

Final Draft 2017-05-23

OBJECTS AND REASONS

This Bill would provide for the imposition of a levy on imported goods and on goods which are manufactured or produced in Barbados.

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Amendment of Enactment

BARBADOS

A Bill entitled

An Act to provide for the imposition of a levy on imported goods and on goods which are manufactured or produced in Barbados.

ENACTED by the Parliament of Barbados as follows:

Short title

1. This Act may be cited as the *National Social Responsibility Levy Act, 2017*.

Interpretation

2. In this Act,

“Barbados Revenue Authority” or “Authority” means the Barbados Revenue Authority established under section 3 of the *Barbados Revenue Authority Act, 2014* (Act 2014-1);

“domestic output” means locally manufactured or produced goods;

“locally manufactured or produced goods” means goods manufactured or produced in Barbados;

“levy” means the national social responsibility levy imposed by section 5;

“officer” means a person who is authorised to assist the Barbados Revenue Authority in the administration and enforcement of this Act;

“registrant” means a person who is required to register and pay the levy under sections 9 and 10;

“payment period” means the taxable period specified for the payment of value added tax in the *Value Added Tax Act, Cap. 87*;

“Revenue Commissioner” means the Revenue Commissioner appointed under section 7 of the *Barbados Revenue Authority Act, 2014* (Act 2014-1);

“Tribunal” means the Barbados Revenue Appeals Tribunal established under section 24 of the *Barbados Revenue Authority Act, 2014* (Act 2014-1).

Administration

3. The Barbados Revenue Authority shall be responsible for the administration of this Act and for the assessment, collection and recovery of the levy.

Purpose of the levy

4. The levy shall be applied towards the provision of health care, the provision of sanitation services and the enhancement of the environment.

Imposition of levy

5.(1) Subject to sections 6, 7 and 8, a levy to be known as the “national social responsibility levy” shall be imposed in accordance with this Act

(a) on goods manufactured or produced in Barbados by a registrant; and

(b) on goods imported into Barbados.

(2) The levy imposed by subsection (1)(a) is equal to 2 per cent of the price at which the goods are sold, exclusive of value added tax.

(3) The levy imposed by subsection (1)(b) is equal to 2 per cent of the customs value of the goods and is payable at the time the goods are entered for use within Barbados by the importer or other person who is liable under the *Customs Act*, Cap. 66 to pay duties on the goods.

(4) Any person who demands or receives payment of the levy on any goods contrary to this Act is guilty of an offence and liable on summary conviction to a fine of \$10 000 or to imprisonment for 6 months or to both.

Exemption re certain goods and imports

6.(1) No levy is payable

- (a) on goods which are manufactured or produced in Barbados where the goods are sold by a manufacturer or producer to another manufacturer or producer in Barbados;
- (b) by any person exempt from the payment of import duties under any enactment relating to the manufacturing, agricultural or tourism sector on the items and goods specified in that enactment and subject to the terms and conditions specified in the enactment.

(2) Notwithstanding any other enactment granting exemptions from taxation, and subject to the provisions of this Act, the levy is payable on all goods which are imported into Barbados.

Exemption of diplomats and diplomatic missions

7. No levy is payable where goods are supplied to or imported by

- (a) a diplomatic mission, consulate or international organisation;
- (b) a member of the diplomatic or consular service or a member of his family forming part of his household; or
- (c) any other person entitled to be exempt from duties and taxes pursuant to the *Diplomatic Immunities and Privileges Act, Cap. 18*.

on production of evidence that the goods are for the exclusive use of the person, entity or organization referred to in paragraphs (a) to (c).

Exemption where goods are for export

8.(1) No levy is payable under this Act by a person where goods which are manufactured or produced in Barbados are exported.

- (2) A person who imports goods shall be granted a refund of the levy paid on such goods if
- (a) the person satisfies the Revenue Commissioner that the goods were re-exported without having been used in Barbados; and
 - (b) the person applies to the Revenue Commissioner for a refund within 2 years of the exportation of the goods.

Registration

- 9.(1) Where the domestic output of a manufacturer or producer exceeds \$200 000 annually that person shall register and pay the levy in accordance with this Act.
- (2) Part V of the *Value Added Tax Act*, Cap. 87 relating to registration shall apply with the necessary modifications to registration under this Act.

Payment of levy

- 10.(1) Every registrant shall, within 21 days after the end of each payment period, file with the Barbados Revenue Authority, in such manner as the Revenue Commissioner determines, a return for the payment period, in such form as the Revenue Commissioner approves, together with such additional information as the Revenue Commissioner requires.
- (2) Every registrant shall, within 21 days after the end of each payment period, pay to the Barbados Revenue Authority, the levy payable by that person for the payment period.
- (3) Part VI of the *Value Added Tax Act*, Cap. 87 relating to returns and payment of tax, shall apply with the necessary modifications to the payment of the levy under this Act.
- (4) A registrant who files a return after the payment period specified in subsection (1) shall pay a penalty of \$100 to the Barbados Revenue Authority.

