ANGUILLA

REVISED STATUTES OF ANGUILLA

CHAPTER G12

GOODS AND SERVICES TAX ACT

Showing the Law as at 31 December 2022

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 18/2021, in force 1 July 2022
Act 5/2022, in force 1 July 2022
Act 6/2022, in force 26 July 2022

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GOODS AND SERVICES TAX ACT

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GOODS AND SERVICES TAX ACT

Interpretation

1. In this Act, unless the context indicates otherwise—

"appealable decision" means an assessment or a decision referred to in sections 11(6), 12(15), 25(7), 31(4), 32(3), 33(13) 35(13), 38(1), 38(8), 39(2), 39(3), 39(4), 39(7), 41(1), 43(4), 47(4) or 55(2);

"approved religious organisation" means an organisation designated as such in regulations made by the Minister under this Act;

"association not for gain" means an institution of religious worship, society, association, or organisation, whether incorporated or not, which—

(a) is carried on otherwise than for the purposes of profit or gain to any proprietor, member, or shareholder; and

(b) is, in terms of its memorandum, articles of association, written rules, or other document constituting or governing its activities—

(i) required to utilise any assets or income solely in the furtherance of its aims and objects,

(ii) prohibited from transferring any portion of its assets or income, directly or indirectly, so as to profit any person other than by way of the provision of charitable assistance, or the payment in good faith of reasonable remuneration to any of its officers or employees for any service actually rendered to it, and

(iii) obliged, upon its winding-up or liquidation, to give or transfer its assets remaining after the satisfaction of its liabilities to another institution of religious worship, or a society, association or organisation having similar objects;

"auctioneer" means a person engaged in a taxable activity that includes the supply of goods by auction as an auctioneer or agent for or on behalf of another person;

"capital goods" means an asset, or a component of an asset, which is of a character subject to an allowance for depreciation, and which is used in the course or furtherance of a taxable activity;

"cash value", in relation to a supply of goods under a credit agreement, means—

(a) where the seller or lessor is a bank or other financial institution, an amount equal to the sum of—

(i) the consideration paid by the bank or other financial institution for the goods or the fair market value of the supply of the goods to the bank or other financial institution, whichever is the greater, and

(ii) any consideration for erection, construction, assembly, or installation of the goods borne by the bank or other financial institution; or

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(b) where the seller or lessor is a dealer, an amount equal to the sum of—

(i) the consideration at which the goods are normally sold by the dealer for cash, and

(ii) any consideration for erection, construction, assembly, or installation of the goods borne by the dealer;

"charity" means an association not for gain, including an institution of religious worship, a charitable organisation, or any other society, association, or organisation, whether incorporated or not, that—

(a) is carried on otherwise than for the purposes of profit or gain to any proprietor, member, or shareholder; and

(b) is, in terms of its memorandum, articles of association, written rules, or other document constituting or governing its activities—

(i) required to use any assets or income solely in the furtherance of its aims and objects,

(ii) prohibited from transferring any portion of its assets or income, directly or indirectly, so as to profit any person other than by way of—

(A) the provision of charitable assistance; or

(B) the payment in good faith of reasonable remuneration to any of its officers or employees for any services actually rendered to it, and

(iii) upon its winding-up or liquidation, obliged to give or transfer its assets remaining after the satisfaction of its liabilities to another society, association or organisation with objects similar to those of the first-mentioned society, association, or organisation;

"Comptroller" means the Comptroller of the Inland Revenue Department, who is the person responsible for administration of this Act;

"consideration", means the total amount in money or kind paid or payable, including a deposit on a returnable container, for the supply or import of goods or services by any person, directly or indirectly, including any duties, levies, fees, and other charges (but not a service charge as defined in section 1 of the Labour Relations Act) other than GST, paid or payable on, or by reason of, the supply or import, reduced by any price discounts or rebates allowed and accounted for at the time of the supply or import, but does not include—

(a) a cash payment made by any person as an unconditional gift to an association not for gain;

(b) a deposit, other than a deposit on a returnable container, whether refundable or not, given in connection with a supply of goods or services unless and until the supplier applies the deposit as consideration for the supply or such deposit is forfeited; or

(c) fees charged by the Government for services only rendered by the Government;

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"credit agreement" means a hire-purchase agreement or a finance lease;

