

CHAPTER 294

THE NON-CITIZENS UNDEVELOPED LAND TAX ACT

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NON-CITIZENS UNDEVELOPED LAND TAX

(1st July, 1980.)

1411978.
S.R.O. 46,1981.
S.I. 2311982.

1. This Act may be cited as the Non-citizens **Short title.**
Undeveloped Land Tax Act.

2. In this Act—

Interpretation.

"citizen" means a person who is a citizen of Antigua and Barbuda under and by virtue of the provisions of Chapter VIII of the Constitution or of any other law relating to citizenship of Antigua and Barbuda;

"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;

"land" includes land covered with water and also includes incorporeal as well as corporeal hereditaments of every tenure or description, and any interest therein, and also an undivided share of land;

"Minister" means the Minister charged with responsibility for the subject of Economic Development;

"non-citizen" means a person who is not a citizen and includes—

(a) any company incorporated in Antigua and Barbuda which is under the control of non-citizens in accordance with the provisions of section 6 of the Non-citizens Land Holding Regulation Act; and **Cap. 293.**

(b) any company incorporated outside of Antigua and Barbuda;

“owner” in relation to any land, means the person (other than a mortgagee not in possession) entitled, either with or without the consent of any other person, to dispose of the fee simple of the land;

“undeveloped land” means any land in respect of which an order under section 4 is in force.

Responsibility of owner.

3. (1) For the purposes of this Act it shall be the responsibility of a non-citizen who is the owner of land in Antigua and Barbuda to develop the land to such extent as may be practicable having regard to the character and situation of the land and other relevant circumstances.

(2) In determining whether a non-citizen is fulfilling his responsibility under the Act to develop such land regard shall be had to the extent to which and the manner in which—

(a) in the case of agricultural land—

- (i) pasture is being maintained;
 - (ii) arable land is being cropped; and
 - (iii) the land is stocked where it is being used for livestock farming;
- and

(b) in the case of other land—

- (i) building, engineering or other operations in, on, over or under such land have been or are being carried out whether or not any building, engineering or other operations have been or are being carried out for the subdivision into lots;
- (ii) the amount of money expended on development or management of the land.

Power of Minister to declare undeveloped land.

4. Where it appears that a non-citizen who is the owner of land in Antigua and Barbuda is not fulfilling his responsibility under this Act to develop such land, the Minister may by order published in the *Gazette* declare such land or any area therein to be undeveloped land for the purposes of this Act.

5. Where any non-citizen is dissatisfied with the classification of land under an order made pursuant to section 4, he may, within three months after such classification post or lodge with the Minister an objection in writing against the classification stating the grounds upon which he relies.

Objections to classification.

(2) The Minister shall, with all reasonable despatch consider the objection and may either—

(a) disallow it; or

(b) allow it wholly or in part;

and shall communicate his decisions to the objector in writing.

6. Notwithstanding any law to the contrary, there shall be raised, levied, collected and paid into the Consolidated Fund an annual tax on every piece of undeveloped land in Antigua and Barbuda that is owned by a non-citizen.

Imposition of Tax.

7. The annual tax imposed by this Act shall be an amount equivalent to a percentage of the value of the land as is specified in the First Schedule.

Amount of Tax.

First Schedule.

8. The value of all land to which this Act applies shall be assessed by the Commissioner, the first of such assessment to come into force on the first day of January, 1980 and thereafter, new assessments shall be made so as to come into force on the first day of January in the following years, that is to say, the year 1985, and each fifth subsequent year.

Determination of value of land.

9. The amount of tax payable in respect of any land to which this Act applies shall be paid by the owner to the Commissioner not later than the thirty-first day of July in each year.

Tax payable to Commissioner.

10. (1) Every non-citizen who is the owner of land in Antigua and Barbuda shall on or before the 2nd day of April in every year make a return to the Commissioner in the form prescribed in the Second Schedule of all land in Antigua and Barbuda of which he is owner:

Non-citizen to make return to Commissioner. Second Schedule.

Provided that a non-citizen may not make a return in any year if there is no alteration in respect of his interest as disclosed in his last return.

(2) A non-citizen who at any time comes into possession of land in his own right or that of his wife, or as an attorney, agent or guardian of any person—

- (i) by grant from the Crown;
- (ii) by purchase, inheritance, devise, lease, agreement for lease or otherwise, shall, within six months next after he so comes into possession, notify the Commissioner thereof and furnish him with such particulars of the transaction as the Commissioner may direct.

