

ANTIGUA AND BARBUDA



THE ANTIGUA AND BARBUDA SALES TAX (AMENDMENT) REGULATIONS, 2008

STATUTORY INSTRUMENT

2008, No. 61

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**THE ANTIGUA AND BARBUDA SALES TAX (AMENDMENT) REGULATIONS, 2008**

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**ANTIGUA AND BARBUDA****THE ANTIGUA AND BARBUDA SALES TAX (AMENDMENT) REGULATIONS, 2008****2008, No. 61**

**THE ANTIGUA AND BARBUDA SALES TAX (AMENDMENT) REGULATIONS** made in exercise of the powers contained in section 58 of the Antigua and Barbuda Sales Tax Act, 2006 (No. 5 of 2006) and section 16 of the Antigua and Barbuda Sales Tax (Transitional Provisions and Consequential Amendments) Act, 2006, (No. 6 of 2006).

**1. Short title**

(1) These Regulations may be cited as the Antigua and Barbuda Sales Tax (Amendment) Regulations, 2008.

(2) To the extent that it provides a favourable treatment to taxable persons, the Commissioner may apply the amendments made by these Regulations from the date on which the Principal Regulations first came into effect.

**2. Interpretation**

In these Regulations, "Principal Regulations" means the Antigua and Barbuda Sales Tax Regulations, 2007, (No. 39 of 2007).

**3. Replacement of Regulation 2**

(1) Regulation 2 of the Principal Regulations is replaced by the following:

**"2. Interpretation**

(1) In these Regulations, unless the context otherwise requires ...

"ABST commencement date" means the 29th January 2007;

"Act" means the Antigua and Barbuda Sales Tax Act 2006, (No. 5 of 2006);

"intermediary," in relation to a face value voucher, means a person who acquires the voucher in carrying on a taxable activity and who will not use the voucher to acquire goods or services but will on-supply it to a third person, including a director, employee, or member of the public;

“redeem” and “redemption”, when used in relation to a voucher, mean the use of the voucher to pay for a supply of goods or services;

“standard-rate,” in relation to a taxable supply, means the rate specified in section 8(3)(d) of the Act.

(2) In these Regulations, unless the context otherwise requires, a word or phrase not specifically defined in these Regulations but defined in the Act has the meaning assigned to it in the Act, whether that meaning applies for purposes of the entire Act or only for part of the Act.”

#### **4. Replacement of Part VIII**

Part VIII of the Principal Regulations is replaced by the following:

#### **“PART VIII**

#### **FACE VALUE VOUCHERS**

#### **15. Objects and interpretation of this Part**

(1) This Part, which applies to the supply and redemption of face value vouchers and to related supplies by intermediaries, is made to give effect to the more specific provisions in sections 6(2)(e), 6(7), 6(9), 13(8), 14(13), 15(9), 19(2)(a), 32(2), 33(2), and 34(3) of the Act.

(2) The purposes of this Part are-

- (a) to ensure that the application of ABST is consistent with the principles underlying the Act, in particular
  - (i) that ABST is a destination-based tax on consumption in Antigua and Barbuda; and
  - (ii) that the ABST revenue collected on goods and services consumed in Antigua and Barbuda reflect the consumption expenditure incurred by consumers to acquire those goods and services; and
- (b) to simplify the application of ABST to face value vouchers sold through intermediaries by
  - (i) not collecting ABST on supplies of face value vouchers by intermediaries; and
  - (ii) collecting all the ABST from those persons who accept face value vouchers in payment for goods and services.

(3) In this Regulation, unless the context otherwise requires

- (a) a reference to the face value of a voucher includes
- (i) a reference to part of the face value of the voucher, if the voucher is or can be redeemed progressively to acquire a series of separate supplies;
  - (ii) a reference to all or part of an amount re-charged to a face value voucher that can be re-charged; and
  - (iii) a reference to all or part of an amount credited to a pre-paid telecommunications account; and
- (b) a reference to the redemption of a voucher or phone card includes a reference to the debiting of value or air time from a pre-paid telecommunications account.