"day" means a calendar day;

(Act 5/2022, s. 3(a))

"employee" means any person receiving remuneration and includes an officer, servant, or person holding a position of employment;

"employment" means the position of an individual in the service of some other person including the Government;

"exempt supply" means a supply of goods or services to which section 17 applies;

"financial institution" means an institution registered as such with the Eastern Caribbean Central Bank (ECCB) or Financial Services Commission, or both;

"finance lease", in relation to goods, means a lease of goods where—

(a) the lease term exceeds 75 % of the expected life of the goods;

(b) the lease provides for transfer of ownership at the end of the lease term or the lessee has an option to purchase the goods for a fixed or determinable price at the expiration of the lease;

(c) the estimated residual value of the goods to the lessor at the expiration of the lease term, including the period of any option to renew, is less than 20 % of its fair market value at the commencement of the lease; or

(d) the leased goods are custom-made for the lessee and at the end of the lease term will not be usable by anyone other than the lessee;

"financial services" means—

(a) granting, negotiating, and dealing with loans, credit, credit guarantees, and any security for money, including management of loans, credit, or credit guarantees by the grantor;

(b) transactions concerning money, deposit and current accounts, payments, transfers, debts, cheques, or negotiable instruments, other than debt collection and factoring;

(c) transactions relating to financial derivatives, forward contracts, options, and similar arrangements;

(d) transactions relating to shares, stocks, bonds, and other securities, other than custody services;

(e) management of investment funds;

(f) long-term insurance, general insurance and reinsurance transactions as contemplated by the Insurance Act, including related services performed by long-term and general insurance brokers and long-term and general insurance agents; or

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(g) other financial services provided by banks within the scope of their banking business;

"game of chance" includes a raffle or lottery, or gaming by playing table games or gaming machines;

"goods" means all kinds of corporeal movable or immovable property, thermal or electrical energy, heat, gas, refrigeration, air conditioning, and water, but does not include money;

"Government" means the Government of Anguilla;

"GST" means the Goods and Services Tax imposed under this Act, and includes an amount to the extent that it is treated as tax for the purposes of this Act;

"immovable property" includes–

(a) any estate, right, interest, or servitude on or over any land, and things attached to land or permanently fastened to anything attached to land; or

(b) any real right in any such property;

"import" means—

(a) in the case of goods, to bring or cause to be brought into Anguilla; or

(b) in the case of services, the supply of services to a resident person—

(i) by a non-resident person, or

(ii) by a resident person from a business carried on by the resident person outside Anguilla;

to the extent that such services are utilised or consumed in Anguilla, other than to make taxable supplies;

"importer", in relation to an import of goods, includes the person who owns the goods, or any other person for the time being possessed of or beneficially interested in the goods;

"input tax" means GST paid or payable in respect of—

(a) a taxable supply of a good or service to; or

(b) an import of goods by;

a taxable person, being goods or services used or to be used for the purpose of any business carried on or to be carried on by the taxable person;

"invoice" means a document notifying an obligation to make a payment;

"IRD" means the Inland Revenue Department established under the Inland Revenue Department Act;

"long-term accommodation" means the provision of furnished sleeping accommodation in such places including a hotel, resort, villa, guesthouse, lodging house, apartment, bed and breakfast or room where the accommodation is provided for a period of 183 days or more;

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"Minister" means the Minister responsible for Finance;

"money" means—

(a) a coin, paper or digital currency recognised in Anguilla as legal tender;

(b) a coin, paper or digital currency of a foreign country that is used or circulated as currency;

(c) a bill of exchange, promissory note, bank draft, postal order, money order, or similar instrument, other than an item of numismatic interest; or

(d) a credit card or debit card that is used as currency;

other than an item of numismatic interest not used as legal tender in Anguilla or a foreign country;

"non-resident person" means a person who is not a resident person;

"not-for-profit Organisation" means an organisation registered as such with the Financial Services Commission;

"output tax", in relation to a taxable person, means the tax charged or chargeable under section 8(1)(a) on a taxable supply made by the person;

"person" includes the State, an agency of the State, a local authority, board, natural person, trust, company, and partnership;

"promoter of public entertainment" means a person who arranges the staging of public entertainment, including licensees and proprietors of places of public entertainment and others organising public entertainment;

