

CHAPTER 146

THE EMBARKATION TAX ACT

Arrangement of Sections

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 EMBARKATION TAX

(1st May, 1966.)

3/1966.
 19/1968.
 511973.
 2/1977.
 2111982.
 1511985.
 S.I. 2311988.
 711988.
 S.I. 3511991.

1. This Act may be cited as the Embarkation Tax Act. **Short title.**

2. In the Act—

Interpretation.

"aircraft" means any machine for flying whether propelled by mechanical means or not, and includes any description of balloon;

"carrier" means—

(a) any person (whether incorporated or not) transporting passengers by ship or aircraft on any voyage or flight from Antigua and Barbuda to any place outside Antigua and Barbuda;

(b) the master or the person in command or control of the transporting ship or aircraft;

(c) the agent in Antigua and Barbuda of any person referred to in paragraph (a) hereof; and

(d) if the person referred to in paragraph (a) hereof or the agent referred to in paragraph (c) hereof is a corporation, every director and manager of that corporation;

"the Comptroller" means the Comptroller of Customs or any person who is designated a collector for the purpose of this Act by the Comptroller of Customs as being a person authorised by the Comptroller to collect embarkation tax;

"Minister" means the Minister responsible for the subject of Finance;

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Embarkation Tax

"ship" means a steamship or any other ship, boat, lighter or other craft of any description used for transporting by water;

"traveller" means a person who proposes to travel from Antigua and Barbuda by sea or by air to any place outside Antigua and Barbuda;

"embarkation tax" means the tax imposed by section 3.

Embarkation tax.

3. (1) Subject to the provisions of this Act there shall be paid by each traveller on each occasion on which such traveller leaves Antigua and Barbuda a tax (to be called "embarkation tax") as specified in the Schedule to this Act.

(2) Embarkation tax shall be payable in one sum.

(3) Embarkation tax shall not be payable by—

(a) the master, pilot or other person in control or command of a ship or aircraft leaving Antigua and Barbuda or any member of the staff or crew of such ship or aircraft if such master, pilot, other person or member is leaving Antigua and Barbuda by the ship or aircraft of which he is in control or in command or of which he is a member of the staff or crew, as the case may be;

(b) any person recruited with the approval of the Minister responsible for Labour for agricultural work in any place outside Antigua and Barbuda;

(c) in transit travellers remaining in Antigua and Barbuda for a period not exceeding 24 hours;

(d) such categories of travellers as may be prescribed;

(e) a traveller in relation to whom the Minister is satisfied that by reason of such special circumstances as may be prescribed, the embarkation tax shall be remitted.

Duty of carrier to collect embarkation tax.

4. (1) Every carrier transporting from Antigua and Barbuda to any place outside Antigua and Barbuda any

traveller by whom embarkation tax is payable, shall collect the tax from such traveller and pay it over to the Comptroller.

(2) Any carrier failing to collect any embarkation tax which he is required by subsection (1) of this section shall, notwithstanding such failure, pay to the Comptroller the amount of such tax.

(3) Any amount of embarkation tax which a carrier is required to pay to the Comptroller pursuant to this section shall be due and payable without further demand immediately prior to the departure from Antigua and Barbuda of the ship or aircraft transporting the travellers in respect of whom that amount of tax is payable:

Provided that regulations made under this Act may permit either generally or in any particular case payment of any such amount as aforesaid by instalment or periodically or within such period after the departure of the ship or aircraft as may be prescribed.

(4) Every carrier shall, in relation to embarkation tax, keep such records and furnish such returns in such forms and to such persons as may be prescribed.

5. (1) Any person who, for the purpose of evading the payment by himself or by any other person of embarkation tax, knowingly makes any false statement or false representation shall be liable on summary conviction before a Magistrate to a fine not exceeding fifteen hundred dollars or to imprisonment with or without hard labour for a term not exceeding three months. Offences.

(2) Any carrier who fails or neglects to make a return in accordance with the requirements of this Act or any regulations made thereunder or knowingly makes in any such return any false statement or false representation shall be liable on summary conviction before a Magistrate to a fine not exceeding three thousand dollars or to imprisonment with or without hard labour for a term not exceeding six months.