- (5) A registrant who fails to pay the amount of the levy payable by that registrant within the period specified in subsection (2) shall pay
- (a) a penalty of 10 per cent of the amount of the levy that is payable; and
 - (b) interest at the rate of one per cent per month calculated for each month or part of a month during which any amount of the levy and penalty remains unpaid on the largest amount of the levy and penalty that was due and unpaid at any time in that month.

Keeping of accounts and records

- 11.(1)** Every registrant shall keep appropriate records, information and accounts so as to enable the Revenue Commissioner to determine the amount of the levy which is payable by that registrant for any payment period.
- (2) Where a registrant fails to keep adequate records, information and accounts for the purposes of this Act, the Revenue Commissioner may require that person to keep such records, information and accounts as the Authority determines.
- (3) Every person required by subsection (2) to keep records, information and accounts shall retain the records, information and accounts until the expiration of 5 years after the end of the year to which the records, information and accounts relate or for such shorter period as the Revenue Commissioner may determine.
- (4) Any person who fails to keep adequate records, information and accounts in accordance with this section is guilty of an offence and is liable on summary conviction to a fine of \$5 000.

Audit

12.(1) An officer may, at any reasonable time, enter any premises or place where goods are locally manufactured or produced or any place where any records, information or books of account relating thereto are kept and

- (a) inspect, audit or examine the records, information and books of account of a person or any property or process of that person or any other matter that may be relevant in determining
 - (i) the amount of levy or any other amount payable by that person under this Act; or
 - (ii) the amount of a refund that is payable to that person under this Act;
- (b) require the owner or manager of the property or any employee to give him all reasonable assistance with his inspection, audit or examination and to answer all questions relating to his responsibility for the payment of the levy under this Act either orally or in writing.

(2) For the purposes of subsection (1), the officer may require the owner or manager of the business to be present at the premises or place with him for the inspection, audit or examination and to answer any question relating to his responsibility for the payment of the levy under this Act.

(3) Where, during the course of an audit or examination referred to in subsection (1), it appears to the officer referred to in that subsection that there has been a violation of this Act or any regulations made under this Act, the officer may seize and take away any records, information or books of account which may afford evidence of the violation.

(4) The Revenue Commissioner may, for any purpose related to the administration of this Act, by registered letter or by a demand served personally, require any person

- (a) to provide any information in the form of a return or otherwise; and

- (b) to produce any record, information or books of account, within such time as the Revenue Commissioner specifies.

Copies of documents

13. Where any document, information or book of account has been produced, seized, inspected or examined by an officer under this Act, the officer may make copies; and a document purporting to be certified by the officer to be a copy made pursuant to this section is admissible in evidence and has the same probative value as the original document.

Obstruction of officers

14. A person who threatens, assaults or obstructs any officer acting in the execution of his duty under this Act is guilty of an offence and is liable on summary conviction to a fine of \$20 000 or to imprisonment for 3 years or to both.

Assessment of levy

15.(1) Where

- (a) a registrant has failed to file a return in accordance with section 10(1);
- (b) a registrant has failed to pay the levy payable in accordance with section 10(2); or
- (c) the Revenue Commissioner is satisfied that a true account of the levy payable has not been given in a return,

the Revenue Commissioner may, after consideration of any representation or information which the registrant may make or supply to him, assess the levy payable by that registrant for the applicable payment period; and the levy for that period shall be paid on the amount assessed.

(2) Division IV of Part X of the *Value Added Tax Act*, Cap. 87 relating to assessments, determinations and overpayments shall apply with the necessary modifications to assessments, determinations and overpayments under this Act.

Reassessments

16. After an assessment has been made under section 15, the Revenue Commissioner may make a reassessment of the levy for the applicable period where the Revenue Commissioner is satisfied that the registrant has made a misrepresentation or has failed to disclose any material fact or information in making a return.

Notice of assessment

17. After making an assessment or a reassessment under section 15 or 16, the Revenue Commissioner shall deliver a notice of assessment or reassessment, as the case may be, to the registrant showing the amount of his proceeds for the applicable period.

Refund for overpayment

18. Where a person, other than a registrant, has paid an amount as levy on goods and that amount exceeds the amount that was payable by him under this Act, the Revenue Commissioner shall pay a refund to that person equal to the amount of the excess where that person applies for the refund within 2 years after the amount was paid.