"public entertainment" means any musical entertainment, sporting event, theatrical performance, comedy show, dance performance, circus show, any show connected with a festival, or any similar show to which the general public is invited, but does not include entertainment organised by—

(a) an educational institution;

(b) the board of management or a parent teacher association of an educational institution;

(c) a person who provides entertainment as part of their taxable supply;

(d) an approved religious organisation; or

(e) a charity;

"recipient", in relation to a supply or import of a good or service, means the person to whom the supply or import is made or for whom the good or service is intended;

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"related persons" means—

(a) a natural person and a relative of that natural person;

(b) a trust and a person who is or may be a beneficiary in respect of that trust or whose relative is or may be a beneficiary;

(c) a partnership or company (other than a stock company) and a member thereof who, together with shares or other membership interests held by persons who are related to such member under another clause of this definition, owns 25 % or more of the rights to income or capital of the partnership or company;

(d) a shareholder in a stock company and the stock company if the shareholder, together with shares held by persons who are related to such shareholder under another clause of this definition—

(i) controls 25 % or more of the voting power in the stock company, or

(ii) owns 25 % or more of the rights to dividends or of the rights to capital;

(e) two companies, if a person, either alone or together with a person or persons who are related to such person under another clause of this definition—

(i) controls 25 % or more of the voting power in both companies, or

(ii) owns 25 % or more of the rights to dividends or of the rights to capital in both companies;

(f) a taxable person and a branch or division of that taxable person which is separately registered under section 56(3) as a taxable person; or

(g) any branches or divisions of a taxable person which are separately registered under section 56(3) as taxable persons;

and, for purposes of paragraphs (c), (d), and (e), a person is treated as owning, on a pro rata basis, shares or other membership interests which are owned or controlled by such person indirectly through one or more related persons;

"relative", in relation to a natural person referred to in paragraph (a) of the definition of related persons, means—

(a) the spouse of the person;

(b) an ancestor, lineal descendant, brother, sister, uncle, aunt, nephew, niece, stepfather, stepmother, stepchild, or adopted child of that person or his spouse, and in the case of an adopted child his adopter; or

(c) a spouse of any person referred to in paragraph (b);

and for the purposes of this definition, an adopted child is treated as a natural child of the adopter;

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"rental agreement" means an agreement for the letting of goods other than a hire-purchase agreement or a finance lease;

"repealed Tax Acts" means the following Acts—

(a) Accommodation Tax Act;

(b) Communication Levy Act;

(c) Environmental Levy Act;

(d) Public Entertainment Tax Act; and

(e) Interim Goods Tax Act;

"resident person" means—

(a) the State or a Statutory body;

(b) a natural person resident in Anguilla—

(i) that is a natural person who resides permanently or being in Anguilla intends to reside permanently in Anguilla except for such temporary absences as to the Comptroller may seem reasonable and not inconsistent with the claim of such individual to be resident in Anguilla, or

(ii) who resides in Anguilla for 183 days or more for any period of 365 days;

(c) a body, including a company, partnership, board, or trust, which is formed or created under the laws of Anguilla or which is managed and controlled in Anguilla; or

(d) any other person to the extent that such person carries on in Anguilla a taxable or other activity and has a fixed place in Anguilla relating to such activity;

"sale" means an agreement of purchase and sale, and any other transaction or act whereby ownership of goods passes or is to pass from one person to another;

"sales receipt" means a document issued by a registered business to a non-registered buyer or purchaser;
(Act 5/2022, s. 3(b))

"services" means anything that is not goods or money;

"short-term accommodation" means the provision of furnished sleeping accommodation in such places including a hotel, resort, villa, guesthouse, lodging house, apartment, bed and breakfast or room, where the accommodation is provided for stays of 182 days or less;

"State" means the Government;

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"Statutory body" means a body corporate established under any Act (other than the Business Companies Act) or any board, body, commission or authority that is not incorporated—

(a) that is in receipt of a contribution from the public funds of the Islands; or

(b) the operations of which may, under the Act establishing the same or under any Act relating thereto, impose or create a liability on the public funds of the Islands;

"subscription fees" means consideration paid to a club, association or organisation, for use of the facilities or advantages available to its members;

"supplier" means a person supplying a good or service;

"tax fraction" means the fraction calculated in accordance with the formula—

$$R/(100 + R);$$

(Act 5/2022, s. 3(c))