#### **16. Supplies of face value vouchers and intermediary services**

(1) Where a face value voucher is supplied for consideration—

- (a) the supply is a supply of services;
- (b) for the purposes of calculating the ABST chargeable on the supply, the value of the supply is limited to the amount by which the consideration for the voucher exceeds its face value, reduced by the tax fraction of that amount; and
- (c) no input tax credit is allowed to the recipient of the supply.

(2) Where a face value voucher is sold through an intermediary who does not act as principal, any consideration received by the intermediary in relation to the sale, including consideration received for services supplied to the person who issued the voucher or to another intermediary through whom the intermediary obtained the voucher, is not included in the determination of the value of the supply of those services.

#### **17. Redemption of face value vouchers**

(1) Where a supplier accepts the redemption of a face value voucher as part or full payment for a supply of goods or services—

- (a) section 19(1) of the Act does not apply, and
- (b) the consideration for the supply of goods or services includes, in respect of the redemption of the voucher—
  - (i) if the supplier can substantiate that the consideration given for the last sale of the voucher before it was used was less than the face value of the voucher, the amount of that consideration; or

(ii) in any other case, the face value of the voucher.

(2) Where sub-regulation (1) applies to a supply of goods or services, the supply is treated as being made—

(a) for a supply of goods, when the goods are delivered or made available; or

(b) for a supply of services, when the services are performed.

(3) The redemption of a voucher is not a supply.

(4) Where a voucher is redeemed for another voucher—

(a) the exchange of vouchers is not a supply; and

(b) the face value of the voucher redeemed becomes the face value of the voucher for which it is redeemed.

#### **18. Face value vouchers supplied to non-residents**

(1) Where a face value voucher is supplied to a non-resident and paragraph (2) or (3) of Schedule 2 of the Act prevents the supply from being zero-rated, the following are to be taxed in accordance with section 19(1) of the Act and this Part, other than this Regulation does not apply —

(a) the supply to the non-resident;

(b) any subsequent supply of the voucher; and

(c) any supply made on redemption of the voucher.

(2) Sub-regulation (1) does not apply to the supply or redemption of a face value voucher that is a phone card or a prepaid telecommunications account.

#### **19. Discounts on face value**

(1) Where a face value voucher is issued with free “bonus value” or “bonus minutes” given for no additional consideration—

(a) no ABST is payable on the bonus amount, which is to be treated as effecting a discount on the price of goods or services for which the voucher is redeemed; and

(b) the ABST (if any) chargeable on supplies of goods or services for which the voucher is redeemed is to be calculated so as to ensure the total amount of ABST chargeable in



relation to those goods and services is equal (if all supplies for which the voucher is redeemed were taxable) to the tax fraction of the face value of the voucher.

(2) If “bonus value” or “bonus minutes” attached to a face value voucher are supplied for consideration that is less than their face value, the ABST (if any) applicable to each supply for which the voucher is redeemed is to be determined by reference to the consideration actually given for the voucher.

## **20. Vouchers accepted by third parties**

(1) If a taxable person who accepts a face value voucher in exchange for a supply of goods or services is not the person who issued the voucher and did not previously make a supply of the voucher—

- (a) sub-regulation 17(1) does not apply to the supply made by that taxable person in exchange for the voucher; and
- (b) if the taxable person receives an amount from any person (including the person using the voucher) for or in relation to the supply, or because the taxable person accepted the voucher—
  - (i) each such amount is treated as consideration for the supply made on acceptance of the voucher; and
  - (ii) if more than one such payment is made and the payments are made at different times, for the purpose only of determining the tax period in which the person is to treat an amount as output tax, the time of supply is the earlier of the time when the amount was received or the time the entitlement to receive it was confirmed, determined separately for each such amount.

(2) Any commission or other consideration paid or payable by a taxable person to a third person making a payment referred to in paragraph (b) of sub-regulation (1) (other than the person using the voucher) is not to be netted off against the amount referred to in that paragraph but should be treated as consideration for a separate supply.

## **21. Tax invoices and receipts**

(1) A supplier, including an intermediary, who supplies a face value voucher shall clearly state on any tax invoice or sales receipt issued for the supply of the voucher that no ABST is payable on the supply and no input tax credit arises on the acquisition of the voucher.