6. Where pursuant to section 4 any embarkation tax being due and payable, remains unpaid— Enforcing
payment of tax.

(a) the Comptroller shall prepare a certificate stating the name of the carrier who is in default and the amount wherein such carrier is indebted in respect of embarkation tax and shall deliver the same to the Provost Marshal for collection and the Provost Marshal, without the necessity for any other authority than is given by this Act for the recovery of the said embarkation tax so included in that certificate and the costs of distress, may distrain the goods and chattels of the carrier so liable as aforesaid to the said embarkation tax wheresoever found, as well as any goods and chattels found on the land or premises in the possession of the carrier liable on which a landlord might distrain for rent in arrear; and

(b) the Comptroller may withhold clearance of the ship or aircraft transporting the travellers in respect of whom the embarkation tax is payable if he is not satisfied that adequate arrangements for the payment of the tax have been made.

Distress may be made on money.

7. A distress under the foregoing section for embarkation tax may be made on any money bonds, bills, notes, or other securities for money belonging to the carrier against whom such distress shall be made, and the same shall be sold and disposed of under the provisions of this Act; and whenever necessary, for the purpose of vesting the same in the purchaser thereof, the Provost Marshal shall assign and endorse such security without rendering himself liable thereby.

Power to appoint bailiff to make distress.

8. The Provost Marshal shall have power to name and appoint a bailiff for the purpose of making a distress under this Act, and such bailiff shall have the like powers as the Provost Marshal might or could have exercised in relation to such distress and the proceedings thereunder and shall be entitled to the like protection:

Provided that the Provost Marshal shall be responsible for the acts of the bailiff appointed by him.

When distress to be sold.

9. It shall be lawful to keep any distress for the space of 5 days (unless the same shall be of a perishable nature when the same may be immediately sold) and if the same be not redeemed within 5 days or before sale, to sell and

dispose of the same, or a sufficient portion thereof to satisfy the tax, and the expenses of the distress and a commission of five dollars per centum on such taxes or on the value of the distress, if the proceeds shall be insufficient to satisfy the tax; and the surplus of any sale, and any unsold goods or chattels shall be returned on demand, to the person distrained on.

10. No action shall be brought nor shall the Provost Marshal or his bailiff as aforesaid be answerable or accountable for the loss, deterioration or injury to any goods or chattels or other property distrained upon, except for wilful negligence, ill usage or injury and the person making the distress under this Act shall not by reason of any irregularity, be deemed a trespasser *ab initio*.

Provost Marshal
not liable except
for wilful injury.

11. A Magistrate shall, in addition to any penalty he may impose on any person under the provisions of this Act, order the payment to the Comptroller of any embarkation tax due and payable by that person and may order, in default of such payment, imprisonment of that person for a period not exceeding three months.

Power of
Magistrate.

12. (1) Any person who proves to the satisfaction of the Financial Secretary that he has paid to the Comptroller embarkation tax in excess of the amount which he is required to pay pursuant to this Act shall be entitled to have the amount so paid in excess refunded and a refund shall be made accordingly.

Refunds.

(2) No claim for a refund under this section shall be entertained after the expiration of six months from the date on which payment of the amount in dispute was made to the Comptroller.

13. (1) The Minister may make regulations to provide for—

Regulations.

(a) the production to and inspection by such persons as may be prescribed of documents used and records kept by any person for the purpose of determining that embarkation tax has been collected and accounted for in accordance with this Act or any regulations made thereunder;

(b) the furnishing to the Comptroller or to persons authorised by him of such information and such returns, certificates and other documents as may be prescribed;

(c) the circumstances in which embarkation tax may be remitted pursuant to paragraph (e) of subsection (3) of section 3;

(d) anything required to be prescribed by this Act;

(e) any other matter or thing whether similar or not to these above mentioned in respect of which it may be expedient to make regulations to give effect to the purpose of this Act.

(2) Regulations made in respect of paragraph (c) of subsection (1) may be made with retrospective effect and any regulations made in respect of that paragraph shall be subject to the approval of Parliament.

SCHEDULE

Section 3

(a) By each traveller who holds an Antigua and Barbuda passport or other valid Antigua and Barbuda travel document: \$20.00

(b) By each traveller who holds a passport other than a passport of Antigua and Barbuda. \$25.00