Act and shall contain—

(a) the name and address of the proprietors by whom such tax is due and owing; and the name of the hotels and guest-houses of such proprietors;

(b) the amount of tax due and owing by each proprietor, together with any additional amount that may have been charged thereon,

and shall deliver the same to the Provost Marshal for collection of the respective amounts specified therein.

(3) As soon as may be after the Provost Marshal has received a defaulters list he shall proceed to levy and collect the several amounts shown therein in the manner prescribed in subsection (1) of this section.

12. (1) Where any goods and chattels have been seized as aforesaid, they shall be marked, and deposited in some place, or left in the possession of some fit person as the Provost Marshal shall direct.

Sale of goods and chattels seized.

(2) If the tax in respect of which the levy was made and all expenses incidental to such levy are not sooner paid, all goods and chattels seized as aforesaid shall be sold at public auction, at such place and during such hours as the Provost Marshal shall determine:

Provided that no such sale shall take place within five days of the seizure of such goods and chattels, unless the same are in the opinion of the Provost Marshal of a perishable nature, or the owner of such goods and chattels has requested their earlier sale.

(3) The date, time and place of sale of all goods and chattels seized under the provisions of this Act shall be advertised prior to the date of sale thereof in at least one issue of the Gazette and of a daily newspaper circulating in Antigua and Barbuda unless such goods and chattels are being sold by the Provost Marshal before the expiry of the period of five days referred to in the preceding subsection.

(4) The proceeds of sale of such goods and chattels shall be applied first towards the payment of the expenses incidental to their seizure and sale and the payment of the tax in respect of which they were seized, and the balance, if any, of the proceeds of such sale shall be paid to the proprietor from whom the said goods and chattels were seized upon application being made for the same.

(5) The Provost Marshal shall forward to the Commissioner at least once in each month, a return of all taxes collected by him under the provisions of this Act, and shall pay all such taxes into the general revenue as soon as may be after the collection thereof.

Demanding or receiving from guest an offence.

First Schedule.

13. Any proprietor or other person who—

(a) demands from any guest payment of the whole or any part of the tax charged in accordance with the provisions of paragraph (a) of subsection (1) of Section 3 and of item (a) of the First Schedule; or

(b) receives payment from any guest of any amount tendered in respect of the payment of the whole or any part of the tax mentioned in paragraph (a), whether the same has been demanded or not,

shall be guilty of an offence.

Penalty.

14. Any person found guilty of an offence against this Act shall on summary conviction be liable to a fine not exceeding three thousand dollars or to imprisonment for a term not exceeding six months.

Proof of entries in registers.

15. A copy of, or extract from, entries in a register, upon which is endorsed a certificate purporting to be signed by the Commissioner, stating that such copy or extract is a true copy or extract from a particular register shall in all legal proceedings be admitted as *prima facie* evidence of the entries in the said register until the contrary is proved.

Cabinet may refund or remit tax.

16. The Cabinet, if satisfied that it is just and equitable to do so, may refund or remit, as the case may be, the whole or any part of the tax paid or payable under the provisions of this Act, together with any additional charge imposed thereon and any expenses of levy incurred in connection with the collection of such tax.

FIRST SCHEDULE

(Section 4)

(a) For each guest residing for a night or part of a night in an hotel or a guest-house as specified by Order made under section 4 to be within—

Group I	\$12.50 per night.
Group II	\$10.00 per night.
Group III	\$ 6.50 per night.
Group IV	\$3.50 per night.

(b) On each hotel bill —Five per centum of the sum of money in respect of every item of the hotel bill.

(c) Paragraph (a) of this Schedule does not apply to a guest who is a child under the age of thirteen years and who is not accommodated at a hotel or a guest-house separately from any person accompanying that child at the hotel or guest-house, such accompanying person being also a guest at that hotel or guest-house.

(Section 11 (2))

SECOND SCHEDULE

Defaulters List

No. of 19 .	Date:				
Name and address of Proprietor in default	Hotels and Guest-houses operated by proprietor	Amount of tax due and owing	Accounting period in respect of which tax is due and owing	Additional charge of 10% (if any)	Total amount to be levied

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 Commissioner of Inland Revenue