

ANTIGUA AND BARBUDA



TOURISM GUEST LEVY BILL, 2021

No. of 2021

ANTIGUA AND BARBUDA
TOURISM GUEST LEVY BILL, 2021
ARRANGEMENT OF CLAUSES

CLAUSE

1. Short title and commencement.....	5
2. Interpretation.....	5
3. Scope of the Act.....	7
4. Registration and listing of tourism accommodation.....	7
5. Imposition of tourism guest levy.....	7
6. Notification of tourism guest levy.....	8
7. Payment of levy	8
8. Climate Resilience Development Fund.....	9
9. Refund for overpayment	9
10. Waivers and refunds.....	9
11. Exemptions	9
12. Keeping of accounts and records	9
13. Audit	10
14. Copies of documents	10
15. Notice of assessment of levy.....	10
16. Notice of assessment result	11
17. Objections	11
18. Appeals	11
19. Administrative Fines	12
20. Recovery of the levy	12

21. Obstruction of officers	12
22. Validation.....	12

ANTIGUA AND BARBUDA
TOURISM GUEST LEVY BILL, 2021
NO. OF 2021

A BILL to provide for the imposition, collection and remittance of a tourism levy.

ENACTED by the Parliament of Antigua and Barbuda as follows:

1. Short title and commencement

(1) This Act may be cited as the Tourism Guest Levy Bill, 2021.

(2) This Act shall come into force on a date to be appointed by the Minister by Notice published in the official *Gazette*.

2. Interpretation

In this Act, unless the context otherwise requires, the following expressions shall have the following meaning –

““A” class hotel” means a hotel with extensive facilities, furnishings and décor designed to provide a high level of comfort, rest and relaxation, which offers a higher standard of amenities and services, with at least the minimum requirements as specified in the First Schedule;

“Apartment” means any furnished premises in which

- (a) sleeping accommodation and self-catering facilities are provided in 3 or more self-contained units; and
- (b) a charge is made for the accommodation provided;

“accommodation period” means the period of time spent by a guest in a tourism accommodation starting with the day the guest arrives or is checked in and ending with the day that the guest leaves or is checked out.

“Antigua and Barbuda Tourism Authority” means the Antigua and Barbuda Tourism Authority as established under section 3 of the Antigua and Barbuda Tourism Authority Act 2008

“B” class hotel” means a hotel with modest facilities, furnishings and décor, which offers basic amenities and services with at least the minimum requirements as specified in the First Schedule;

“Commissioner” means the Commissioner of Inland Revenue appointed under section 5 of the Tax Administration and Procedure Act 2018;

“guest” means a person who is a visitor to Antigua and Barbuda or a citizen of Antigua and Barbuda who has made a booking and paid partially or fully, for a tourism accommodation;

“guest house” has the meaning assigned to it by section 2 of the Antigua and Barbuda Sales Tax Act”;

“hotel” has the meaning assigned to it by section 2 of the Antigua and Barbuda Sales Tax Act”;

“Inland Revenue Department” means the Inland Revenue Department established under section 5 of the Tax Administration and Procedure Act;

“levy” or “tourism guest levy” means the per guest per night room rate levy imposed under section 5;

“luxury class hotel” means an upscale hotel with superior facilities, furnishings and décor designed to provide an exceptional level of comfort, rest and relaxation, at a higher standard than an “A” class hotel with at least the minimum requirements as specified in the First Schedule;

“Minister” means the Minister with responsibility for Finance;

“officer” means a person who is employed by the Inland Revenue Department and assigned to the administration and enforcement of any matter under this Act or a person authorized by the Commissioner to assist the Inland Revenue Department in the administration and enforcement of this Act;

“payment period” means the the period notified by the Commissioner in accordance with section 7 to a person who offers tourism accommodation;

“Tax Appeal Board” means the body established by section 38 of the Tax Administration and Procedures Act;

“tourism accommodation ” means a holiday or hotel accommodation as defined under section 2 the Antigua and Barbuda Sales Tax Act and which is registered under the Antigua and Barbuda Sales Tax Act 2006;

“vacation rental property” means a rental property –

- (a) which is systematically or periodically rented by guests during a calendar year;
- (b) which is registered under the Antigua and Barbuda Sales Tax Act, and in which a sum of money is paid for the accommodation provided;
- (c) which provides sleeping accommodation in one or more bedrooms;

(d) of which the grounds and any common areas or recreational facilities are for the use of the occupants of a single booking;

(e) where housekeeping services are provided at least once every week; and

(f) which is managed by an individual, a company or a real estate agent;

“villa” means a house that—

(a) has at least 3 bedrooms which are available for the accommodation of guest for reward at least 9 months in every year;

(b) is managed by the owner, company or real estate agent; and

(c) is duly licensed under the Tourism Licensing and Classification Act 2019.

