

ANTIGUA AND BARBUDA



INVESTMENT AUTHORITY (AMENDMENT) ACT 2019

No. 15 of 2019

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ANTIGUA AND BARBUDA
INVESTMENT AUTHORITY (AMENDMENT) ACT, 2019
ARRANGEMENT OF SECTIONS

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[L.S.]



I Assent,

Rodney Williams,
Governor-General.

10th December, 2019.

ANTIGUA AND BARBUDA

INVESTMENT AUTHORITY (AMENDMENT) ACT, 2019

No. 15 of 2019

AN ACT to amend the Investment Authority Act 2006 No.15 of 2006.

ENACTED by the Parliament of Antigua and Barbuda as follows:

1. Short Title

This Act may be cited as the Investment Authority (Amendment) Act, 2019.

2. Commencement

This Act shall come into force on a day appointed by the Minister by Order published in the official *Gazette*.

3. Interpretation

In this Act, “principal Act” means the Investment Authority Act 2006, No. 15 of 2006.

4. Amendment to section 2

Section 2 of the principal Act is amended in the following ways—

- (a) by repealing the definition of “investment” and substituting the following –

“investment” includes a lawful contribution to establish or expand a commercial enterprise in any of the following areas: tourism, health and wellness, creative industry, energy, agriculture, fisheries & agri-business, manufacturing, financial services, ICT or business process outsourcing or any other area identified by the Cabinet and notified to the Authority as a priority area for development; and

- (b) by inserting the following term and its meaning in the appropriate alphabetical position –

“Related Parties” persons are related parties for the purpose of this Act, if - they are officers or directors of one another’s business;

- (c) in the case of a partnership, they are partners in that partnership, and the partner, either alone or together with persons who are related to that partner under another paragraph of this definition, owns 25% or more of the rights to income or capital of the partnership;
- (d) they are shareholders in a company limited by shares in which a shareholder, either alone or together with persons who are related to that shareholder under another paragraph of this definition controls 25% or more of the voting power in the company or owns 25% or more of the rights to distributions of income or capital by the company;
- (e) in the case of two companies, a person directly or indirectly, either alone or together with two persons who are related to the person under another paragraph of this definition:
 - (i) owns, controls, or holds 25% or more of the voting power or rights to distributions of income or capital in both of them;
 - (ii) one of them directly or indirectly controls the other;
 - (iii) both of them are directly or indirectly controlled by a third person;
 - (iv) together they directly or indirectly control a third person;
 - (v) they are members of the same family; or
- (f) in the case of a trust, they are the trustees and a person who is or may be a beneficiary of that trust or, in the case of an individual, whose relative is or may be a beneficiary of the trust.

- (g) persons who are associated in business with one another in that one is the sole agent, sole distributor, or sole Concessionaire, however described, of the other are related persons only if they fall within the criteria of subsection (1).
- (h) for the purposes of this section, one person controls another if the former is legally or operationally in a position to exercise restraint or direction over the latter.

5. Amendment to section 16

Section 16 of the principal Act is amended by repealing subsection (1) and replacing it as follows

“(1) No investor or prospective investor who intends to invest in a new or established business in Antigua and Barbuda may benefit from any incentives or concessions applicable to such an investment unless he has applied for and received an investment certificate in accordance with this section.”

6. Amendment of Schedule 1

Schedule 1 of the principal Act is hereby repealed and replaced with the following new Schedule 1 –

“SCHEDULE 1

(Section 2)

INCENTIVES AND CONCESSIONS

(1) For a new or established business which –

- (a) has a capital investment between \$3,000,000. and \$10,000,000; or
- (b) employs up to 26 persons who are citizens of, or lawfully resident in Antigua and Barbuda, and
- (c) has at least one director or owner lawfully resident in Antigua and Barbuda, the following incentives and concessions may be provided –
 - (i) exemption from or reduction of payment of duty under the Customs Duty Act, 1993, the Revenue Recovery Charge Act, 2010 and the Antigua and Barbuda Sales Tax Act, 2006 on the importation or purchase of raw materials, building materials, furniture, furnishings, fixtures, fittings, appliances, tools, spare parts, plant machinery and equipment for use in the construction and operation of the business;
 - (ii) exemption from or reduction of payment of duty under the Customs Duty Act, 1993, the Revenue Recovery Charge Act, 2010 and the Antigua and Barbuda Sales Tax Act, 2006 on the importation or purchase of vehicles for use in the operation of the business;

