
CHAPTER 293A**EXCISE**

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EXEMPTION FROM DUTY

CHAPTER 293A
EXCISE

**An Act to provide for the imposition and collection
of excise taxes and for connected purposes.** *16 of 2008*
19 of 2009

[Assent - 27th June, 2008]

[Commencement 1st July 2008]

PART I - PRELIMINARY

1. This Act may be cited as the Excise Act. Short title
2. (1) In this Act, unless the context otherwise requires — Interpretation
- “ad valorem” means duties which are graduated according to the value of the taxable goods;
- “Comptroller” means the comptroller of Customs or any other public officer acting on his behalf or under his authority;
- “Customs Officer”, “duty”, “entered”, “export”, “goods”, “import”, “warehoused” have the meanings assigned to them in the Customs Management Act; Ch 293
- “importer”, in respect of goods, means the importer or proprietor of the goods;
- “licensed manufacturer” means any manufacturer licensed by the Minister responsible for Trade and Industry;
- “manufacture” or “produce”, in relation to goods, includes the application of any process in the course of manufacturing or producing the goods;
- “Minister” means the Minister responsible for Finance;
- “sale”, in relation to goods, includes —
- (a) the disposal of goods for consideration;
 - (b) the transfer of possession of goods under a lease, a rental agreement, a licence agreement or a hire-purchase agreement within the meaning

- Ch 342 assigned to that expression by the Hire Purchase Act;
- (c) the disposal of goods under an agreement whereby the purchase price is wholly or partly payable in installments; and
- (d) the transfer of trading stock by the owner of a business for his personal use or the personal use of an employee or other person, otherwise than by way of disposal for consideration;
- First Schedule “taxable goods” means goods specified in the First Schedule.
- First Schedule (2) The classification and description of goods
Ch 295 specified in the First Schedule and bearing the heading numbers as designated in the Tariff Act are to be interpreted in accordance with the rules for interpretation set out in Part I of the Tariff Act.
- Ch 295 (3) For the purposes of this Act —
- (a) a passenger who imports baggage for which no entry is required shall be deemed to have entered the baggage for use within The Bahamas at the time the baggage is delivered to the passenger in The Bahamas; and
- (b) the addressee of goods imported by post for which no entry is required shall be deemed to have entered the goods for use within The Bahamas at the time the goods are delivered to the addressee.

PART II - IMPOSITION AND PAYMENT OF EXCISE TAX

- Imposition of tax
First Schedule 3. (1) Subject to this Act and any other law relating to customs, the excise tax shall be paid in accordance with this Act at the rate specified in the third column of the First Schedule on —
- (a) taxable goods manufactured or produced in The Bahamas and sold in The Bahamas; and
- (b) taxable goods imported into The Bahamas.
- First Schedule (2) The Minister may, by order published in the Official Gazette amend or revoke the First Schedule.

(3) An order referred to in subsection (2) is subject to affirmative resolution of both Houses of Parliament.

4. (1) Where excise tax is payable under this Act on taxable goods by reference to their value, the tax shall be calculated on an amount, in this Act referred to as the “chargeable value” equal to —

Value and
quantity

- (a) if the goods are imported, the total of —
 - (i) the value of the goods as it would be determined under the Customs Management Act for the purpose of assessing ad valorem duty of customs on the goods, whether ad valorem duty of customs is payable on the goods or not; and
 - (ii) the amount of fees or other charges that are payable upon the entry of the goods into The Bahamas; and
- (b) if the goods are manufactured or produced in The Bahamas and sold in The Bahamas, the amount of consideration in money that a manufacturer or producer of the goods would reasonably be expected to fetch for the goods on a sale in the open market to a purchaser who is not connected to the manufacturer or producer.

(2) Where excise tax is payable under this Act on taxable goods by reference to a specific quantity measured by volume or weight, if the goods are imported, sold in The Bahamas or removed from a warehouse in any container intended for sale (with or of a kind usually sold with the goods in a sale by retail and the container is marked, labelled or commonly sold as containing, or commonly reputed to contain, a specific quantity of such goods) for the purpose of determining the excise tax payable in respect of the goods, the container is presumed to contain not less than that specific quantity unless the contrary is shown to the satisfaction of the Comptroller.

