ANGUILLA

REVISED STATUTES OF ANGUILLA

CHAPTER A53

AIRLINE TICKET TAX ACT

Showing the Law as at 15 December 2014

This Edition was prepared under the authority of the Revised Statutes and Regulations Act, R.S.A. c. R55 by the Attorney General as Law Revision Commissioner.

This Edition revises and consolidates—
Act 13/2010, in force 1 November 2010
R.A. 42/2012, in force 19 October 2012

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AIRLINE TICKET TAX ACT

TABLE OF CONTENTS

SECTION

1. Interpretation
2. Application
3. Tax on purchaser of airline ticket and collection by commercial air carrier
4. Filing returns and remitting airline ticket tax
5. Assessment of airline ticket tax
6. Late filing penalty
7. Effect of assessment
8. Notice of assessment
9. Onus of proof
10. Penalty in addition to amount owing
11. Notice of objection
12. Records
13. Hindering officer
14. Offence re documents and records
15. Failure to file return
16. Failure to remit airline ticket tax
17. Actions by corporate agent
18. Offences and punishments re corporation
19. Offences and punishments re individual
20. Offences and punishments re officers, directors, etc.
21. General punishment
22. Limitation period
23. Payment of tax to Anguilla Air and Sea Ports Authority
24. Regulations by Minister
25. Regulations by Governor in Council
26. Citation
27. Transitional regulations

SCHEDULE: Rates of Tax

AIRLINE TICKET TAX ACT

Interpretation

1. (1) In this Act—

"Act" includes a provision of an Act and a regulation or a provision of a regulation made under this Act;

"airline ticket" means a document or documents evidencing purchase of a contract for carriage of a passenger on a commercial air carrier or succession of commercial air carriers;

"assess" includes reassess;

"commercial air carrier" means any person who sells or offers for sale, on its own behalf or through an agent, airline tickets for the carriage of passengers by air;

"prescribed" means prescribed by regulation under section 24(1)(a);

"purchase", in relation to an airline ticket, includes acquisition of an airline ticket wholly or partly for any consideration, including non-monetary consideration, pursuant to a promotional scheme, as an award or incident to employment with a commercial air carrier or pursuant to any other similar arrangement;

"purchaser" means a person who purchases an airline ticket—

(a) for the purchaser's own use; or

(b) for use by another person.

(2) Section 6(d) of the Interpretation and General Clauses Act does not apply to computing time under this Act.

(3) This Act shall be read together with the applicable provisions of the Inland Revenue Department Act as if they constituted a single Act.

(4) For greater certainty, except where this Act provides otherwise, when a notice or document is to be served on a person under this Act, it shall be served on that person in accordance with section 34 of the Inland Revenue Department Act.

Application

2. This Act applies to an airline ticket regardless of whether it is purchased or issued in or outside of Anguilla.

Tax on purchaser of airline ticket and collection by commercial air carrier

3. (1) A purchaser of an airline ticket shall at the time of purchase pay airline ticket tax in relation to each airline ticket for carriage by air—

(a) to Anguilla as a destination at the rate set out in Part 1 of the Schedule; and

(b) from Anguilla as a point of departure to a destination outside Anguilla at the rate set out in Part 2 of the Schedule.

(2) A commercial air carrier shall, as an agent of the Comptroller for the collection of airline ticket tax, collect the airline ticket tax payable under this Act when it is paid under subsection (1).

(3) For the purposes of this Act, if a commercial air carrier does not collect the airline ticket tax under subsection (2), the commercial air carrier is nevertheless deemed to have collected the airline ticket tax.

Filing returns and remitting airline ticket tax

4. A commercial air carrier required to collect airline ticket tax under section 3(2) shall, not later than 20 days after the end of each month—

(a) file a return in relation to airline tickets purchased from the commercial air carrier with Anguilla as a destination or from Anguilla as a point of departure to a destination outside Anguilla during the previous month in the form and manner and containing the information prescribed or, if no regulation is made prescribing the foregoing, then in the form and manner and containing the information specified by the Comptroller; and

(b) remit to the Comptroller in the currency of the United States of America or its equivalent in Eastern Caribbean currency the airline ticket tax collected by the commercial airline carrier during the previous month.

