ANTIGUA AND BARBUDA

THE ANTIGUA AND BARBUDA SALES TAX (TRANSITIONAL PROVISIONS AND CONSEQUENTIAL AMENDMENT) (AMENDMENT) ACT, 2008.

No. 4 of 2008

[Published in the Official Gazette Vol. XXIX No. 10 dated 12th February, 2009.]

Printed at the Government Printing Office, Antigua and Barbuda,
by Eric T. Bennett, Government Printer
— By Authority, 2009.

800—02.09

[Price $3.65]

THE ANTIGUA AND BARBUDA SALES TAX (TRANSITIONAL PROVISIONS AND CONSEQUENTIAL AMENDMENTS), 2006 (AMENDMENT) ACT, 2008.

ARRANGEMENT

Sections

I Assent,

[L.S.]

Louise Lake-Tack,
Governor-General.

31st December, 2008

ANTIGUA AND BARBUDA

THE ANTIGUA AND BARBUDA SALES TAX (TRANSITIONAL PROVISIONS AND CONSEQUENTIAL AMENDMENTS), 2006 (AMENDMENT) ACT, 2008

No. 4 of 2008

AN ACT to amend the Antigua and Barbuda Sales Tax (Transitional Provisions and Consequential Amendments) Act, 2006, (No. 6 of 2006).

ENACTED by the Parliament of Antigua and Barbuda as follows:

1. Short title and coming into force

(1) This Act may be cited as the Antigua and Barbuda Sales Tax (Transitional Provisions and Consequential Amendments), 2006 (Amendment) Act, 2008.

(2) Sections 3, 4 and 5 have retrospective effect and apply from the day on which the Principal Act commenced.

2. Interpretation

(1) In this Act, "Principal Act" means the Antigua and Barbuda Sales Tax (Transitional Provisions and Consequential Amendments) Act, 2006, (No. 6 of 2006).

(2) Unless the context requires otherwise, words and phrases used in the ABST Act and the Principal Act have the same meaning when used in this Act.

3. Addition of sections 9A and 9B

The Principal Act is amended by adding the following sections immediately after section 9:

"9A. Transitional relief for supplies to government entities

(1) A supply to or import by a government entity, other than an entity listed in subsection (4), is a zero-rated supply.

(2) This section applies to—

(a) a supply or import made on or after the 29th January 2007 but before the 1st January 2010 or such later date as the Minister may by Order appoint; and

(b) a supply or import made to the person constructing and not their contractors or subcontractors on or after the 29th January 2007 if the supply is made before the completion of the project and relates to one of the following projects—

(i) the Sir Vivian Richards Stadium; (Date of Completion 1st April 2007);

(ii) the Mount St. Johns Medical Centre;

(iii) the VC Bird International Airport Project; and

(iv) the St. Johns Car Park Project.

(3) Section 5 applies for the purpose of determining whether a supply is made during the period specified in subsection (2).

(4) This section does not apply to a supply to or import by—

(a) the St. John's Development Corporation;

(b) the Antigua and Barbuda Development Bank;

(c) the Central Marketing Corporation; or

(d) the State Insurance Corporation.

(5) A domestic supply is only zero-rated if the supplier is in possession of a purchase order or similar document certified by the eligible body prior to the supply being made.

9B. Imports for Cricket World Cup projects

(1) An import of goods is zero-rated if—

(a) the importer has been granted a consumption tax waiver under the Cricket World Cup Projects (Incentives) Act, 2005, (No 20 of 2005);

(b) the import is covered by the waiver and is made for the purposes for which the waiver was granted; and

(c) the Comptroller of Customs is satisfied, on the basis of documentary evidence provided by the importer at the time of import, that paragraphs *(a)* and *(b)* apply.

(2) Subsection (1) applies only to an import made during the period specified for the purposes of the waiver in accordance with subparagraph 6(3)(ii) of the Cricket World Cup Projects (Incentives) Act, 2005."

4. Replacement of sections 10 and 11

Sections 10 and 11 of the Principal Act are repealed and substituted with the following—

"10. Agreements entered into before ABST announced

(1) This section—

(a) over-rides, in limited circumstances, contracts entered into before the 16th September 2005, where the contracts do not include a provision under which the introduction of ABST can be taken into account for the purpose of determining the prices to be charged under the contract;

(b) permits prices to be increased by arbitrary amounts, which are not to be taken to reflect the anticipated effect on prices of the introduction of ABST; and

(c) applies only where there are no provisions dealing with ABST, or taxes including ABST, in the contract.

(2) Notwithstanding anything contained in a contract concluded before the 16th September 2005, the supplier and recipient under the contract shall negotiate to determine the amount, if any, by which the supplier may increase the price of taxable supplies made under the contract after the 29th January 2007, calculated to recover from the recipient an amount that takes account of—

(a) the ABST chargeable on those supplies;

(b) any tax savings resulting to the supplier because of the abolition of the repealed taxes; and

(c) the supplier's entitlement (if any) to input tax credits on imports and acquisitions used in making the supplies.

(3) Where the supplier and recipient cannot reach an agreement under subsection (2)—

(a) in the case of a supply of goods other than real property, the supplier may not increase the price of the supply; and

(b) in any other case, the supplier may increase the price of the supply by an amount calculated by reference to the factors listed in paragraphs (2)*(a)* to *(c)*, to the extent that the amount by which the price is increased does not exceed—

(i) in the case of a taxable supply of services to a recipient who is a registered person, the agreed price multiplied by the rate of ABST applicable to the supply;

(ii) in the case of a taxable supply of services to a recipient who is not a registered person, the agreed price multiplied by three quarters of the rate of ABST applicable to the supply; or

(iii) in the case of a taxable supply of real property, the agreed price multiplied by the rate of ABST applicable to the supply.

(4) This section does not apply in relation to a taxable supply of hotel or holiday accommodation, nor to a supply of long term accommodation that is taxable at the rate specified in paragraph 8(3)*(b)* of the ABST Act because of a choice made by the supplier under paragraph (2) of Schedule 4 of that Act.

(5) Section 12 applies in respect of a price increase determined under this section.

11. Agreements entered into after ABST announced

Where a contract is concluded after 16th September 2005 and the contract does not include a provision relating to ABST, in accordance with the principle of ABST-inclusive pricing set out in section 57 of the ABST Act, the contract price is deemed to include ABST from the 29th January 2007, and the supplier under the contract is required to account for the tax chargeable on supplies made under the contract, whether or not the supplier took its ABST liability into account when setting the price for those supplies."

5. Amendment to section 13

Section 13 of the Principal Act is amended by the addition of subsection (3)—

"(3) For the purposes of paragraph 8(3)*(c)* of the ABST Act, the rate of ABST applicable to gambling supplies is 10 per cent, but only if the supply is made on or after the 29th January 2007 but before the 29th January 2009."

Passed the House of Representatives on the 8th day of July, 2008.

D. Gisele Isaac-Arrindell,
Speaker.

T. Thomas,
Acting Clerk to the House of Representatives.

Passed the Senate on the 21st day of August, 2008.

McKenzie Frank,
President.

T. Thomas,
Acting Clerk to the Senate.