5. (1) Every set of import entries in respect of goods re-imported into The Bahamas to which subsection (1) of section 81 of the Customs Management Act applies shall be subject to a charge of \$10.00.

Re-imported
goods

Ch 293

(2) Every set of import entries in respect of goods re-imported into The Bahamas to which subsection (2) of section 81 of the Customs Management Act applies shall be subject to the relevant rates of duty in the First

Ch 293

First Schedule

Schedule, on the amount of the increase in the value of the goods.

Payment of tax
by licensed
manufacturer.

6. (1) Where excise tax is imposed by this Act on goods domestically manufactured and sold in The Bahamas or removed from a warehouse, the duly licensed manufacturer who sold the goods or removed them from a warehouse shall pay the tax to the Comptroller not later than 21 days after the end of that month during which the goods were so sold or removed.

(2) A licensed manufacturer who defaults in paying any excise tax payable by him by the day prescribed by subsection (1) shall pay, in addition to the amount of tax in default —

- (a) a penalty equal to 10 per cent of the amount of tax in default; and
- (b) interest at the rate of 2% above prime rate for each day the amount in default is outstanding.

(3) Where the Minister, under section 8(4), extends the time within which a return of a licensed manufacturer shall be filed —

- (a) any excise tax that the licensed manufacturer is required to report in the return shall be paid within the time so extended;
- (b) interest is payable under subsection (2) as if the time for filing the return had not been extended; and
- (c) the penalty under subsection (2) on any excise tax that the licensed manufacturer is required to report in the return is payable only if the tax is not paid within the time so extended and shall be calculated only on the amount of tax that is not paid within the time so extended.

Payment of tax
by importers.

7. Where excise tax is imposed by this Act on the importation into The Bahamas, the importer shall pay the tax to the Comptroller at the time of entry.

Returns from
licensed
manufacturers.

8. (1) Every licensed manufacturer shall, within 21 days after the end of the month, whether or not he has sold any goods during the month or removed any goods from a warehouse during the month, file with the Comptroller in

the prescribed manner an accurate return for the month in the prescribed form containing the prescribed information.

(2) A person who has ceased being a licensed manufacturer shall, within 21 days after the day on which he ceased being a licensed manufacturer, whether or not he has sold any goods during the month in which he ceased being a licensed manufacturer or removed any goods from a warehouse during that month, file with the Comptroller in the prescribed manner an accurate return for the month in the prescribed form containing the prescribed information.

(3) A person who, being required by subsection (1) or (2) to file a return, fails to do so within the time prescribed by that subsection shall pay to the Comptroller a penalty of \$1,000.00.

(4) The Minister may at any time extend in writing the time for filing a return under this Act and, where the Minister does so, the return shall be filed within the time extended and the penalty under subsection (3) is payable only if the return is not filed within the time as so extended.

(5) The Comptroller may require a licensed manufacturer to furnish the Comptroller with such information relating to a return as the Comptroller considers necessary.

PART III - RELIEF FROM EXCISE TAX

9. The goods specified in the Second Schedule are exempt from excise tax.

Exemptions.
Second Schedule.

10. (1) The Minister may grant permission for the importation of taxable goods without payment of excise tax thereon upon being satisfied that —

Relief for
temporary
importation.

- (a) the goods are imported for temporary use or for a temporary purpose only;
- (b) the goods will be exported within three months or such period as may be extended by the Minister from the grant of the permission; and
- (c) the person to whom the permission has been granted will deposit with the Comptroller an amount equal to the excise tax payable on the imported goods, or give security for payment of the tax.

(2) Where the goods imported under subsection (1) are not exported within the period specified in paragraph (b) of subsection (1), any deposit with the Comptroller under paragraph (c) of that subsection shall be brought into account by the Comptroller as excise tax or, if security has been given under that paragraph, the importer shall pay to the Comptroller the full amount of excise tax payable on the goods imported.

(3) Notwithstanding subsections (1) and (2), the Minister may, where he considers it necessary, allow such further period as he thinks fit for the export of the goods —

- (a) if he is satisfied that the goods are the *bona fide* property, and are for the exclusive use of a person temporarily in The Bahamas; and
- (b) if the importer of the goods gives such security in addition to that given pursuant to paragraph (c) of subsection (1) as the Minister requires.