Assessment of airline ticket tax

5. (1) The Comptroller may—

(a) assess any airline ticket tax required to be remitted by a commercial air carrier under this Act within 4 years from the day the airline ticket tax was required to be remitted; and

(b) assess interest and penalties in addition to the airline ticket tax required to be remitted.

(2) Notwithstanding subsection (1), if a commercial air carrier—

(a) has made any misrepresentation that is attributable to neglect, carelessness or wilful default;

(b) has committed fraud in making a return or in furnishing any information under this Act or the Inland Revenue Department Act in relation to airline ticket tax; or

(c) has failed to disclose any relevant information;

the Comptroller may assess any airline ticket tax required to be remitted and assess interest and penalties at any time the Comptroller considers reasonable.

(3) Liability to remit airline ticket tax imposed by this Act is not affected by an incorrect or incomplete assessment or by the fact that no assessment has been made.

(4) The Comptroller is not bound by a return filed or information furnished by or on behalf of any commercial air carrier under this Act or the Inland Revenue Department Act in relation to airline ticket tax and may, notwithstanding a return filed or information so furnished, or if no return has been filed or information has been furnished, assess the airline ticket tax payable under this Act.

Late filing penalty

6. If a commercial air carrier fails to file a return as and when required by this Act, the Comptroller may assess against the commercial air carrier a penalty of $50 for each day of default to a maximum of $2,000.

Effect of assessment

7. (1) Unless it is varied or vacated on an objection or appeal—

(a) an assessment under section 5, 6 or 10 is deemed to be valid and binding notwithstanding any error, defect or omission in it or in any proceeding under this Act relating to it; and

(b) the amount assessed in an assessment under section 5, 6 or 10 is, for the purposes of collection and recovery, deemed to be an amount owing under this Act and to be conclusively established as a debt due to the Crown.

(2) Every commercial air carrier assessed under section 5, 6 or 10 shall, within 15 days after service of the notice of assessment, pay the amount assessed against the commercial air carrier whether or not an objection to or appeal from the assessment is pending.

Notice of assessment

8. The Comptroller shall serve or cause to be served notice of an assessment under this Act on the commercial air carrier assessed.

Onus of proof

9. The onus of disproving an assessment under this Act is on the commercial air carrier assessed.

Penalty in addition to amount owing

10. (1) When—

(a) a commercial air carrier owes an amount to the Crown under this Act; and

(b) the Comptroller is of the opinion that the reason that the amount is owing to the Crown by that commercial air carrier is attributable to—

(i) neglect, carelessness or wilful default by or on behalf of that commercial air carrier, or

(ii) fraud or evasion committed by or on behalf of that commercial air carrier;

the Comptroller may determine the amount owing by the commercial air carrier and assess against the commercial air carrier a penalty in the amount of 25% of the amount owing.

(2) On assessing a penalty under subsection (1), the Comptroller may in the assessment demand payment of the amount owing and the amount of the penalty from the commercial air carrier to whom the demand is directed.

(3) Evidence that a demand has been made under subsection (2) is proof, in the absence of evidence to the contrary, that the unpaid amount and the penalty assessed under this section are owing to the Crown from the commercial air carrier to whom the demand is directed in the amounts stated in the demand.

Notice of objection

11. A commercial air carrier may, in accordance with section 26 of the Inland Revenue Department Act object to an assessment under section 5, 6 or 10 by the Comptroller.

