



[L.S.]

I Assent,

James B. Carlisle,
Governor-General.

29th November, 2000.

ANTIGUA AND BARBUDA

No. 16 of 2000

AN ACT to amend the Income Tax Act, Cap. 212.

[30th November, 2000]

ENACTED by the Parliament of Antigua and Barbuda as follows:

1. This Act may be cited as the **Income Tax (Amendment)** Short title.
(No. 2) Act, 2000.

2. Section 2 of the Income Tax Act, in this Act referred to as the principal Act, is amended by inserting in the appropriate alphabetical order the following definitions: Amendment of section 2 of Cap. 212.

““business” includes, every industry, manufacture, trade, rendering of services, commerce or engagement in any economic activity whatsoever in Antigua and Barbuda;

“gross income” means

- (a) receipts, cash or assets of the taxpayer for services or products derived from trade, busi-

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ness, commerce sales or professional services including rental fees and other involvements without any deduction on account of the cost of ~~the~~ property sold, cost of materials used, ~~labour~~ costs, royalties, taxes, interest on account paid and any other expenses whatsoever; and

- (b) in relation to **commission** agents, estate agents and others paying disbursed amounts on behalf of their **clients**, that portion of which is received that belongs to the agent and not the portion that belongs to the client;

"individual" includes a trust, and the estate of a deceased **person.**"

Amendment of
section 5.

3. Section 5 of the principal Act is amended as follows —

- (a) by the insertion after subsection (1) paragraph (**h**) of the following —

"(i) the gross annual income of an unincorporated body or an individual carrying on a business, trade, profession, vocation or calling."

- (b) by the repeal of subsection (2) and the substitution of the following --

"(2) This Act applies to —

- (a) the income which accrues on or after the 1st day of January, 1977 to any company incorporated, registered or continued the Companies Act 1995;
- (b) to the income which accrues on or after the 1st day of **December**, 2000 to any unincorporated body or individual carrying on any business, trade, profession, vocation or calling in Antigua and Barbuda.

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(2) For the purposes of reporting income and remitting the tax due under subsection (1), income is deemed to be reported within thirty days of the date on which the goods or services were provided to the recipient or payment was ~~made or~~ an invoice issued in respect of that supply, whichever occurs first and in the case of credit sales income is deemed to be reported within ninety days of the date on which the credit was given.

(3) The Minister may, by Regulation, provide for the granting of relief to a taxpayer in respect of bad debt.

Amendment of
section 46A.

8. Section 46A of the principal Act is amended as follows —

(a) by deleting 32(1) and substituting the following —

“32A (1)”

(b) by inserting after Antigua and Barbuda in the second place it occurs the following:

"who shall render the return on the individual's behalf, and any return so rendered shall be binding on that person as if rendered by him."

Amendment of
section 49A.

9. Section 49A of the principal Act is amended as follows:

(a) by deletion of all the words beginning with "financial statement" and ending with the words "details of" and the substitution of the following —

"an audited financial statement of the gross annual income with the relevant Schedules attached (in the form prescribed in items (1) and (2) of Schedule B of the Income Tax Rules) giving details of;"

(b) in subsection (2) (a) by the deletion of all the words beginning with "financial statement" and ending with the word "and" and the substitution of the following —

"a statement in the form prescribed in item (3) of Schedule B of the Income Tax Rules".

10. Section 56 of the principal Act is amended by deleting subsection (1a). *Amendment of section 56.*

11. Section 62 of the principal Act is amended as follows — *Amendment of section 62.*

(a) by the repeal of subsections (2) and (3) and the substitution of the following —

"(2) The collection and payment of tax shall, notwithstanding any notice of an objection or appeal, be enforced in full.

(3) No right of an objection or appeal shall be exercised under this Act, unless the taxpayer has paid to the Commissioner the amount of tax assessed and stated in the notice.