(3) The Commissioner may call upon the owner, vendor, or purchaser of such land for any further particulars that he may require to identify such land over which such non-citizen may have or at any time have had control.

(4) A non-citizen who wilfully fails or neglects to supply the Commissioner with such return or notification on or before the prescribed date or who makes such return or notification which is wilfully untrue in any material particular is guilty of an offence and liable on summary conviction to a penalty not exceeding one thousand dollars.

Commissioner may cause land to be measured, etc.

11. The Commissioner may—

(a) cause any land to be visited, inspected and measured; or

(b) call on any person to produce for inspection any map, plan, title deed, instrument of title or other document in the custody or under the control of that person which relates to the land;

in order that the Commissioner may enquire into and ascertain the correctness of any return made by a non-citizen.

Penalty for refusing to allow Commissioner to enter land.

12. A person who—

(a) refuses to allow the Commissioner to inspect or measure land;

(b) hinders or assaults the Commissioner in the execution of his duty;

(c) refuses to answer or gives untrue answers concerning the land; or

(d) refuses to deliver for inspection any map, plan, title deed, instrument of title or other document;

shall be guilty of an offence and shall be liable on summary conviction to a fine of one thousand dollars or to a term of imprisonment of six months or to both such fine and imprisonment.

13. All taxes payable under this Act shall be a charge on the land in respect of which they are due and shall take priority over any other charge. **Taxes a first charge on land.**

14. When any tax, or any part thereof, remains unpaid for sixty days after the date on which the tax became due and payable the person liable to pay the tax may be charged by the Commissioner an additional sum equal to two and one-half per centum on the amount of such tax, and such amount shall be recoverable in the same manner as the principal sum. **Increase in case of default.**

15. The Commissioner shall on or before the fifteenth day of October in each year prepare and sign a list of all lands in respect of which taxes have not been duly paid, specifying the amount due in respect of each piece of land together with any increase due in case of default, and shall deliver the same to the Provost-Marshal for collection. **List of arrears to be sent to Provost-Marshal.**

16. On receipt of the list the Provost-Marshal shall proceed to collect the several amounts shown therein by the seizure and sale of the land or any part thereof in respect of which the tax is due and owing: **Provost-Marshal to levy by seizure.**

Provided that in all cases where such lands have been brought under the operation of the Title by Registration Act, the Provost-Marshal on behalf of the Government shall take proceedings to recover the costs thereof for the purpose of seizing and selling such land and realizing the amount of unpaid taxes due thereon under the provisions of section 35 (2) of the Title by Registration Act. **Cap. 429.**

17. (1) Where land is seized by the Provost-Marshal under section 16 and the land is not brought under the Title by Registration Act, it shall be sold by public auction to be held within the precincts of the High Court in the City of Saint John's. **Sale and redemption of land not brought under the Title by Registration Act.**

(2) No such sale shall take place until at least fourteen days have expired after the date of first publication in the *Gazette* of a notice stating the date, time and place of the sale, and such notice shall be published in at least two consecutive issues of the *Gazette* and of a newspaper circulating in Antigua and Barbuda.

(3) The party beneficially entitled to the land so sold or his duly accredited agent, may redeem the land and if necessary institute proceedings for its recovery within one month after the date of such sale.

(4) If the party or agent recovers the land, the purchaser or his duly accredited agent or his assignee shall be entitled to recover and be allowed against the party so redeeming the sum originally paid for the purchase together with the sum of five per centum of the purchase money.

Certificate of purchase.

18. After the period of redemption has expired and the person entitled fails to redeem the land as provided under section 17, the Provost-Marshall shall grant a certificate of purchase to the purchaser to the effect that he has purchased the land; and the certificate shall be liable to stamp duty as a conveyance of the land and when duly stamped shall be deemed to be a valid transfer and may be registered in any manner provided for under any applicable law relating to transfer and registration of title to land.

Government may purchase land.

19. At the sale of any land under the provisions of this Act any duly authorised officer of the Government may bid for and purchase such land on behalf of the Crown.

Appeals.

20. A person aggrieved by a decision of the Commissioner—

(a) assessing and determining the annual value of the land of that person under this Act; or

(c) determining any other matter which the Commissioner is to determine or may determine under this Act;

may appeal against the decision to the Valuations Appeal Board as established and constituted by section 21 of the Property Tax Act hereinafter called "the Board".