Records

12. Every commercial air carrier shall keep such records as may be prescribed.

Hindering officer

13. No person shall hinder, molest or interfere with any compliance officer or assistant doing anything that the compliance officer or assistant is authorized by or pursuant to section 21, 22 or 24 of the Inland Revenue Department Act to do in relation to the administration and enforcement of this Act or prevent or attempt to prevent any compliance officer or assistant doing that thing and, notwithstanding any other law to the contrary, a person shall, unless unable to do so, do everything that the person is required by or pursuant to section 21, 22 or 24 to do.

Offence re documents and records

14. Any person who—

(a) makes, participates in, assents to or acquiesces in the making of false or deceptive statements in a return, statement, record or other document delivered or made under this Act or in a return, statement, record or other document delivered or made under the Inland Revenue Department Act in relation to airline ticket tax;

(b) destroys, alters, mutilates or disposes of records that a commercial air carrier is required to keep under this Act or the Inland Revenue Department Act in relation to airline ticket tax;

(c) makes or assents to, or acquiesces in the making of false or deceptive entries in, or omits or assents to or acquiesces in omitting a material particular from, any record referred to in paragraph (b);

(d) wilfully evades or attempts to evade compliance with this Act or the Inland Revenue Department Act in relation to a matter under this Act; or

(e) conspires with any person to commit an offence described in paragraphs (a) to (d);

is guilty of an offence and, in addition to any other punishment provided by this Act, is liable on summary conviction to a fine of not more than 300% of the airline ticket tax sought to be evaded or to imprisonment for not more than 2 years or to both.

Failure to file return

15. A commercial air carrier who fails to file a return as and when required by this Act, or provide or produce information or a document as and when required by the Inland Revenue Department Act in relation to airline ticket tax is guilty of an offence and liable on summary conviction to a fine of $100 for each day of default.

Failure to remit airline ticket tax

16. A commercial air carrier who contravenes section 3(2) or 4(1)(b) is guilty of an offence and, in addition to any other punishment provided by this Act, is liable on summary conviction to a fine of 300% of the airline ticket tax required to be collected or remitted under section 3(2) or 4(1)(b), as the case may be.

Actions by corporate agent

17. A corporation is guilty of an offence if a person acting or purporting to act on its behalf—

(a) knowingly; or

(b) under circumstances amounting to gross negligence in the carrying out of any duty or obligation imposed by or under this Act;

makes or participates in, assents to, or acquiesces in the making of, a false statement or omission in a return, application, statement or answer filed or made as required by or under this Act or by or under the Inland Revenue Department Act in relation to a matter under this Act, as a result of which the airline ticket tax that would have been payable by the corporation, if the airline ticket tax had been assessed or determined on the basis of the information provided in the return, application, statement or answer, is less or more, as the case may be, than the airline ticket tax payable by the corporation.

Offences and punishments re corporation

18. (1) A corporation that wilfully evades or attempts to evade payment of airline ticket tax payable by it is guilty of an offence.

(2) Where a corporation is guilty of an offence under subsection (1), it is liable on summary conviction to a fine of 300% of the amount of airline ticket tax sought to be evaded.

Offences and punishments re individual

19. (1) An individual is guilty of an offence who—

(a) makes or participates in, assents to or acquiesces in the making of false or deceptive statements in a return, application, statement or answer filed or made as required by or under this Act or the Inland Revenue Department Act in relation to a matter under this Act;

(b) destroys, alters, mutilates, secretes or otherwise disposes of the records or books of account of a corporation;

(c) makes or assents to or acquiesces in the making of false or deceptive entries or omits or assents to or acquiesces in omitting to enter a material particular in records or books of account of a corporation;

(d) wilfully in any manner evades or attempts to evade compliance with this Act or payment of airline ticket tax imposed by this Act or the Inland Revenue Department Act in relation to a matter under this Act; or

(e) conspires with any person to commit an offence described in paragraphs (a) to (d);

and in so doing enables or assists or attempts to enable or assist, or causes or could cause, a corporation to evade or attempt to evade payment of airline ticket tax payable by it or to claim or attempt to claim a refund greater than that to which it is entitled.