(4) Where the goods referred to in subsections (1) and (2) are exported within the time specified in subsection (1) or the further period allowed pursuant to subsection (3), the Comptroller shall refund the deposit referred to in paragraph (c) of subsection (1) and cancel the security given pursuant to that paragraph and the additional security given pursuant to subsection (3).

Relief for raw materials.

11. (1) Where the Comptroller is satisfied, upon a certificate by a licensed manufacturer, that taxable goods whether imported into The Bahamas or manufactured or produced in The Bahamas, are intended to be used by the licensed manufacturer as raw materials for the manufacture or production in The Bahamas of other taxable goods, the Comptroller may, in respect of the taxable goods intended to be used as raw materials, instead of requiring payment of the excise tax in full —

- (a) require that the manufacturer deposit such security as the Comptroller thinks fit; or
- (b) remit the excise tax.

(2) Where taxable goods are intended to be used as raw materials for the manufacture or production in The Bahamas of other taxable goods, the importer, manufacturer or producer, as the case may be, must certify to the Comptroller in the prescribed form that the goods are to be used for the manufacture or production in The Bahamas of other taxable goods.

(3) Where money was given as security in respect of taxable goods and the Comptroller is subsequently satisfied that the goods were used as raw materials for the manufacture or production in The Bahamas of other taxable goods, the Comptroller may apply such money against any excise tax that becomes payable on the sale of the other taxable goods.

12. (1) Where a person pays an amount as or on account of excise tax on goods imported or sold by him that exceeds the amount payable by him under this Act, the Comptroller shall, subject to this section, pay a refund to that person equal to the amount of the excess if that person applies therefor within six months after the amount was paid. Refunds

(2) Where a person who has imported taxable goods subsequently exports those goods or puts them on board a ship or aircraft for use as stores and the goods are in compliance with the conditions specified in the Customs Management Act for the payment of a drawback of duties, the Comptroller shall, subject to this section, pay an amount to the person equal to the excise tax paid on the goods if the person applies therefor within six months after he exported the goods or put them on board the ship or aircraft. Ch 293

- (3) An application under this section —
- (a) must be made in the prescribed form;
 - (b) must contain the prescribed information;
 - (c) must be filed with the Comptroller in the prescribed manner.

(4) Notwithstanding subsections (1) and (2), where a refund or other payment is payable to a person under this section, the Comptroller may apply it against any outstanding tax, penalty or interest payable by the person under this Act.

13. (1) Any relief granted under Title IV, Part III of the Customs Management Act applies, with such modifications as the circumstances require, for the purposes of this Act in respect of goods produced in The Bahamas for export. Relief and Remission Ch 293

(2) The Customs Management Act applies, with such modifications as the circumstances require, for the

purposes of this Act with respect to the re-importation of taxable goods.

(3) The Minister may remit, in whole or in part, an excise tax where he is satisfied that it is just and equitable to do so or to give effect to the terms of any agreement or arrangement binding the Crown.

(4) Where any tax remitted under subsection (1) has already been paid, the tax must be refunded by the Comptroller.

(5) Notwithstanding subsections (2), (3) and (4) where an amount is payable to a person under this section, the Comptroller may apply it against any outstanding tax, penalty or interest payable by the person under this Act.

Goods diverted
from exempt use

Ch 293

14. (1) Where goods liable to excise tax have been imported or taken out of bond free of excise tax or at a reduced rate in accordance with any law relating to the Customs Management Act and are subsequently disposed of or treated in any manner inconsistent with the conditions or purposes for which they were granted relief from excise duty, then, unless the Minister otherwise directs, they shall on such disposal or treatment be liable to excise tax at the full rate applicable to goods of that class or description at the time of such disposal or treatment.

(2) Where it is proposed to dispose of goods to which subsection (1) applies, the person responsible for their disposal shall furnish the Comptroller with the particulars of the proposed disposal and, unless the Minister otherwise directs, shall cause the excise duty thereon to be paid.

(3) Where goods to which subsection (1) applies are disposed of or dealt with without payment of excise duty to which they are liable, they shall be liable to forfeiture.

(4) Any person who knowingly disposes of or acquires any goods to which subsection (1) applies without the excise duty having been paid in accordance with this section commits an offence and is subject to a penalty of twice the amount of excise tax payable.

