

ANTIGUA AND BARBUDA



TAX ADMINISTRATION AND PROCEDURE (AMENDMENT) BILL 2025

No. of 2025

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No. of 2025

AN ACT to amend the Tax Administration and Procedure Act 2018, No. 12 of 2018 and for other connected purposes.

ENACTED by the Parliament of Antigua and Barbuda as follows—

1. Short title

This Act may be cited as the Tax Administration and Procedure (Amendment) Act 2025.

2. Interpretation

In this Act –

“principal Act” means the Tax Administration and Procedure Act 2018, No. 12 of 2018.

3. Amendment of Section 2 – Interpretation

Section 2 of the principal Act is amended –

(a) by repealing the definition of “designated officer” and replacing it with the following –

“designated officer” means an officer of the Inland Revenue Department expressly authorised in writing by the Commissioner to exercise any power or perform any function under sections 64 or 65;”

(b) by inserting in the appropriate alphabetical position the following –

“property” means –

(a) real property, that is, land, whether freehold or leasehold and includes any building or other permanent structure affixed to such land; and

(b) any estate, interest, easement, right or privilege in or over such land or building,

but does not include movable or personal property, money, securities or any other chattel.”

4. Amendment of section 64 – Execution against taxpayer’s real property

Section 64 of the principal Act is repealed and replaced as follows –

“64. Execution against taxpayer’s real property

- (1) The Commissioner may cause execution to be levied on the real property of a taxpayer who is in default of payment of a tax.
- (2) The Commissioner shall not proceed to execution against a taxpayer’s property under subsection (1) unless –
 - (a) the taxpayer was served with written notice of intention to levy execution; and
 - (b) the taxpayer has failed to pay the outstanding tax within thirty days of the service of the notice on the taxpayer.
- (3) The notice referred to in subsection (2)(a) shall –
 - (a) identify the amount of the tax that is outstanding, any interest or penalties in relation to the tax;
 - (b) identify the parcel of real property proposed to be levied against; and
 - (c) specify the date by which the outstanding tax, interest or any penalties are to be paid to avoid execution.
- (4) Notwithstanding subsection (2)(b) hereof, or section 49(3), where the Commissioner has reasonable grounds to believe that the collection of tax is in jeopardy, the Commissioner may, demand immediate payment of any tax outstanding, and, if the taxpayer fails to make payment as demanded, the Commissioner may proceed forthwith to levy execution against the property without waiting for the thirty-day period.
- (5) Notwithstanding the provisions of the Registered Land Act, where the real property intended to be levied against is subject to a registered charge, mortgage or other attachment, the Commissioner may, without the consent of any person, register a statutory charge against the property for the purpose of securing the tax debt.
- (6) The statutory charge registered by the Commissioner shall rank after any prior registered charge or attachment but in priority to all unsecured claims.
- (7) The Commissioner’s statutory charge shall be supported by evidence on Affidavit stating that –
 - (a) there is an outstanding tax debt attributable to the taxpayer;
 - (b) demand has been made for payment of the tax;
 - (c) the taxpayer is in default of payment of the tax as demanded; and
 - (d) the notice under subsection (2)(a) was served on the taxpayer.

- (8) The levy under this section shall be commenced within six years after the date of the notice of assessment pursuant to which the tax is levied.
- (9) A taxpayer's principal dwelling-house together with ordinary household furnishings, modest tools of trade and personal effects without substantial resale value are exempt from levy."

5. Amendment of section 65 - Sale of seized property

Section 65 of the principal Act is repealed and replaced as follows –

“65. Sale of seized property

- (1) Real property seized pursuant to a levy under section 64 shall be sold by the Commissioner by public auction, or where appropriate, by sealed tender.
- (2) The proceeds of sale shall be applied –
 - (a) first, to the reasonable expenses of levy, custody and sale;
 - (b) second to any prior registered charge, mortgage or other attachment;
 - (c) to the taxpayer's liability for penalties, interest and tax; and
 - (d) the excess, if any, shall be returned to the taxpayer within thirty days after sale.
- (3) The Minister may make regulations governing the procedure for sale under this section and may-
 - (a) set a reserve price;
 - (b) prescribe the amount of a deposit to be made by the highest bidder;
 - (c) fix the time within which a deposit shall be made and the circumstances in which it may be forfeited; and
 - (d) provide that if the highest bidder fails to comply, the next highest bidder shall be deemed the purchaser.
- (4) Seized property shall not be sold within twenty-one days of seizure unless –
 - (i) in the opinion of the Commissioner, the property is perishable; or
 - (ii) the taxpayer requests an earlier sale.
- (5) The date, time and place of any sale of seized property shall be published by notice in the Gazette and in at least two issues of a newspaper circulating in Antigua and Barbuda. Or by such other means as may be prescribed, at least fourteen days before the sale.