(2) Sub-regulation (1) does not prevent a supplier including, on the tax invoice or sales receipt, the

tax fraction of the face value of the voucher, if that amount is clearly stated only to represent the potential ABST that will be chargeable if the voucher is used to acquire taxable supplies.

**(3) A supplier who accepts a face value voucher in full or part payment for a taxable supply of goods or services**

- (a)* need not issue a tax invoice or sales receipt to the recipient of the supply; and
- (b)* shall, if the recipient is a taxable person and requests that a tax invoice be issued, provide the recipient with a tax invoice for the supply of goods or services within 14 days after receiving the request.

(4) A tax invoice issued in accordance with sub-regulation (3) may be with respect to all or some of the supplies made on redemption of the face value voucher, and may be with respect to supplies made in more than one tax period, provided that the time and value of each such supply is clearly shown on the tax invoice.

**(5) A taxable person to whom sub regulation 20(1) applies—**

- (a)* shall, if issuing a tax invoice or sales receipt for the goods or services supplied on acceptance of the voucher, include the face value of the voucher in the price of the supply stated on the tax invoice; and
- (b)* shall not issue a tax invoice or sales receipt to any other person who reimburses or pays the supplier an amount for accepting the voucher.

#### **21A. Input tax credits on redemption of face value vouchers**

(1) Where a taxable person (“the recipient”) uses a face value voucher to acquire goods or services from another taxable person

- (a)* input tax credits are not allowed to the recipient for the goods or services acquired unless the recipient holds a tax invoice issued in accordance with a request made under Regulation 21(3)(b); and
- (b)* the input tax credits for the goods or services acquired may only be claimed in accordance with the time of supply for each acquisition, as shown on the tax invoice.

(2) Despite sub-regulation (1), if a taxable person (“the recipient”) uses or intends to use a face value voucher solely to acquire goods or services all of which will be taxable at the standard rate

- (a)* the recipient may use a tax invoice or receipt issued on the acquisition of the voucher as evidence of the recipient’s entitlement, if any, to an input tax credit for the goods or services acquired; and

- (b) the input tax credit for the goods or services acquired may be claimed in the tax period in which the voucher is acquired.

(3) A taxable person who claims input tax credits in accordance with sub-regulation (2) shall subsequently adjust its input tax credits if the voucher is in fact used to acquire goods or services that are not taxable at the standard rate.

#### **21B. Unredeemed or expired vouchers**

(1) The amount of face value that has expired is to be treated as consideration received by a taxable person for a taxable supply of services made in the tax period in which the amount is treated as income, where—

- (a) the taxable person issues a face value voucher for consideration;
- (b) the voucher expires before it is redeemed, or before it is fully redeemed;
- (c) because of the expiry, the taxable person treats as income in its accounts an amount received for the issue of the voucher; and
- (d) in respect of the amount treated as income, the taxable person has not either made a corresponding supply of goods or services or paid a reimbursement to another person for accepting the voucher in exchange for such a supply.

(2) If the supplier substantiates that the consideration given for the last sale of the voucher before it was used was less than the face value of the voucher, sub-regulation (1) applies as if that consideration were the face value of the voucher.

(3) To the extent that a taxable person has been treated as making a supply in circumstances to which sub-regulation (1) applies, if the taxable person later accepts the voucher in exchange for a supply of goods or services—

- (a) sub-regulation 17(1) does not apply; and
- (b) if the supply made on acceptance of the voucher is partly or wholly zero-rated or exempt, the taxable person may, in the tax period in which the supply is made, treat as input tax an amount equal to the tax fraction of that part of the face value of the voucher that is used for the zero-rated or exempt supply.

(4) To the extent that a taxable person has been treated as making a supply in circumstances to which sub-regulation (1) applies, if the taxable person later reimburses another person for accepting the voucher in exchange for a supply of goods or services —

- (a) the taxable person paying the reimbursement may treat as input tax an amount equal to the tax fraction of the amount reimbursed; and
- (b) the amount treated as the input tax credit is to be remitted under section 27 of the Act in the tax period in which the reimbursement is made.

(5) Sub-regulation (1) applies to a taxable person who, on the basis of a prediction or expectation of the extent to which vouchers of a particular kind will not be redeemed or fully redeemed, treats an amount as income in relation to a voucher before the expiry of the voucher.

