



[L.S.]

I Assent,

James B. Carlisle,
Governor-General.

10th November, 1994.

ANTIGUA AND BARBUDA

No. 19 of 1994.

AN ACT to impose a **tax** on the sale of food and beverages in restaurants and in catering establishments and to make provision for other matters incidental thereto.

[24th November, 1994.]

ENACTED by the Parliament of Antigua and Barbuda as follows—

1. This Act may be cited as the Restaurants and Catering Services Tax Act, 1994. Short title

2. In this Act— Interpretation.

"**Commissioner**" means the Commissioner appointed under section 2 of the Inland Revenue Administration Act, 1976 (No. 23 of 1976) or any other person duly authorised to act on his behalf;

"catering establishment" **includes** any establishment that prepares **meals** and refreshments for sale and consumption off the premises;

"Property" has the same meaning assigned by section 2 of the Property **Tax** Act, (No. 2 of 1986) 1986;

"restaurant" includes an establishment where meals are sold for consumption on or off the premises;

"meals" include beverages;

"Minister" means the Minister responsible for Finance;

"proprietor" means the owner of a restaurant or a catering establishment or where the owner is absent from Antigua and Barbuda or is a body corporate, the person for the time being responsible for the management of the restaurant or the catering establishment.

Imposition of tax.

3. (1) Subject to this Act, there shall be charged, levied and collected a tax of seven per centum of the cost of meals sold at or ordered from a restaurant or a catering establishment.

(2) The Cabinet may from time to time by order—

(a) amend the rate of tax;

(b) exempt any restaurant or catering establishment from the provisions of this Act.

(3) Any Order made under this section shall cease to have effect unless the Order is confirmed by a resolution agreed to by the House within the next twenty-one days after the commencement of the Order.

Collection of tax.

4. (1) The proprietor of every restaurant or catering establishment shall collect the tax and account for it in such manner as the Commissioner may from time to time prescribe.

(2) The tax due under this Act shall be paid weekly to the Commissioner on such day in each week as the Commissioner may, from time to time direct, together with a return in such form as may be specified by the Commissioner.

(3) Directions given by the Commissioner pursuant to subsections (1) and (2) shall be in writing under his hand, and shall be served on the proprietor.

(4) Where any instalment of tax is not paid within seven days from the day on which it becomes due and payable, default shall be deemed to have been made in the payment thereof.

5. (1) Every proprietor shall keep and maintain a record of all food and of all beverages and of sales of such foods and beverages that are served for payment in such form and containing such information as will enable the tax payable under this Act to be determined.

Proprietor to keep record.

(2) The Commissioner or any person authorised by him in writing has power at all reasonable hours to enter any restaurant or catering establishment and to require the production to him by the proprietor or his agent or servant of such documents or records as he may reasonably require in order to ascertain the amount of tax due.

(3) Any person who—

- (a) fails to keep and maintain such record as provided for in subsection (1); or
- (b) refuses to produce any document or records required by the Commissioner or any person authorised by him for the purposes of ascertaining the amount of tax due;

is guilty of an offence and is liable on conviction to a fine of ten thousand dollars or to imprisonment for five years.

6. Any person who fails to pay the tax before it is deemed to be in default under section 4(4) shall—

Penalty and interest.

- (a) in addition to the tax, pay to the Commissioner a penalty equal to twenty per centum of the amount which was not paid; and
- (b) in addition to the tax and penalty imposed by paragraph (a), pay to the Commissioner an amount as interest at the rate of two per centum per month calculated for each week during which any amount of tax remained unpaid on the amount of tax that was due and unpaid at any time in the week.

7. (1) Where a period of thirty days has elapsed after default under section 4 (4) has occurred and the proprietor has made no payment in satisfaction of the tax in arrear together with the penalty and interest, the Minister may on the advice of the Commissioner, withdraw or revoke the licence which the restaurant or the catering establishment carries on business.

Withdrawal or revocation of licence.

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Tax Act, 1994.

Power to distrain.

8. (1) Where the Minister withdraws or revokes a licence under section 7, the Commissioner may authorise the seizure and sale of any goods, chattels, property or other effect found on the premises which are used by the proprietor in connection with the operation of the restaurant or the catering establishment.

(2) The authority to seize and sell under this section shall be in the prescribed form, and such authority shall be sufficient warrant and authority to levy the amount of tax unpaid and in arrear, together with any penalty and interest due under section 6 in respect of the tax in arrear.

(3) For the purpose of the seizure and sale of any goods, chattels, property or other effects found on the premises where the restaurant or catering establishment is operated, any person may, if expressly authorised in writing by the Commissioner, execute any warrant of distress, and if necessary break open any building in the day-time for the purpose of levying distress, and he may call to his assistance any police officer, when so required, to aid and assist in the execution of any warrant of distress and in levying the distress.

(4) For the purposes of this section distress includes making distress on money, bonds, bills or other security belonging to the defaulter against whom such distress is made and to sell and dispose of the same under the provisions of this Act and where it is necessary to vest the power in a purchaser, the Commissioner may assign or endorse such security without incurring any liability on his part for so doing.

(5) No misdescription of error in the name of any proprietor in any way invalidates a warrant issued under this section on any distress levied under the authority thereof.

Application.
NO. 14 of 1962

9. This Act does not apply in respect of the sale of meals supplied by a hotel or guesthouse as defined by the Hotel Tax Act where the sale of such food and beverage are subject to hotel tax under that Act.

Offences and penalty.

10. (1) Any proprietor who —

- (a) fails to account for, or to pay the tax due in the manner prescribed by the Commissioner;
- (b) knowingly furnished a return required under section 4(1) that is false in any material particular;

(c) carries on business after his licence has been withdrawn or revoked,

is guilty of an offence and is liable on summary conviction to a **fine** of five thousand dollars or to imprisonment for a term of two years.

(2) Any person who wilfully obstructs or hinders the Commissioner or any person authorised by him in the performance of his duty or the exercise of his authority under this Act is guilty of an offence and is liable on summary conviction to a fine of ten thousand dollars or to imprisonment for a ~~term~~ of five years.

(3) where any offence is committed by a body corporate, any person who at the time of the commission of the offence was a director, manager, ~~secretary~~ or other similar officer of the body corporate, or purported to act in any such capacity, is deemed ~~to have~~ committed that offence, unless he proves that the contravention was committed without his consent or connivance and that he exercised ~~all~~ such diligence to prevent the commission of the offence ~~as~~ he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

11. The **Minister** may make regulation for prescribing anything that is required to be prescribed under this Act or for the better carrying out of the provisions of this Act. **Regulations.**

Passed the House of Representatives
this 19th day of September, 1994.

Passed the Senate this 11th
day of October, 1994.

B. Harris,
Speaker.

M. Percival,
President.

S. Walker,
Acting Clerk to the House of Representatives.

S. Walker,
Acting Clerk to the Senate.

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