
CHAPTER 424

THE TELECOMMUNICATIONSTAX ACT

Arrangement of Sections

Section

1. Short title.
2. Interpretation.
3. Telecommunications **tax**.
4. Duty of licence holder to collect **tax**.
5. Powers and duties of Commissioner.
6. Distress.
7. Appointment of bailiff to make distress.
8. Sale of distressed property.
9. Immunity of Provost-Marshal.
10. Offences.
11. Additional powers of Court.
12. Regulations.

TELECOMMUNICATIONS TAX

(20th March, 1974.)

7/1974.
23/1976.
5/1978.

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

2. (1) In this Act, except where the context otherwise **Interpretation.**
requires—

“Commissioner” means the person for the time being
performing the duties of Commissioner of Inland

Revenue and includes any officer duly authorised to act on his behalf;

"licence holder" means a holder of a licence for telecommunication services granted under the Telecommunications Act Cap. 423.

"Minister" means the Minister responsible for communications;

"overseas" means any place outside Antigua and Barbuda;

"tax" means the tax imposed under section 3; and

"telecommunications" means communication by means of telephone, phototelegram, telex, telegram or cable.

(2) For the purposes of this Act a telecommunication shall be deemed to have originated in Antigua and Barbuda if it is made in Antigua and Barbuda by any person irrespective of whether the charges for such telecommunication are paid, payable or reimbursable by any person outside Antigua and Barbuda and includes collect and reverse charge telephone calls made from within Antigua and Barbuda to overseas, and replies to prepaid telex, cable and telegram messages originating outside Antigua and Barbuda and any telecommunication made by use of a credit card facility from within Antigua and Barbuda.

Telecommunications tax.

3. (1) Subject to the other provisions of this Act there shall be paid by each person in respect of each overseas telecommunication originating in Antigua and Barbuda a telecommunications tax of twenty per cent of the charge or cost of such telecommunication.

(2) The tax shall not be payable, or shall be payable at such lower rate as may be specified therein, in respect of such categories or classes of persons or in such circumstances as the Minister may by regulation prescribe and at such rate and for such period as may be prescribed therein.

4. (1) Every licence holder through whom a telecommunication is made by a person within Antigua and Barbuda shall, if the transaction is one in which the charges for such telecommunication are payable at or before the time of such communication, collect the communication tax from such person at the time of payment for such telecommunication, and, in respect of such persons as are permitted to charge who in due course receive an account for such telecommunication, shall at the time of recording the charge for the telecommunication, charge the tax also, and the person charged shall, subject to the provisions of this Act, be liable also to be charged for the tax.

Duty of licence holder to collect tax.

(2) A licence holder through whom a telecommunication specified in subsection (1) has been made shall, notwithstanding the fact that he has failed to collect the tax from the person making such telecommunication, be liable for the tax in respect of such telecommunication and shall pay into the Inland Revenue Department the amount of such tax without any deductions whatsoever:

Provided that the licence holder shall not be liable for the tax where there has been failure, through no fault of the licence holder, on the part of the person liable to pay for the telecommunication to pay either the sum due for the telecommunication or the tax thereon, and where any dispute arises as to such non-liability, the dispute shall be referred to arbitration under the provisions of the relevant arbitration legislation for determination.

(3) All taxes which a licence holder is required to pay to the Inland Revenue Department under this section shall be due and payable without further demand or notification, on the last day of the month next succeeding that in which the tax arose.

(4) The licence holder shall, in relation to the tax, keep such records and furnish such returns in such forms and to such persons as the Commissioner may, by regulation, prescribe.

5. Where any tax due under section 4 remains unpaid after the due date for payment—

Powers and duties of Commissioner.

(a) The Commissioner shall prepare a certificate stating the name of the licence holder who is in default, and the amount of indebtedness of such licence holder in respect of such tax and shall deliver the same as soon as possible to the Provost-Marshal for collection by him.