PART IV - MISCELLANEOUS

Regulations

15. The Minister may make regulations generally for giving effect to the provisions of this Act.

Application

16. This Act binds the Crown.

17. *Spent, omitted from this revised edition.*

18. (1) The Comptroller shall administer and enforce, subject to the control and direction of the Minister, this Act and collect the tax imposed by this Act. Administration and enforcement.

(2) Where tax is imposed by this Act on the importation of goods into The Bahamas for the purposes of collecting and enforcing the payment of the tax and, generally, for the purposes of administering and enforcing the provisions of this Act, the Customs Management Act relating to the importation of goods apply as if the tax were a duty. Ch. 293.

FIRST SCHEDULE (Section 2)

(This Schedule is omitted from this Revised Edition)

SECOND SCHEDULE (Section 9)**EXEMPTION FROM DUTY****Part A - Goods for Government, Public Bodies and Privileged Persons and Institutions.****1. Consular and Diplomatic Privileges**

- (1) Goods for use of consulates and consular officers in such circumstances as may be specified by or under the Consular Relations and Commonwealth Officers Act.
- (2) Goods for the use of diplomatic officers and diplomatic officers in such circumstances as may be specified by the Minister.
- (3) Such exemptions as the Minister may confer on members of duly approved international organizations.

2. Establishments of Foreign States

Goods for the official use of an establishment wholly maintained and operated by a Foreign State, where the Government has entered into an agreement with the Foreign State for the setting up in The Bahamas of such establishment.

3. Bahamas National Trust

Goods for the use exclusively of The Bahamas National Trust and imported with the prior approval of the Minister.

4. Charitable Goods

Goods imported with the prior approval of the Minister by a charitable organization for use exclusively for charitable purposes.

5. Gifts to Government

Goods, being gifts to the Government.

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PART B - GENERAL EXEMPTIONS**1. Farm tractors for Agricultural Co-operative Societies registered with the Minister of Agriculture.****2. Aircraft Parts and Accessories**

The following aircraft parts and accessories for use of aircraft on scheduled international air services and for use by Bahamasair Holdings Limited —

- (i) aircraft accessories and instruments necessary for aircraft operations;
- (ii) lubricants, de-icing fluids, hydraulic and cooling fluids to be used for aircraft;
- (iii) equipment and machinery specifically designed for ground repair, maintenance and servicing aircraft for use within the limits of an airport; and
- (iv) catering equipment owned or leased by airport operators for use aboard aircraft.

3. Baggage of Passengers

(1) In the case of a passenger, who is not a returning resident, arriving in The Bahamas —

- (a) all baggage (including wearing apparel, articles of personal effects, being apparel, articles and effects possessed and used abroad by such passenger) not intended for sale; and
- (b) alcoholic beverages not exceeding one quart of spirits and one quart of wine; and
- (c) tobacco not exceeding one pound in weight or two hundred cigarettes or fifty cigars; and
- (d) any other articles up to a value of \$100.00.

(2) In the case of a passenger who is a returning resident —

- (a) all household effects, wearing apparel, articles of personal adornment, toilet articles and similar personal effects, being household effects, apparel, articles and effects proved to have been taken out of The Bahamas by him; and

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- (b) alcoholic beverages not exceeding one quart of spirits and one quart of wine; and
 - (c) tobacco not exceeding one pound in weight or two hundred cigarettes or fifty cigars; and
 - (d) any other articles not intended for sale nor for the purpose of any business, being articles brought into The Bahamas by the resident up to a limit in value of \$300.00, upon the resident proving to the satisfaction of the Comptroller that the resident has not already claimed exemptions from duty under this provision on two previous occasions during the same calendar year except that where any resident (regardless of age) is returning after an absence of one year or more, the limit of value of such articles shall be \$500.00.
- (3) The provisions of sub-items (1)(b), (1)(c), 2(b) and (2)(c), shall apply only to adult passengers.
 - (4) For the purpose of this item, the expression “passenger” means a person twelve years or older and “returning resident” means a person returning from a journey outside The Bahamas, who prior to his departure from The Bahamas on that journey was ordinarily a resident in The Bahamas for a period exceeding one year.
 - (5) Where an exemption is granted under sub-item (2)(d) to a returning resident, an entry to that effect shall be made by a Customs Officer in the travel document or passport of the returning resident which shall be presented to the Customs Officer for that purpose.