(2) When, an individual is guilty of an offence under subsection (1) in relation to a corporation that evades or attempts to evade payment of airline ticket tax payable by it, that individual is liable on summary conviction—

(a) to a fine of 300% of the amount of the airline ticket tax sought to be evaded; or

(b) to a fine referred to in paragraph (a) and to imprisonment for a term of 2 years.

(3) When an individual is guilty of an offence under subsection (1) in relation to a corporation that claims or attempts to claim a refund greater than that to which it is entitled, that individual is liable on summary conviction—

(a) to a fine of 300% of the amount that is the difference between the amount of the refund claimed and the amount of the refund to which the corporation is entitled; or

(b) to a fine referred to in paragraph (a) and to imprisonment for a term of 2 years.

Offences and punishments re officers, directors, etc.

20. If a corporation is guilty of an offence under this Act, an officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is guilty of the offence and is liable on summary conviction to the punishment provided for the offence, whether or not the corporation has been prosecuted or convicted.

General punishment

21. A person who contravenes a provision of this Act or the Inland Revenue Department Act in relation to a matter under this Act for which a punishment is not otherwise provided is guilty of an offence and liable on summary conviction—

(a) for a first offence, to a fine of $1,000;

(b) for a second offence, to a fine of $2,500; and

(c) for a third or subsequent offence, to a fine of $5,000.

Limitation period

22. A prosecution for an offence under this Act may be commenced within 4 years from the date of the contravention but not afterwards.

Payment of tax to Anguilla Air and Sea Ports Authority

23. (1) Such proportion of the amount of the tax collected by the Comptroller under this Act as may be established by regulation under section 25(b) is payable to the Anguilla Air and Sea Ports Authority.

(2) Unless the Government and the Anguilla Air and Sea Ports Authority agree otherwise, the amount due to the Anguilla Air and Sea Ports Authority under subsection (1) shall be paid by the Accountant General in monthly instalments not later than 20 days after the tax is remitted by the taxpayer to the Comptroller.

Regulations by Minister

24. (1) The Minister may make regulations for the better administration of this Act including regulations—

(a) prescribing anything under this Act that may be prescribed;

(b) establishing an exemption in respect of residents of Anguilla departing to and arriving from St. Martin/Sint Maarten;

(c) respecting the duties of commercial air carriers in relation to the remittance of airline ticket tax under this Act;

(d) respecting returns to be made to the Comptroller;

(e) defining any term used but not defined in this Act.

(2) A regulation may provide that a contravention of any of its provisions is an offence.

Regulations by Governor in Council

25. (1) The Governor in Council may by regulation—

(a) amend or repeal and replace the Schedule;

(b) establish the proportion of tax to be paid to the Anguilla Air and Sea Ports Authority for the purposes of section 23(1).

(2) A regulation under paragraph (1)(b) made more than 30 days after 1 November, 2010 shall not come into force until it is approved by affirmative resolution of the House of Assembly.

Citation

26. This Act may be cited as the Airline Ticket Tax Act, Revised Statutes of Anguilla, Chapter A53.

Transitional regulations

27. The Minister may, in the one year period after 1 November 2010, make such transitional regulations as he or she considers appropriate and may make them retroactive to 1 November 2010.

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SCHEDULE

(Section 3(1)(a) and (b))

RATES OF TAX

Interpretation

In this Schedule, "$" means the currency of the United States of America.
(R.A. 42/2012, s. 1)

PART 1

TAX ON TRAVEL TO ANGUILLA AS A DESTINATION

The airline ticket tax payable on each airline ticket for travel to Anguilla as a destination is $5.

PART 2

TAX ON TRAVEL FROM ANGUILLA AS A
POINT OF DEPARTURE TO A DESTINATION OUTSIDE ANGUILLA

The airline ticket tax payable on each airline ticket for travel from Anguilla as a point of departure is $10.

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