Waivers and refunds

19. The Minister may by order, where he thinks it equitable to do so, exempt or refund, in whole or in part, the amount of the levy payable or paid under this Act by any person.

Objections

20.(1) Subject to this section, a person who

- (a) having been assessed, disagrees with the assessment; or
- (b) having made an application for a refund of the levy, disagrees with the Revenue Commissioner's determination respecting the application,

may object to the assessment or determination by filing a notice of objection with the Revenue Commissioner within 21 days after the date of the notice of assessment or notice of determination, as the case may be, or such longer period as the Revenue Commissioner allows.

(2) Except with leave of the Revenue Commissioner, a person may not object to an assessment unless the person has either paid the amount that was so assessed or given security, in an amount and form satisfactory to the Commissioner, for the payment thereof.

(3) A notice of objection shall be in writing and shall state the precise grounds for the objection.

(4) The Revenue Commissioner shall give a person who has objected to an assessment or determination an opportunity to support his objection by a written or oral submission to the Commissioner.

(5) The Revenue Commissioner shall, after receiving a notice of objection in respect of an assessment or determination and after giving the person who objected an opportunity to support his objection,

(a) review the assessment or determination and either confirm it or make a reassessment or redetermination, as the case may require; and

(b) deliver to the person who objected, a notice of confirmation, a notice of reassessment or a notice of redetermination, as the case may require.

(6) Division V of Part X of the *Value Added Tax Act*, Cap. 87 relating to objections shall apply with the necessary modifications to objections under this Act.

Appeal to Tribunal

21.(1) Any person who has objected to an assessment or determination and who received a notice of confirmation, reassessment or redetermination, may appeal from the decision of the Revenue Commissioner to the Barbados Revenue Appeals Tribunal, within 30 days after the day on which the notice of

confirmation, reassessment or redetermination, as the case may be, was delivered to him.

(2) Where a person has filed a notice of objection under this Act and the Revenue Commissioner has not, within 6 months thereafter, delivered to the person a notice of confirmation, reassessment or redetermination, the person may appeal to the Tribunal in respect of the objection.

(3) Where the Revenue Commissioner delivers to a person, a notice of confirmation, reassessment or redetermination respecting an objection after the expiration of the period of 6 months referred to in subsection (2), the person may appeal to the Tribunal within 30 days after the delivery of the notice.

(4) An appeal under this section shall be instituted by filing a notice of appeal with the Tribunal together with such copies thereof as the Tribunal may require, and such notice shall, as far as possible, state the precise grounds of appeal.

(5) Where the Tribunal is satisfied that there is good reason for the failure of a person to object or appeal within the time specified in section 20 or in subsections (1), (2) or (3), the Tribunal may allow the person such further time as the Tribunal thinks fit.

Appeal to the High Court

22.(1) Any party to an appeal to the Tribunal may appeal from the decision of the Tribunal to the High Court on a point of law.

(2) In disposing of an appeal under this section in respect of an assessment or determination, the High Court may

- (a) confirm or set aside the assessment or determination;
- (b) make an order referring the assessment or determination back to the Revenue Commissioner for reassessment or redetermination in accordance with the directions of the Court; or
- (c) make such other order as it thinks fit.

Recovery of the levy

23. The levy payable under this Act and any other amount payable as penalties and interest is a debt due to the Crown and recoverable as such in civil proceedings in the magistrate's court for District A, notwithstanding that the amount involved exceeds the normal monetary limit on the jurisdiction of a magistrate's court.

Regulations

24. The Minister may make regulations generally for carrying out the provisions of this Act.

Validation

25. Notwithstanding the sections 3 (2) and 5 of the *Provisional Collection of Taxes Act*, Cap. 85, all monies collected in relation to the levy from 1st September, 2016 to the commencement of this Act, shall be deemed to have been validly and lawfully collected as if collected under this Act.

Amendment of the enactment in the Schedule

26. The enactment set out in the first column of the *Schedule* is amended to the extent set out in the second column opposite thereto.

Commencement

27. This Act shall be deemed to have come into operation on 1st September, 2016.

SCHEDULE

(Section 26)

Amendment of Enactment

Column 1 Enactment	Column 2 Amendment
<i>Value Added Tax Act, Cap. 87</i>	In section 7, insert the following subsection after subsection (3): “(3B) For the avoidance of doubt, the calculation of value added tax for the purposes of this section shall include the national social responsibility levy imposed by section 5 of the <i>National Social Responsibility Levy Act, 2017 (Act 2017 -)</i> .”.

Read three times and passed the House of Assembly this
day of _____, 2017.

Speaker

Read three times and passed the Senate this _____ day of
, 2017.

President