3. Scope of the Act

(1) This Act shall apply to a person who provides or supplies any tourism accommodation to a visitor or a citizen of Antigua and Barbuda.

(2) The Inland Revenue Department shall be responsible for the administration of this Act, and for the assessment, collection and recovery of the levy.

4. Registration and listing of tourism accommodation

(1) A person who provides a tourism accommodation shall register under the Antigua and Barbuda Sales Tax Act with the Inland Revenue Department.

(2) The Antigua and Barbuda Tourism Authority shall submit to the Commissioner before the day of, 2021, a list of persons who own or operate a tourism accommodation, and thereafter, shall submit every month an updated list of such persons to the Commissioner.

(3) The Antigua and Barbuda Tourism Authority shall ensure that the list prepared for the purposes of subsection (2) classifies each hotel listed as either an “A” class hotel, a “B” class hotel or a “luxury” class hotel in accordance with the First Schedule.

5. Imposition of tourism guest levy

(1) A tourism guest levy shall be charged to a guest for each night of the guest’s accommodation period as provided in the Second Schedule and shall be collected and remitted to the Commissioner in accordance with this Act.

(2) Where –

(a) the tourism accommodation is paid for online through the internet the person offering that tourism accommodation online shall charge the guest levy per guest on that tourism accommodation; and

(b) there is no provision for the collection or payment of the levy online it shall be collected by the person providing the tourism accommodation from the guest by the end of the accommodation period.

(3) A person who receives payment of the levy pursuant to subsection (2) shall pay the amount collected for the levy to the Inland Revenue Department in accordance with section 7.

(4) A person commits an offence if he or she fails to submit the amount of the levy collected to the Inland Revenue Department and is liable on summary conviction to a fine of Ten Thousand Eastern Caribbean Dollars.

6. Notification of tourism guest levy

(1) A person who provides tourism accommodation and who advertises that tourism accommodation online or otherwise shall ensure that any such advertisement includes a notification of the requirement to pay the room rate levy per guest.

(2) A person who provides for the booking and purchase of any tourism accommodation offered by a person online shall ensure that any person who seeks to make a payment online to use the tourism accommodation is notified of the tourism guest levy, and that the levy —

(a) is included in the sums which will be collected when the online payment is made; or

(b) will be collected when the person comes to use the tourism accommodation for the accommodation period.

(3) A person who contravenes subsection (1) or subsection (2) is guilty of an offence and is liable on summary conviction to a fine of Five Thousand Eastern Caribbean Dollars.

7. Payment of levy

(1) The Commissioner shall notify a person who provides tourism accommodation to a guest of his payment period.

(2) Where that person is also registered under the Antigua and Barbuda Sales Tax Act, the payment period shall be the same as the taxable period of that person.

(3) A person, referred to in subsection (1), shall within 21 days after the end of each payment period—

(a) file with the Inland Revenue Department, in such a form or manner as the Commissioner may determine —

(i) a return for the payment period;

(ii) a statement of the number of rentals or services which occurred in the period;

- (iii) the revenue obtained from the rentals or services; and
 - (iv) such additional information as the Commissioner requires;
- (b) pay to the Inland Revenue Department the levy payable by that person for the payment period.

8. Climate Resilience Development Fund

(1) All monies collected as a levy pursuant to this Act shall be paid into the Climate Resilience Development Fund (CRDF).

(2) The Climate Resilience Development Fund shall be a special fund established in accordance with the provisions of Section 42 (1) of the Finance Administration Act 2006.

(3) The Minister shall establish regulations for the administration of the Climate Resilience Development Fund in accordance with the provisions of Section 43 of the Finance Administration Act.

9. Refund for overpayment

(1) In circumstances where a person has paid an amount as a levy and that amount exceeds the amount that was payable by that person under this Act, the Commissioner shall refund to that person the sum in accordance with section 46 of the Tax Administration and Procedures Act.

(2) The refund payable under subsection (1) shall be paid from the Climate Resilience Development Fund.