(6) For greater certainty, this regulation applies to the expiry of unused value in a pre-paid telecommunications account.”

#### **5. Replacement of Regulation 23**

Regulation 23 of the Principal Regulations is replaced by the following—

#### **“23. Time of supply - phone cards and pre-paid telecommunications accounts**

(1) Despite sub-regulation 17(2), a supplier who issues a face value voucher that can only be used to acquire telecommunications services taxable at the standard rate and will accept the voucher as part of full payment for telecommunications services, the supplier may treat—

- (a) the time of supply of telecommunications services as the time when the voucher is first issued by the supplier; and
- (b) the value of the supply as the amount determined under sub-regulation 17(1).

(2) A supplier who, in accordance with sub-regulation (1), pays ABST at the time a voucher is issued need not pay ABST under sub-regulation 21B(1) or (6) if the supplier does not treat some or all of the amount received for the voucher as income until a later time.”

#### **6. Replacement of Regulation 29**

Regulation 29 of the Principal Regulations is deleted and replaced by the following—

”29. For the purposes of paragraph (2) of Schedule 3 to the Act—

- (a) the foods listed in Schedule 2 to these Regulations are specified as zero-rated foods for human consumption to which item 1 applies;
- (b) goods other than food, which are listed in Schedule 2 to these Regulations, are specified as zero-rated goods to which item 2 applies;
- (c) the first 500 KWH of electricity provided to commercial premises in any monthly billing period is specified as a zero-rated supply to which item 3 (b) applies;

- (d) the amount specified for the purposes of item 9 is ten thousand dollars;
- (e) Schedule 4 to these regulations specifies the kinds of equipment and software to which items 10 and 11 apply; and
- (f) supplies to and imports by Schools approved by the Ministry of Education specified as a zero-rated supply to which item 2 applies.”

#### **7. Replacement of Regulation 30**

Regulation 30 of the Principal Regulations is replaced by the following —

##### **“30. Exempt goods**

For the purposes of paragraph (1) of Schedule 4 to the Act

- (a) Schedule 3 to these regulations specifies the agricultural inputs that may be treated as exempt under item 19; and
- (b) the Minister may, on advice from the Minister responsible for Agriculture and with the permission of Cabinet, amend Schedule 3 to these regulations at any time.”

#### **8. Replacement of Regulation 33**

Regulation 33 of the Principal Regulations is deleted and replaced by the following —

“33. For the purposes of section 9(4)(c) of the Act, “professional services” means services supplied by a person in the ordinary course of carrying on a profession listed in Schedule 6.”

#### **9. Amendment of Schedule 2**

Schedule 2 of the Principal Regulations is amended by replacing the table by the following—

<b>Product Description</b>	<b>Tariff Heading</b>
Meat - Fresh, Chilled, Frozen, Salted or in Brine (including but not limited to chicken, pork, beef, mutton, goat and turkey)	0201.10 to 0210.903
Fish Crustaceans & Molluscs - not canned (including but not limited to Flying Fish, Salt Fish, Snapper, Dolphin Fish, Mackerel, Tuna, Lobster and Shrimp)	0302.11 to 0307.999

<b>Product Description</b>	<b>Tariff Heading</b>
Milk, Cream and Condensed Milk (including powdered milk)	0401 to 0402.999
Butter - Fresh and Salted	0405.101 to 0405.102
Cheese	0406.10 to 0406.90
Eggs - Fresh	0407.003
Vegetables - Fresh, dried or chilled - not frozen	0701.10 to 0709.909; and 0712.20 to 0714.909
Coconut - in shell or desiccated	0801.11 to 0801.199
Fruit - fresh dried or chilled	0803.001 to 0810.909
Tea	0902.10 to 0902.40
Pepper - ground or crushed	0904.12
Rice	1006.101 to 1006.409
Flour - Wheat or Meslin - Durum or other	1101.001 and 1101.009
Maize (corn) meal	1103.13
Cereal Grains - Rolled etc (including but not limited to oats, barley and wheat)	1104.11 to 1104.30
Refined Edible Oil (including but not limited to olive oil, palm oil, corn oil, sunflower seed oil, canola oil and soya-bean oil)	1507.10 to 1515.90
Margarine	1517.10
Imitation Lard (Shortening)	1517.901
Sausages (including canned sausages)	16001.001 to 1601.009