- (iii) exemption from or reduction of payment of income tax under section 5 of the Income Tax Act, Cap. 212, on the income of the business, for a period of up to 2 years from the grant of the concessions with an ability in respect of that period to carry forward losses for periods of 1 year for each tax year;
 - (iv) reduction of stamp duty under the Non-citizens Land Holding Regulation Act, Cap. 293, and of stamp duty payable by the purchaser or transferee, and by the vendor or transferor, under the heading “CONVEYANCE or TRANSFER ON SALE of any property” in the Schedule to the Stamp Act, Cap 410, of up to 20% in respect of land and buildings (other than residential premises) used in the operation of the business; and
 - (v) Exemption from or reduction of payment of tax under section 40 of the Income Tax Act, Cap. 212, for a period of up to two (2) years from the grant of the concession.
- (2) For a new or established business which –
- (a) has a capital investment between \$10,000,000 and \$30,000,000; or
 - (b) employs between 27 - 60 persons who are citizens of, or lawfully resident in Antigua and Barbuda, and
 - (c) has at least one director or owner lawfully resident in Antigua and Barbuda, the following incentives and concessions may be provided –
 - (i) exemption from or reduction of payment of duty under the Customs Duty Act 1993, the Revenue Recovery Charge Act 2010 and the Antigua and Barbuda Sales Tax Act 2006 on the importation or purchase of raw materials, building materials, furniture, furnishings, fixtures, fittings, appliances, tools, spare parts, plant machinery and equipment for use in the construction and operation of the business;
 - (ii) exemption from or reduction of payment of duty under the Customs Duty Act 1993, the Revenue Recovery Charge Act 2010 and the Antigua and Barbuda Sales Tax Act 2006 on the importation or purchase of vehicles for use in the operation of the business;
 - (iii) exemption from or reduction of payment of income tax under section 5 of the Income Tax Act, Cap. 212, on the income of the business, for a period of up to 4 years from the grant of the concessions with an ability in respect of that period to carry forward losses for periods of 2 years for each tax year;

- (iv) reduction of stamp duty under the Non-citizens Land Holding Regulation Act, Cap. 293, and of stamp duty payable by the purchaser or transferee, and by the vendor or transferor, under the heading “CONVEYANCE or TRANSFER ON SALE of any property” in the Schedule to the Stamp Act, Cap 410, of up to 30% in respect of land and buildings (other than residential premises) used in the operation of the business; and
 - (v) exemption from or reduction of payment of tax under section 40 of the Income Tax Act, Cap. 212, for a period of up to four (4) years from the grant of the concession.
- (3) For a new or established business which –
- (a) has a capital investment between \$30,000,000 and \$60,000,000; or
 - (b) employs between 61 - 100 persons who are citizens of, or lawfully resident in Antigua and Barbuda; and
 - (c) has at least one director or owner lawfully resident in Antigua and Barbuda, the following incentives and concessions may be provided –
 - (i) exemption from or reduction of payment of duty under the Customs Duty Act 1993, the Revenue Recovery Charge Act 2010 and the Antigua and Barbuda Sales Tax Act 2006 on the importation or purchase of raw materials, building materials, furniture, furnishings, fixtures, fittings, appliances, tools, spare parts, plant machinery and equipment for use in the construction and operation of the business;
 - (ii) exemption from or reduction of payment of duty under the Customs Duty Act 1993, the Revenue Recovery Charge Act 2010 and the Antigua and Barbuda Sales Tax Act 2006 on the importation or purchase of vehicles for use in the operation of the business;
 - (iii) exemption from or reduction of payment of income tax under section 5 of the Income Tax Act, Cap. 212, on the income of the business, for a period of up to 6 years from the grant of the concessions with an ability in respect of that period to carry forward losses for periods of 3 years for each tax year;
 - (iv) reduction of stamp duty under the Non-citizens Land Holding Regulation Act, Cap. 293, and of stamp duty payable by the purchaser or transferee, and by the vendor or transferor, under the heading “CONVEYANCE or TRANSFER ON SALE of any property” in the Schedule to the Stamp Act, Cap 410, of up to 40% in respect of land and buildings (other than residential premises) used in the operation of the business; and

- (v) exemption from or reduction of payment of tax under section 40 of the Income Tax Act, Cap. 212, for a period of up to six (6) years from the grant of the concession.