"tax invoice" means a document that is exchanged when a sale is made between two taxable persons;
(Act 5/2022, s. 2(b))

"tax period" means a calendar month in relation to a taxable person;

"taxable person" means a person referred to in section 9;

"taxable supply" means a supply of goods or services in Anguilla in the course of or in furtherance of a taxable activity, other than an exempt supply;

"taxation officer" means the Comptroller or any other person in the service of the IRD or Customs;

"trust" means a relationship where property is under the control or management of a trustee;

"trustee" means a person appointed or constituted trustee by act of the parties, by order or declaration of a court, or by operation of law, and includes a person having or taking upon himself the administration or control of property subject to a trust;

"waiver committee" means a waiver committee as provided for in section 33(1) of the Inland Revenue Department Act.

Fair market value

2. (1) In this section—

"similar import", in relation to an import of goods or services, means two or more imported goods or services that are the same, or that have a close or substantial resemblance, in respect of the characteristics, quality, quantity, functional components, materials, and reputation; and

"similar supply", in relation to a supply of goods or services, means the supply of two or more goods or services that are the same, or that have a close or substantial resemblance, in respect of the characteristics, quality, quantity, functional components, materials, and reputation.

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(2) For the purposes of this Act, the fair market value of a supply or import of goods or services at a given date is the consideration in money which the supply or import, as the case may be, would generally fetch if supplied or imported in similar circumstances at that date in Anguilla, being a supply or import freely offered and made between persons who are not related persons.

(3) Where the fair market value of a supply or import of goods or services at a given date cannot be determined under subsection (2), the fair market value is the consideration in money which a similar supply or similar import, as the case may be, would generally fetch if supplied or imported in similar circumstances at that date in Anguilla, being a supply or import freely offered and made between persons who are not related persons.

(4) Where the fair market value of any supply or import of goods or services cannot be determined under subsection (2) or (3), the fair market value shall be determined in accordance with any method approved by the Comptroller or Comptroller of Customs which provides a sufficiently objective approximation of the consideration in money which could be obtained for that supply or import had the supply or import been freely offered and made between persons who are not related persons.

(5) The fair market value of a supply or import is determined at the time of the supply or import as determined under this Act.

Supply

3. (1) Subject to this Act—

(a) a supply of goods means—

(i) a sale of goods,

(ii) a grant of the use or right to use goods, whether with or without a driver, pilot, crew, or operator, under a rental agreement, credit agreement, freight contract, agreement for charter, or other agreement under which such use or right to use is granted, or

(iii) a transfer or provision of thermal or electrical energy, heat, gas, refrigeration, air conditioning, or water; and

(b) a supply of services means anything done which is not a supply of goods or money, including—

(i) the granting, assignment, cessation, or surrender of a right,

(ii) making available a facility or advantage, or

(iii) refraining from or tolerating an activity.

(2) The disposition of a taxable activity as a going concern, or a part of a taxable activity that is capable of separate operation, is a supply of goods made in the course or furtherance of such taxable activity.

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(3) For the purposes of subsection (2), a taxable activity or a part of a taxable activity capable of separate operation is disposed of as a going concern where—

(a) all the goods and services necessary for the continued operation of that taxable activity or that part of a taxable activity, are supplied to the transferee; and

(b) the transferor carries on, or is carrying on, that taxable activity or that part of a taxable activity up to the time of its transfer to the transferee.

(4) A supply of goods in exchange for goods or services is a supply of goods.

(5) A supply of services in exchange for goods or services is a supply of services.

(6) Subject to subsections (16) and (19), the application by a taxable person of goods or services acquired for use in a taxable activity to a different use, including the provision of goods or services to an employee for personal use, is a supply of those goods or services by the taxable person in the course or furtherance of that taxable activity.

(7) Where goods are repossessed under a credit agreement, the repossession is a supply of the goods by the debtor under the credit agreement to the person exercising the right of repossession, and where such debtor is a taxable person the supply is made in the course or furtherance of the debtor's taxable activity unless such goods did not form part of the assets held or used by the debtor in connection with that activity.

(Act 5/2022, s. 2(a))

(8) Where a lay-away agreement is cancelled or terminated and the seller retains an amount paid by the purchaser or recovers an amount the purchaser owes under the agreement, the cancellation or termination is a supply of services by the seller in respect of the agreement.