10. Waivers and refunds

The Minister may by order, where he thinks it equitable to do so, waive, exempt, remit or refund, in whole or in part, the amount of any levy payable or paid by any person under this Act.

11. Exemptions

The tourism guest levy is not applicable to a guest who is five years or younger.

12. Keeping of accounts and records

(1) A person who provides tourism accommodation shall keep records, information and accounts so as to enable the Commissioner to determine the amount of the levy which is payable by that person for any payment period.

(2) A person shall retain the records, information and accounts referred to in subsections (1) until the expiration of six years after the end of the payment period to which the records, information and accounts relate or for such shorter period as the Commissioner may determine.

(3) A person who fails to keep records, information and accounts in accordance with this section is guilty of an offence and is liable on summary conviction to a fine of Five Thousand Eastern Caribbean Dollars.

13. Audit

(1) An officer may at any reasonable time audit or examine the records of a person who provides tourism accommodation for the purposes of assessing—

- (a) the amount payable by that person for any payment period as a levy;
- (b) any amount that may be payable as a refund to that person or any other person under this Act; or
- (c) whether the records are being kept in the manner required by the Commissioner pursuant to section 12.

(2) For the purposes of subsection (1), an officer may request the owner or manager of the tourism accommodation property to give him all reasonable assistance with his inspection, audit or examination and to answer any question pertaining relating to the records and information on guests occupation and payment of the levy under this Act either orally or in writing.

(3) Where, during the course of an audit or examination referred to in subsection (1), it appears to the officer that there has been a violation of this Act, the officer may seize and take away any records, information or books of account which may afford evidence of the violation.

(4) The Commissioner may, for any purpose related to the administration of this Act, by registered letter or by any other written means, require any person—

- (a) to provide any information in the form of a return or otherwise; and
- (b) to produce any record, information or books of account, within such time as the Commissioner specifies.

14. Copies of documents

Where any document, information or book of account has been produced, seized, inspected or examined by an officer under this Act, the officer may make copies and a document purporting to be certified by the officer to be a copy made pursuant to this section is admissible in evidence and has the same probative value as the original document.

15. Notice of assessment of levy

(1) In circumstances where—

- (a) a person has failed to submit the sums collected in accordance with sections 5;

- (b) a person has failed to file a return in accordance with section 7; or
- (c) the Commissioner is satisfied that a true account of the levy payable has not been given in a return under section 7

the Commissioner shall notify the person that an assessment will be done.

(2) The notification sent by the Commissioner under subsection (1) shall be in writing and shall –

- (a) state what is being assessed;
- (b) the reason for the assessment;
- (c) give the date or period when and how the assessment will be done;
- (d) invite the person to provide written representation or such information by a date specified in the notice to explain the concerns raised by the Commissioner.

16. Notice of assessment result

The Commissioner shall, within _____ days of an assessment done pursuant to section 15 –

- (a) give written notification to the person of the result of the assessment;
- (b) state what action the person is required to take; and
- (c) specify the date by which the action required under paragraph (b) is to be taken.

17. Objections

Subject to this section, a person who—

- (a) having been assessed, disagrees with the assessment; or
- (b) having made an application for a refund of the levy, disagrees with the Commissioner's determination respecting the application,

may object to the assessment or determination by filing an objection in accordance with the Tax Administration and Procedures Act.

18. Appeals

A person who objects to an assessment or determination and who receives a notice of confirmation, reassessment or redetermination, may appeal the decision of the Commissioner in

accordance with the Tax Administration and Procedures Act, **within ____ days** of receiving notice of the confirmation, reassessment or redetermination, as the case may be.

19. Administrative Fines

(1) A person who fails to file a return within the payment period referred to in section 7 shall pay a penalty for the late filing in accordance with section 72 of the Tax Administration and Procedures Act.

(2) A person who fails to pay the amount of the levy payable by that person within one month of the period referred to in section 7 shall pay a penalty for late payment in accordance with section 77 of the Tax Administration and Procedures Act.

20. Recovery of the levy

Any levy payable under this Act and any other amount payable as penalty and interest is a debt due to the Crown and is recoverable as such in civil proceedings in the magistrate's court, notwithstanding that the amount involved exceeds the normal monetary limit on the jurisdiction of a magistrate's court.

21. Obstruction of officers

A person who threatens, assaults, obstructs or interferes with an officer acting in the execution of his duty under this Act commits an offence and is liable on summary conviction to a fine not exceeding \$20,000.00 or to imprisonment for one year or to both such fine and imprisonment.