- (6) All seized property shall be secured in a fit place or left in the possession of a fit person as the Commissioner may determine, and a written inventory shall be provided to the taxpayer.
- (7) Real property shall not be sold to satisfy liability for penalties, interest or tax while an objection or appeal is pending and the amount of any tax, interest or penalty in dispute has been duly secured.
- (8) The authority to seize and sell property under this section shall be in the form set out in Schedule 4, with necessary modifications.
- (9) At a sale of real property under this Act, a duly authorised officer of the Government may bid for and purchase the property on behalf of the Crown.
- (10) If real property advertised for sale is not sold on the appointed day, it may again be put up for sale.
- (11) The officer conducting the sale shall provide the Commissioner with a report of the result of the Sale to the Commissioner.
- (12) Where the Commissioner is satisfied that the report of the result of sale shows –
 - (a) that the conduct of the sale was of a satisfactory standard and transparent, then upon payment of the purchase money, the Commissioner shall convey or assign the property to the purchaser.
 - (b) that there was fraud or improper conduct in relation to the sale, or that the relevant tax had in fact been paid before the sale, the Commissioner may declare the sale null and void.
- (13) Upon execution of the Transfer document or Deed of assignment, the property shall vest in the purchaser free from all encumbrances arising under this Act.
- (14) Nothing in this section or in any conveyance or assignment executed pursuant to this section affects any estate, interest or right of the Crown in the property.”

6. Amendment of Schedule 4 of the principal Act

Schedule 4 of the principal Act is repealed and replaced with the following new Schedule 4

SCHEDULE 4

TAX ADMINISTRATION AND PROCEDURE ACT 2018

Section 65(8)

NOTICE

SALE OF PROPERTY SUBJECT TO LEVY PURSUANT SECTION 65 OF THE TAX ADMINISTRATION AND PROCEDURE ACT 2018

I, _____

Commissioner of Inland Revenue of Antigua and Barbuda states as follows:

1. The property situate at
.....
and registered in the name of,
the taxpayer, was subject to a LEVY by virtue of section 64 of the above-mentioned
Act which was served on the said taxpayer on

2. The tax due and payable was not paid by the taxpayer.

3. In the circumstances and by virtue of section 65(1) of said Act, I am authorised to sell the
said property by public auction/sealed tender.

4. The public auction of said property shall take place on

ator on such other date as may be
notified.

BY the Commissioner of Inland Revenue

No. of 2025

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Tax Administration and Procedure (Amendment) Bill, 2025

Passed the House of Representatives on
The day of , 2025.

Passed the Senate on the day of
, 2025.

Speaker

President

Clerk to the House of Representatives

Clerk to the Senate

EXPLANATORY MEMORANDUM

This Bill seeks to amend the Tax Administration and Procedure Act 2018 to modernise the tax-debt recovery provisions. The Bill contains six (6) clauses as follows –

Clause 1 – Short title. This is a Bill of an Act shortly entitled the Tax Administration and Procedure (Amendment) Act 2025;

Clause 2 – Interpretation. The principal Act being amended is the Tax Administration and Procedure Act 2018, No. 12 of 2018.

Clause 3 – Amendment of the Interpretation section of the principal Act
The amendment repeals and replaces the definition of “designated officer”, and inserts a definition of “property”

Clause 4 – Amendment of section 64 - Execution against taxpayer’s real property.

This amendment allows for the Commissioner to register a statutory charge against the property of a taxpayer who has defaulted in payment of tax and who, notwithstanding service of a Notice of intention to levy execution against the property, still defaults in making payment. The amendment has now put in place the procedure or steps that must be followed to register the statutory charge being lodged by the Commissioner to secure the tax debt.

Clause 5 – Amendment of section 65 – Sale of seized property.

Seized property may be sold by public auction or sealed tender, with sale proceeds applied as provided in the amendment. There is a requirement to properly advertise the sale of the property; and the Minister is authorised to make regulations governing the setting of a reserve price, the deposit that is required, and the time within which the sale is to be completed. The Commissioner of Inland Revenue is empowered to execute the document of transfer which will grant the purchaser the property free and clear of any liabilities arising under the tax Act.

Hon. Gaston Browne
Prime Minister; and
Minister of Finance