(b) The Provost-Marshal, upon receipt of such certificate may, without any other authority, in order to recover the said **tax** recorded **as** due in the certificate and the cost of distress, distrain the goods and chattels of the licence holder so liable to the tax wheresoever found, and may also distrain any other goods or chattels found on the premises or land in the possession of the licence holder in respect of which a landlord may distrain for arrears of rent.

(c) The Minister may, after such tax remains unpaid for one month after the date of preparation of the certificate by the Commissioner, and notwithstanding the provisions of any other written law, suspend the licence of such licence holder until such time as the **tax** and any cost of distress have been paid, and notwithstanding suspension of such licence, the licence holder shall not be liable for any refund of licence fee in respect of such period.

Distress.

6. A distress made under section 7 may be made on money, bonds, bills or other securities belonging to the licence holder against whom such distress shall be made, and the same shall be sold and disposed of under the provisions of sections 7 and 8 and, where necessary to vest the same in the purchaser, the Provost-Marshal is hereby empowered to assign and endorse such securities without any liability attaching to himself.

**Appointment of
bailiff to make
distress.**

7. The Provost-Marshal may appoint such bailiffs to make distress as he thinks fit and such bailiffs, upon appointment, shall exercise such powers as the Provost-Marshal enjoys in relation to distress and proceedings thereunder and shall also be entitled to the like protection:

Provided that where any bailiff appointed by the Provost-Marshal acts other than in accordance with the provisions of this Act and thereby incurs liability in respect of *ultra vires* acts the Provost-Marshal shall be jointly and severally responsible for such acts of the bailiff.

8. When any property is distressed under the provisions of this Act the same shall be kept for a period of five days exclusive of the date of distress unless the property is of a perishable nature in which case it may be immediately sold, and if the property be not redeemed by the licence holder within the aforesaid period or before sale, it may be sold and disposed of, or a sufficient portion thereof to satisfy the tax and the expenses of the distress and a commission of ten *per centum* on such taxes or on the value of the distress (if the proceeds are insufficient to satisfy the tax); and any surplus thereof and any unsold goods or chattels shall be returned on demand to the person distressed but provided that if such unsold goods or chattels remain unclaimed after a period of three months from such date as the Provost-Marshal in writing notifies the person distressed that such are available for return, such goods may be sold and the proceeds thereof paid into the general revenue and the person distrained upon shall thereafter have no claim to such goods or chattels.

Sale of distressed property.

9. No action shall be brought nor shall the Provost-Marshal or his bailiff be liable for the loss, deterioration or injury of any goods, chattels or other property distrained except in respect of wilful negligence or malicious damage, and the person making the distress shall not be by reason of any irregularity deemed a trespasser *ab initio*.

Immunity of Provost-Marshal.

10. (1) Any person who in order to avoid the payment by himself or by any other person of the tax, knowingly makes any false statement or representation shall be guilty of an offence and shall be liable on summary conviction to a fine of fifteen hundred dollars and to imprisonment for three months.

Offences.

(2) Any licence holder who fails or neglects to make such returns as may be prescribed by this Act or any regulation made thereunder, or who knowingly in such returns makes any false statement or representation shall be guilty of an offence and shall be liable on summary conviction to a fine of fifteen hundred dollars and to imprisonment for six months.

11. The Court before whom a person is brought for an offence under section 10 shall, in addition to any penalty it may impose under the said section, order the payment into

Additional powers of Court.

the Inland Revenue Department of any taxes due and payable by that person and may also order in default of such payment, imprisonment of such person for a period not exceeding six months.

Regulations.

12. The Minister may make such regulations as may seem to him to be necessary for the better carrying out of this Act, and without derogation from the generality of the foregoing provision may make regulations providing for—

(a) the production to and inspection by such persons as may be prescribed, of documents and records kept by any person for the purpose of determining whether the ~~tax~~ has been collected and accounted for in accordance with this Act;

(b) the furnishing to the Commissioner or to such other person as may be prescribed, of such information and such returns, certificates and other documents as may be prescribed;

(c) the persons in respect of whom and the circumstances in which the tax may be remitted pursuant to section 3 (2); and

(d) the manner in which and the persons to whom the tax shall be paid.