22. Validation

All decisions made, all acts done and all levies paid to and collected by the Inland Revenue Department until the commencement of this Act shall be deemed to have been lawfully and validly made, done, paid, and collected.

FIRST SCHEDULE

(Section 2 and 4)

Classification of Hotels

Category of Hotel

Minimum requirement for this Category of Hotel

Luxury Hotel

1. 24 hour reception facility.
2. Property is clean and is maintained- rooms and varied hotel areas are identified by signage.

3. The structure and features, furniture, fittings of the hotel's exterior are aesthetically appealing and of a high standard, and are designed to give a greater or higher level of comfort, and relaxation.
4. En-suite bathrooms in each room with a daily supply of high quality absorbent towels and high quality toiletries (hot tub or jacuzzi in ensuite master bathrooms).
5. Complimentary wireless internet access in all public areas and guest rooms.
6. Multiple restaurants with table d'hôte and à la carte menus with extensive food choices, each with a hostess to greet and seat guests upon arrival- three course meals available (with healthy, vegan and vegetarian options).
7. Continental breakfast and cooked breakfast with options.
8. 24-hour full room service with meals served on decorated dining tables.
9. Multiple bars with cocktails available extensive wine menus in the restaurants.
10. Housekeeping services offered daily.
11. Iron and iron board in all guest rooms.
12. Air-conditioned rooms or rooms with fan(s).
13. Welcome beverage and canapes and complimentary pack as a part of the arrival package.
14. Business center available.
15. Provision of do not disturb sign.
16. Staff fluent in a foreign language(s).
17. Porter services offered.
18. Spacious fitness facilities and spa available as well as beauty and hair salon.
19. Convenience store and multiple shops offering male and female duty-free clothing, jewellery and personal amenities for sale.
20. International in-room direct dial phones.
21. Complimentary airport/ seaport transport service using luxury vehicles available on request.
22. Butler service should at least be available to some rooms on request.
23. Rooms offer spacious accommodation facilities with turndown service with accompaniments.

24. Room furnishings, fittings and fixtures provide excessive comfort, rest and relaxation.
25. Excellent sound proofing in rooms.
26. Provide safety deposit facilities in the room.
27. Provide manned security services on site.
28. Requisite licenses and certificates from the Ministry of Health.
29. Fire Certificate from the Antigua and Barbuda Fire Service.
30. Tax clearance certificates from the Antigua and Barbuda Revenue Inland Revenue Department.

“A” Class Hotel

1. 24 hour reception facility.
2. Property is clean and is maintained- rooms and varied hotel areas are identified by signage.
3. Furniture, fixtures, fittings and general décor are designed to give a great or high level of comfort, and relaxation — may have some sound proofing.
4. En-suite bathrooms in each room with daily supply of clean towels and toiletries.
5. Complimentary wireless internet access in guest rooms and in at least two public areas.
6. Restaurant serving at least 3 meal options with table d’hôte and à la carte menus (with healthy, vegan and vegetarian options). Restaurant has a hostess to greet and seat guests upon arrival.
7. Continental breakfast and cooked breakfast with options.
8. Minimum room service with hot or cold drinks with sandwiches or light snacks.
9. Housekeeping offered daily.
10. Iron and iron board in all guest rooms.
11. Air-conditioned rooms or rooms with fan(s).
12. Welcome beverage and complimentary pack as part of arrival package.
13. Business center available.
14. Provision of do not disturb sign.
15. Staff fluent in a foreign language.
16. Porter services offered.
17. Fitness facilities available.
18. A dedicated sundry area or shop.

19. International in-room direct dial phones.
20. Provide safety deposit facilities in the room.
21. Provide manned security services on site.
22. Requisite licenses and certificates from the Ministry of Health.
23. Fire Certificate from the Antigua and Barbuda Fire Service.
24. Tax clearance certificates from the Antigua and Barbuda Revenue Inland Revenue Department.

“B” Class Hotel

1. Staffed reception facilities.
 2. The property is clean and is maintained rooms and varied hotel areas are identified by signage.
 3. Furnishings, fittings and fixtures are such to provide basic comfort in rooms.
 4. En-suite bathrooms in each room with daily supply of clean towels and toiletries.
 5. Complimentary internet access in at least one public area.
 6. A restaurant serving at least 3 meal options with legible table d'hôte or à la carte menus.
 7. At least continental or cooked breakfast provided.
 8. Housekeeping offered daily.
 9. Iron and iron board.
 10. Air-conditioned rooms or rooms with fan(s).
 11. Provide safety deposit facilities.
 12. Provide security services on site.
 13. Requisite licences and certificates from the Ministry of Health.
 14. Fire Certificate from the Antigua and Barbuda Fire Service.
 15. Tax clearance certificate from the Inland Revenue Department.