(4) For a new or established business which –

- (a) has a capital investment between \$60,000,000 and \$100,000,000; or
- (b) employs between 100-150 persons who are citizens of, or lawfully resident in Antigua and Barbuda; and
- (c) has at least one director or owner lawfully resident in Antigua and Barbuda, the following incentives and concessions may be provided –
 - (i) exemption from or reduction of payment of duty under the Customs Duty Act 1993, the Revenue Recovery Charge Act 2010 and the Antigua and Barbuda Sales Tax Act 2006 on the importation or purchase of raw materials, building materials, furniture, furnishings, fixtures, fittings, appliances, tools, spare parts, plant machinery and equipment for use in the construction and operation of the business;
 - (ii) exemption from or reduction of payment of duty under the Customs Duty Act 1993, the Revenue Recovery Charge Act 2010 and the Antigua and Barbuda Sales Tax Act 2006 on the importation or purchase of vehicles for use in the operation of the business;
 - (iii) exemption from or reduction of payment of income tax under section 5 of the Income Tax Act, Cap. 212, on the income of the business, for a period of up to 8 years from the grant of the concessions with an ability in respect of that period to carry forward losses for periods of 4 years for each tax year;
 - (iv) reduction of stamp duty under the Non-citizens Land Holding Regulation Act, Cap. 293, and of stamp duty payable by the purchaser or transferee, and by the vendor or transferor, under the heading “CONVEYANCE or TRANSFER ON SALE of any property” in the Schedule to the Stamp Act, Cap 410, of up to 50% in respect of land and buildings (other than residential premises) used in the operation of the business; and
 - (v) exemption from or reduction of payment of tax under section 40 of the Income Tax Act, Cap. 212, for a period of up to eight (8) years from the grant of the concession.

(5) For a new or established business which –

- (a) has a capital investment between \$100,000,000 and \$150,000,000; or
 - (b) employs over 150 persons who are citizens of, or lawfully resident in Antigua and Barbuda; and
 - (c) has at least one director or owner lawfully resident in Antigua and Barbuda, the following incentives and concessions may be provided –
 - (i) exemption from or reduction of payment of duty under the Customs Duty Act 1993, the Revenue Recovery Charge Act 2010 and the Antigua and Barbuda Sales Tax Act 2006 on the importation or purchase of raw materials, building materials, furniture, furnishings, fixtures, fittings, appliances, tools, spare parts, plant machinery and equipment for use in the construction and operation of the business;
 - (ii) Exemption from or reduction of payment of duty under the Customs Duty Act 1993, the Revenue Recovery Charge Act 2010 and the Antigua and Barbuda Sales Tax Act 2006 on the importation or purchase of vehicles for use in the operation of the business;
 - (iii) Exemption from or reduction of payment of income tax under section 5 of the Income Tax Act, Cap. 212, on the income of the business, for a period of up to 10 years from the grant of the concessions with an ability in respect of that period to carry forward losses for periods of 5 years for each tax year;
 - (iv) reduction of stamp duty under the Non-citizens Land Holding Regulation Act, Cap. 293, and of stamp duty payable by the purchaser or transferee, and by the vendor or transferor, under the heading “CONVEYANCE or TRANSFER ON SALE of any property” in the Schedule to the Stamp Act, Cap 410, of up to 75% in respect of land and buildings (other than residential premises) used in the operation of the business; and
 - (v) exemption from or reduction of payment of tax under section 40 of the Income Tax Act, Cap. 212, for a period of up to twenty (20) years from the grant of the concession.”
- (6) For a new or established business which has an investment capital of over \$150,000,000 to invest in —
- (a) the provision of healthcare
 - (b) tourism

- (c) infrastructure development
- (d) renewable energy
- (e) education
- (f) or any similar project being for the economic development of Antigua and Barbuda,

the Authority may, with the approval of Cabinet, grant whatever incentives and concessions it deems fit to the level of the investment including incentives and concessions not granted under any previous category.”

7. Consequential Amendment

(1) The Antigua and Barbuda Sales Tax Act 2006, No. 5 of 2006 is amended by inserting after subsection (5) of section 43, a new subsection (6) to read as follows –

“(6) No ABST shall be charged on the importation of such goods and by such persons, as may be specified by the Minister of Finance in accordance with section 18 of the Investment Authority Act, 2006”.

(2) The Revenue Recovery Charge Act 2010, No. 8 of 2010 is amended in section 11 by inserting after subsection (2), a new subsection (3) to read as follows –

“(3) No RRC shall be charged on the importation of such goods and by such persons, as may be specified by the Minister of Finance in accordance with section 18 of the Investment Authority Act, 2006”.

Passed the House of Representatives on
the 23rd day of July, 2019.

Passed the Senate on the 31st day of
July, 2019.

Gerald Watt, Q.C.,
Speaker.

Alicia Williams Grant,
President.

A. Peters,
Clerk to the House of Representatives (Ag.)

A. Peters,
Clerk to the Senate (Ag.)