4. Educational, Scientific and Cultural Goods

- (1) Specially designed articles for the educational, scientific, cultural or economic advancement of the handicapped, which are imported directly by institutions or organizations concerned with the welfare of the handicapped, if approved by the Minister.
- (2) Goods including new buses once every 5 years, for use exclusively in or by public or private educational institutions, if approved by the Minister.

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- (3) Specialized equipment imported for use by the handicapped, the chronically ill, the socially disadvantaged and the elderly upon the recommendation of the Minister responsible for Social Services and with the approval of the Minister of Finance.

5. Relief Goods

All goods which the Minister is satisfied are intended for the relief of persons who have suffered hardship or loss as a result of an exigency affecting either the whole of The Bahamas, or a particular area of The Bahamas and which exigency has been declared by the Minister, by notice in the Gazette, to be an exigency which qualifies for the purposes of the exemption permitted under this item:

Provided that the importation of goods under the provisions of this item shall only be permitted during such period as the Minister shall specify by notice in the Gazette.

6. Goods manufactured or processed in the Port Area

Goods which are manufactured or processed in the Port Area by manufacturers registered with and approved by the Minister responsible for Trade and Industry and removed to any other part of The Bahamas.

7. Section 33 of the Petroleum Act

As per section 33 of the Petroleum Act, the holder of a permit, licence, or lease or any contractor employed by any such holder, in respect of the importation into The Bahamas or the taking out of bond within The Bahamas, of any plant, machinery, tools or equipment which are peculiar to and necessary for the purposes of the permit, licence or lease.

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8. Any Floriculturist, Horticulturist or farmer registered with the Minister responsible for Agriculture or the Minister responsible for Fisheries may apply to the Minister for a certificate providing for a duty-free rate on such materials and equipment as the Minister may approve.

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9. Where the goods specified by the Minister under item 8 are purchased in The Bahamas by a Floriculturist, a Horticulturist and a farmer registered with the Minister of Agriculture from farm stores and farming co-operatives certified by the Minister, the excise taxes paid on those goods shall be refunded by the Comptroller of Customs on presentation of a certificate from the Minister of Agriculture.
10. The goods listed in the Fourth Schedule of the Tariff Act for farmers registered with the Minister for Agriculture for use in the livestock and fish farming industries on presentation of a certificate from the Minister of Agriculture.
11. The goods listed in the Fourth Schedule of the Tariff Act for fishermen registered with the Minister responsible for Fisheries for use in the commercial fishing and bone fishing industries, on presentation of a certificate from the Minister of Fisheries.
12. New buses imported with the prior approval of the Minister by a religious organization for the exclusive use of the religious organization, once in every five (5) years.

13. Taxi-cabs and Omnibuses

- (1) Any new motor vehicle imported for use by the holder of a taxi-cab, livery car licence or omnibus franchise.
- (2) Where any new motor vehicle is purchased in The Bahamas for use as a taxi-cab, livery car or omnibus the excise taxes paid on the said motor vehicle shall be refunded by the Comptroller of customs.
- (3) Where any new motor vehicle is imported into or purchased in The Bahamas for use as a taxi-cab, livery car or omnibus as specified in sub-items (1) and (2) and the said motor vehicle is used for any purpose other than that of a taxi-cab, livery car or omnibus, the excise taxes which would have been payable shall forthwith therefor become payable and the excise taxes which were refunded shall be payable.

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- (4) The owner of a new motor vehicle imported or purchased under this section shall only be entitled to such duty free concessions once in five years.
14. Petroleum products imported by the Bahamas Electricity Corporation for a period of two years commencing on July 1, 2008 and ending on June 30, 2010.
15. **Historic Buildings**
Materials used to restore and maintain historic buildings which are registered in the national register. *19 cf 2009, s 3*
16. **Motor Vessels**
Motor vessels, for the use in Inter-Island service, engine and other mechanical parts for such motor vessels imported with the prior approval of the Minister. *19 cf 2009 s 3*
17. **Temporary Cruising Vessels**
Parts for temporary cruising vessels imported in respect of vessels in The Bahamas under a temporary cruising permit in Form No. C-39 issued under the Customs Regulations. *19 cf 2009, s 3*