(4) Notwithstanding subsections (2) and (3) the Commissioner may if satisfied that the taxpayer has no means of paying the assessed tax prior to the objection to the Board, he may require the Board *to* hear and decide on the objection if the Board considers that there is merit in the objection.

(5) All objections notified to the Board shall be heard and decided within sixty days.

(6) If the Board decides that the appellant is over charged, the Commissioner shall refund the excess plus interest at the rate of five per centum to the appellant within fourteen days of the making of the decision."

(b) by the renumbering of subsection (4) as subsection (6). *Re-enactment of section 63.*

12. Section 63 of the principal Act is repealed and the following inserted —

(1) Notwithstanding any other provisions of this Act or any rule made thereunder the provisions of this section shall apply to the collection of tax from any company and from any individual carrying on on his own behalf or

exercising any trade, business, profession or vocation either solely or in **partnership**.

(2) Where any company has been assessed in any year of assessment and the amount of such tax has been finally determined then, for the purposes of this section, that year of assessment shall be regarded as "the standard year" and that amount as "the standard amount".

(3) Where no tax has been assessed for any year of assessment the Commissioner shall, determine the standard amount for the purposes of complying with this section.

(4) Not later than the thirty-first day of March in any year of assessment, or at such other time in that year as may by this section be provided, the Commissioner may by notice in writing to any person to whom this section applies require such person to pay an amount equal to the standard amount, as computed for the latest standard year, in twelve equal monthly installments commencing during the month of April in the year of assessment in which such notice as aforesaid is issued and terminating during the month of March in the year (in this section referred to as "the relevant year") of assessment next following.

(5) Where any company to whom this section applies is assessed to tax for any year of assessment which is a relevant year, the Commissioner shall allow as a credit against the tax due under that assessment the aggregate amount of the installments paid in respect of such relevant year by virtue of the foregoing subsection and where on making such allowance it is found that an excess of tax has been paid such excess shall be refunded or credited as appropriate.

(6) In computing the monthly installments of the standard amount payable as provided by subsection (3) any fractional part of a dollar shall be ignored and furthermore where such standard amount is less than one hundred and twenty dollars the provisions of this section shall not apply.

(7) In any case in which the standard amount cannot be ascertained owing to the fact that the assessment for the standard year has not been finalized or for any other reason or where no tax was payable for the standard year the Commissioner, acting in his discretion, shall determine the standard amount for the purposes of this section having due regard to the circumstances of the case.

(8) Where in any case the standard amount has been determined in accordance with subsection (6) and subsequent to such determination the Commissioner is satisfied that the determination is excessive or insufficient he may re-determine the standard amount and on such re-determination shall issue a notice stating the standard amount as amended and the monthly installments payable in consequence of that re-determination, provided that such notice shall not come into effect until the month immediately following the month in which it was issued and provided furthermore that such notice shall not be issued later than the thirty-first day of December in the year immediately preceding the relevant year.

(9) Any notice which is to be issued in accordance with the provisions of this section may be served on a person either personally or posted to his last known business or private address and in relation to such service the provisions of section 51 shall apply.

(10) Where any person to whom a notice is issued under this section fails to pay during any month the installment due for that month and such default continues throughout the following month there shall be added to that installment a penalty of twenty per centum of the amount due and interest of one per centum per month or part of a month and such penalty and interest shall thereafter be deemed to be part of that installment and the total amount shall be recoverable as unpaid tax as provided under the Act.

13. (1) The Business Tax Act shall not apply to income accrued or earned on or after the 1st day of December, 2000.

The Business Tax
Act Cap. 65.

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(2) Notwithstanding subsection (1) any tax which remains unpaid under the Business Tax Act before the 1st day of December, 2000 shall be recoverable by the Commissioner as a debt under this Act.

Passed the House of Representatives
this 26th day of October, 2000.

Passed the Senate this 20th day
of November, 2000.

B. Harris,
Speaker.

M. Percival,
President.

S. Walker,
Clerk to the House of Representatives.

S. Walker,
Clerk to the Senate.

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