<b>Product Description</b>	<b>Tariff Heading</b>
Preparation for Infant Use for Retail Sale (of prepared or preserved meat)	1602.102
Luncheon Meat (including but not limited to pork and chicken)	1602.32; 1602.39; and 1602.491
Corned Beef	1602.501
Sardines prepared or preserved	1604.131
Tuna prepared or preserved	1604.141
Cane & Beet Sugar	1701.11 to 1701.12
Other Sugar (Not including Icing Sugar)	1701.999
Cocoa Powder with or without sugar	1805.001 to 1806.10
Preparation for Infant Use for Retail Sale (Of malt extract, flour preparations, whey, containing cocoa)	1901.10
Pasta (including but not limited to macaroni)	1902.11 to 1902.19
Prepared Foods obtained by the swelling or roasting of cereals or cereal products (Including but not limited to cornflakes)	1904.10 to 1904.90
Sweetened Biscuits	1905.301
Unsweetened Biscuits	1905.901
Bread (Not including other baked products such as bun)	1905.909
Preparation for Infant Use for Retail Sale (Of preserved Vegetables)	2005.102
Preparation for Infant Use for Retail Sale (Of jams, jellies, fruit purees)	2007.101

<b>Product Description</b>	<b>Tariff Heading</b>
Fruit Juices - unfermented (including but not limited to Orange juice, Pineapple Juice, Grapefruit Juice, Tamarind Juice or mixtures of Fruit)	2009.10 to 2009.909
Active Yeast	2102.10
Preparation for Infant Use for Retail Sale (soups and broths)	2104.201
Preparation for Infant Use for Retail Sale (Not elsewhere specified)	2106.907
Tofu, Soya Milk, Soya Chunks	2106.909
Mineral Water (Not containing added sweetening or flavouring)	2201.1011 to 2201.1019
Aerated Water (Not containing added sweetening or flavouring)	2201.1021 to 2201.1029
Ordinary Water (Not containing added sweetening or flavouring)	2201.9011 to 2201.9019
Other Water (Not containing added sweetening or flavouring)	2201.9091 to 2201.9099
Fruit and vegetable drink (non-aerated)	2202.1091 to 2202.1099; and 2202.9091; to 2202.9099
Malt beverages (not containing alcohol)	2202.902
Table salt for retail sale	2501.001
Cement	2523.10 to 2523.90



<b>Product Description</b>	<b>Tariff Heading</b>
Human blood; animal blood prepared for therapeutic, prophylactic or diagnostic uses; antisera and other blood fractions and modified immunological products, whether or not obtained by means of biotechnological processes; vaccines, toxins, cultures of micro-organisms (excluding yeasts) and similar products.	3002.10 to 3002.309
Medicines in retail quantities (Including but not limited to Penicillin, Insulin, Aspirins, Paracetamol, Cough Preparations but not including vitamins)	3004.101 to 3004.909
Pharmaceutical Goods (including but not limited to Sterile catgut, blood grouping reagents, first aid kits and dental cements)	3006.10 to 3006.60
Toothpaste	3306.101
Baby Wipes	3307.90
Soap (including liquid soap)	3401.111 to 3401.199
Other Soap (not including industrial soap)	3401.209
Dish washing liquids	3402.201
Other liquid detergents	3402.202
Other detergents	3402.203
Mosquito Coils and insecticides for retail sale	3808.102 to 3808.109
Baby bottles (of plastic)	3923.3012
Baby Nipples & Pacifiers	4014.90

<b>Product Description</b>	<b>Tariff Heading</b>
Lumber (including but not limited to Pitch-pine, Oak, Tropical Woods, Greenheart and Mahogany)	4407.10 to 4407.99
Wood continually shaped (including but not limited to Pitch-pine, Caribbean Cedar, Greenheart and Mahogany)	4409.10 to 4409.209
Plywood, veneered panels and similar laminated wood	4412.10 to 4412.99
Toilet paper	4818.10
Sanitary Towels and tampons	4818.401
Napkins & Napkin Liners (diapers) for babies	4818.402
Napkins & Napkin Liners (diapers) for adults	4818.403
Books of Printed matter (including but not limited to Encyclopaedias, Dictionaries, Text Books, exercise books, Novels, Bibles but excluding periodicals, magazines, drawing and colouring books.)	4901.91 and 4901.999
Newspapers (not including magazines or periodicals)	4902.101 and 4902.90
Baby Bottles (of glass)	7010.949
Bed pads (for adults)	9404.901