SECOND SCHEDULE*(Section 5)****Rate of Tourism Guest Levy***

Room Classification**Amount of Levy**

Apartment
150USD

3.00 USD per guest per night below

150USD

5.00USD per guest per night at or above

Guest House
150USD

3.00USD per guest per night on below

150USD

5.00USD per guest per night at or above

Hotel

Luxury class

3.00USD per guest per night below 150USD

150USD

5.00USD per guest per night at or above

“A” class

3.00USD per guest per night below 150USD

150USD

5.00USD per guest per night at or above

“B” class

3.00USD per guest per night below 150USD

150USD

5.00USD per guest per night at or above

Vacation rental properties

3.00USD per guest per night below 150USD

5.00USD per guest per night at or above

150USD

Villas

3.00USD per guest per night below 150USD

150USD

5.00USD per guest per night at or above

Passed by the House of Representatives
on the _____, 2021.

Passed by the Senate
on the _____, 2021

Speaker.

President.

Clerk to the House of Representatives.

Clerk to the Senate.

EXPLANATORY MEMORANDUM

This is an Act to provide for a guest levy to be charged per guest per night on tourism accommodation owned or operated by persons who earn income from the tourism sector in Antigua and Barbuda.

The levy will aid in the establishment of a Climate Resilience Development Fund on the basis that the tourism sector, while contributing significantly to GDP, also has the greatest impact on the environment. In that regard, it was determined that a levy should be paid to, inter alia, conduct preemptory work or rehabilitation work on the environment as connected with further tourism development. This is to be known as the Climate Resilience Development Fund.

There is a two-tier system where guest will be charged USD3.00 per guest per night for accommodation priced under USD150 per night; or USD5.00 per guest per night for accommodation priced at or above USD150 per night.

The act is divided into 22 clauses which deals with – the imposition of the levy, the notification of the levy, payment of levy and record keeping obligation, and penalties for non-compliance.

- (a) Clause 1 – Short title and commencement.
- (b) Clause 2 – Interpretation defining the terms relevant to the introduction, imposition and collection of this particular tax;
- (c) Clause 3 Scope of the Act – Act applies to every person who offers tourism accommodation. Of note is the fact that “tourism accommodation” is defined as having the very same meaning as “holiday or hotel accommodation” under the ABST. Hence, persons registered under the ABST should also be registered under this Act when it comes into effect;
- (d) Clause 4 deals with registration and listing and listing requirements;
- (e) Clause 5 imposes the tourism guest levy and outlines when it shall be collected and who is to pay it over to the Commissioner fo Inland Revenue. Failure to pay over the amounts of the levy collected is an offence; the penalty is a fine of \$10 000;
- (f) Clause 6, provides for notification of the tourism guest levy to potential tourists.
- (g) Clause 7 deals with the due date for the payment of the levy and identifies how a person’s payment period is determined. It also speaks to the filing of returns at the end of the payment period and other information relevant tio the administration of the tax.

- (h) Clause 8 deals with the establishment of the Climate Resilience Development Fund
- (i) Clauses 9 and 10 deals with the issue of refunds for overpayment and waivers;
- (j) Clause 11 on exemptions, specifies that the levy is not applicable to any guest that is 5 years old or under;
- (k) Clause 12 through to 18 deals with the administrative issues: Keeping of records, auditing, the right of the officers of the IRD to inspect, examine as well as take documents; the process for making objections and filing an appeal etc.;
- (l) Clause 19 deals with the imposition of administrative fines;
- (m) Clause 20 – Recovery of the Levy which outstanding amounts are regarded as a civil debt owed to the Government;
- (n) Clause 21 creates the offence of obstructing an officer of the IRD in the execution of his duties under the Act;
- (o) Clause 22 deals with validation.

Schedule 1 provides for the classification of tourism accommodations: Luxury Class; A-Class; B-Class. This gives the foundational basis for the guest levy;

Schedule 2 outlines the amount of the guest levy. It sets out the room classification and the applicable rate of the guest levy.

Hon. Gaston Browne
Prime Minister and
Minister with responsibility for Finance