21. (1) An appeal against an assessment to a levy shall be instituted by the appellant sending to the Secretary of the Board in duplicate a written notice of appeal setting out the grounds of the appeal. **Procedure.**

(2) The Chairman shall fix the date, time and place of the hearing of an appeal and the Secretary of the Board shall not less than 14 days before the date so fixed send to the appellant and the Commissioner a notice of the time and place of the hearing.

(3) The appellant and the Commissioner may appear at the hearing of the appeal, and may be heard in person or be represented by counsel or any other person.

(4) If the appellant or the Commissioner or both of them shall fail to appear or to be represented at the time and place fixed for the hearing of an appeal, the Board may dispose of the appeal in the absence of such party or parties or may adjourn the hearing to a later date.

(5) The hearing of the proceedings before the Board shall be in public:

Provided that where the Board is satisfied that it is desirable to do so by reason of the confidential nature of any evidence or matter or for any other reason, the Board may—

- (i) direct that a hearing shall take place in private and the directions as to the persons who may be present; or
- (ii) give directions prohibiting or restricting the publication of evidence given before the Board (whether in public or private) or of matters contained in documents filed before the Board.

22. (1) The Board shall have, as regards the attendance, swearing and examination of witnesses, the production and inspection of documents and other matters necessary or proper for the exercise of its jurisdiction all such powers, rights and privileges as are vested in a court of summary jurisdiction on the hearing of civil cases under the Magistrates Code of Procedure Act and, without limiting the generality of the foregoing, may— **Power of Board.**

Cap. 255.

(a) issue a summons to any person requiring him to appear at the time and place mentioned therein to testify to all matters within his knowledge relating to a subject matter before the Board and to bring with him and produce any document, book or paper that he has in his possession or under his control relative to such subject matter;

(b) administer oaths and examine any person upon oath, affirmation or otherwise; and

(c) during a hearing receive such additional information as it may consider credible or trustworthy and necessary for dealing with the subject matter before it.

(2) Upon the hearing of an appeal, the Board, after hearing the person aggrieved and the Commissioner, and any evidence which may be adduced by either of them, may affirm, reverse or vary the decision appealed against and make such order as to the costs of the appeal as they may think just.

Power of Minister.

23. The Minister responsible for Agriculture may—

(a) by order vary the times for doing any act required to be done under this Act;

(b) by order make regulations for the better carrying out of the provisions of this Act, and

(c) remit any tax in whole or in part or any penalty or costs payable under this Act.

Transitional.

24. Notwithstanding anything in this Act, a person who, on 31st October 1981, was a *belonger* under and by virtue of this Act, and who is a non-citizen on the 1st November, 1981, shall, for the purposes of this Act, and only for those purposes, be deemed to be a citizen—

(a) for a period of eighteen months beginning with the 1st November, 1981; or

(b) if before the expiration of that period he applies to be registered as a citizen, until he is so registered, or his application is finally refused.

FIRST SCHEDULE

(Section 7)

1. For the year 1980, the annual tax pursuant to sections 6 and 7 of this Act on undeveloped land owned by a non-citizen, shall be five per centum of the value of that land determined pursuant to section 8 of this Act.

2. With respect to any year subsequent to the year 1980, the annual tax pursuant to sections 6 and 7 of this Act on undeveloped land owned by a non-citizen, shall be—

(a) for the second year of such ownership, ten per centum of the value of that land determined pursuant to section 8 of this Act;

(b) for the third year of such ownership fifteen per centum of the value of that land determined as aforesaid;

(c) for the fourth and subsequent years of such ownership, twenty per centum of the value of that land determined as aforesaid.

SECOND SCHEDULE (Section 10 (1))

Return in Respect of Land of _____ Acres in Area.
(Section 10 (1) of the Non-citizens Undeveloped Land Tax Act.)

Name of Owner:

Address:

Description of Land:

Parish in which situate:

Area of land:

I, of
do hereby certify that all the particulars of the above return are true and correct,
and that I have not omitted or concealed or misdescribed any matter or thing
therein nor made the said return in any way calculated to mislead or deceive
the Commissioner in respect of the amount of tax due and payable by me. And
I further declare that if I have unwittingly made any error in the said return

I will give notice to the Commissioner of the same immediately upon discovering the error.

Signed:
Owner

N.B. It is an offence under the Act to fail to make such a return when required or to make a return which is wilfully untrue in any particular.
Tax assessed at \$.....

..... *Commissioner*