**10. Amendment of Schedule 4**

Schedule 4 of the Principal Regulations is amended by replacing everything after the heading "SCHEDULE 4" with the following —

**"ZERO-RATED EQUIPMENT FOR USE WITH PERSONAL OR LAPTOP COMPUTERS  
AND ZERO-RATED COMPUTER SOFTWARE**

(Regulation 29)

(1) The following are specified as zero-rated equipment if supplied with personal or laptop computers

- (a) a scanner (of value less than or equal to two thousand dollars);
- (b) a printer (of value less than or equal to two thousand dollars);
- (c) a mouse unit, either wire operated or wireless;
- (d) a web cam but not a removable digital camera that may be used to capture images independently of the computer
- (e) a keyboard supplied for use with a non-laptop computer (the main supply) that is not supplied with a keyboard as part of the main supply;
- (f) a monitor for use with a non-laptop computer (the main supply) that is not supplied with a monitor as part of the main supply; and
- (g) a laptop case.

(2) For the purpose of paragraph (1), if a scanner and printer are supplied as a combined unit, that unit shall count as the provision of both entitlements and the value shall not exceed four thousand dollars.

(3) Software of a type described as Home and Small Office software and included in the categories listed below is specified as zero-rated computer software if supplied with a personal or laptop computers

- (a) Operating system software (for example Windows XP Home Edition);
- (b) Word Processing and Basic Calculative Software (for example Microsoft Word, Microsoft Office, Microsoft Works or similar);
- (c) Educational software (but not games other than those preloaded in operating systems);
- (d) Home Finance Software; and
- (e) Anti Virus Software."

**11. Amendment of Schedule 5**

Schedule 5 of the Principal Regulations is amended by replacing everything after the heading “**APPROVED CHARITABLE OR NON-PROFIT ORGANISATIONS**” with the following—

“Adventists Community Service Federation  
Amazing Grace Foundation  
Antigua & Barbuda Amateur Boxing Association  
Antigua & Barbuda Olympic Association  
Antigua & Barbuda Volleyball Association  
Antigua & Barbuda Renal Society  
Antigua & Barbuda Humane Society  
Association of Persons with Disabilities  
Breast Friends  
Crossroads  
Fienes Institute  
Gilbert Agricultural and Rural Development Centre (GARDC)  
Girl Guides  
Health Hope & HIV Network  
Hero House  
Karen Boden Memorial Fund  
Kiwanis (Kiwanis Club of St Johns, Circle K Club, Builders Club & Kiwanis Club of Wadadli)  
Leo Club  
Lions Club

**National Association for Mental Health**

Optimist Club

P.A.W.S.

Project Hope

Red Cross

Rotary Club

Salvation Army

**Society of St. Vincent De Paul (Good Shepherd Home)**

Sunshine Home For Girls

Tabitha

**Watchtower Bible and Tract Society**

Y.M.C.A.

Y. W. C.A.

Approved Churches of Recognised Religious Organisations (Church includes Chapel, Mosque, Synagogue and other analogous descriptions)"

**12. Amendment of Schedule 7**

Schedule 7 of the Principal Regulations is amended by replacing everything after the heading "DIPLOMATIC MISSIONS AND APPROVED INTERNATIONAL AGENCIES" with the following—

Caribbean Open Trade Support Foundation Inc (COTS)

Caribbean Agricultural Research &amp; Development Institute (CARDI)

Eastern Caribbean Civil Aviation Authority

Embassy of the Peoples Republic of China

Embassy of the Republic of Cuba

Embassy of Venezuela

Office of the British High Commission

Organisation of American States (OAS)

UKSAT(C) Maritime Training Unit

United States Defence Area

West Indies Cricket Board”

Made the 2nd day of April, 2008.

**L. Errol Cort,**  
*Minister of Finance and the Economy.*