(9) A supply of services incidental to a supply of goods is part of the supply of goods.

(10) A supply of goods incidental to a supply of services is part of the supply of services.

(11) A supply or import of services incidental to an import of goods is part of the import of goods.

(12) Regulations may be made by the Minister to provide that a supply of goods and services is a supply of goods or a supply of services.

(13) Where a supply consists both of a supply that is charged with tax at a positive rate and—

(a) a supply charged with tax at a zero rate; or

(b) an exempt supply;

each part of the supply is treated as a separate supply, if reasonably capable of being supplied separately.

(14) A supply of services by an employee to an employer by reason of employment is not a supply.

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(15) The provision of goods on consignment and the transfer of goods to a person acting in a representative capacity to the transferor is not a supply.

(16) Where a taxable person supplies goods or services and a credit for input tax paid on the acquisition of such goods or services was denied, the supply by the taxable person is a supply of goods or services otherwise than in the course or furtherance of a taxable activity.

(17) Where a right to receive goods or services for a monetary value stated on a token, voucher, gift certificate, or stamp, other than a postage stamp, is granted for a consideration in money, the issue of such token, voucher, gift certificate, or stamp is not a supply, except to the extent (if any) that such consideration exceeds that monetary value.

(18) Subsection (19) does not apply to a phone card, pre-payment on a cellular phone, or a similar scheme of advance payment for the rendering of services.

(19) A person whose registration is cancelled under section 12 is deemed to have made a taxable supply in Anguilla of any goods or services on hand at the date the registration is cancelled, but only if an input tax credit was claimed with respect to the goods or services.

(20) The Minister may, by regulations, prescribe rules to determine whether a transaction constitutes a supply for the purposes of this section.

(Act 5/2022, s. 4(b))

Supply by agent or auction

4. (1) Subject to this section, a supply of goods or services—

(a) made by a person as agent for another person ("the principal") is a supply by the principal; or

(b) made to a person as agent for a principal is a supply to the principal.

(2) Subsection (1) does not apply to services supplied by an agent to the agent's principal.

(3) Except in the case of an exempt supply, a supply of goods by auction is treated as a supply of goods for consideration by the auctioneer as supplier made in the course or furtherance of a taxable activity carried on by the auctioneer.

(4) Subsection (1) does not apply where the principal is a non-resident.

Taxable activity

5. (1) For the purposes of this Act, "taxable activity" means an activity carried on continuously or regularly by a person—

(a) in Anguilla, including all the Cays forming part of Anguilla; or

(b) partly in Anguilla;

whether or not for profit, that involves or is intended to involve, in whole or in part, the supply of taxable goods or services to any other person for consideration.

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(2) Taxable activity does not include—

(a) an activity carried on by a person essentially as a private recreational pursuit or hobby; or

(b) an activity that involves the making of exempt supplies.

(3) Anything done in connection with the commencement or termination of a taxable activity is treated as carried out in the course of or in furtherance of that taxable activity.

(4) Subject to subsection (5), a supply is made for consideration if the supplier directly or indirectly receives a payment for the supply from the recipient or any other person, including a payment wholly or partly in money or in kind.

(5) A supply made for consideration includes—

(a) a supply made between related persons for no consideration;

(b) a supply of goods for use only as trade samples; or

(c) a supply referred to in section 3(6).

(6) Taxable activity includes a supply of public entertainment.

PART 2

AUTHORITY TO ADMINISTER GST

Comptroller's responsibility, powers and duties for administration of the Act

6. (1) The Comptroller is responsible for carrying out the provisions of this Act, including—

(a) receiving payment of GST on imports and gross GST receipts from taxable persons into a GST deposit fund;

(b) making payments of GST refunds and other GST adjustments due to persons subject to this Act out of the GST deposit fund; and

(c) paying net GST received during a tax period into the consolidated fund no later than the 20th day of the month following the end of that tax period.

(2) The powers conferred and the duties imposed upon the Comptroller under this Act may be exercised or performed by the Comptroller personally, or by a taxation officer engaged in carrying out the provisions of the Act under the control, direction, or supervision of the Comptroller.

(3) Subject to subsection (4), a decision made and a notice or communication issued or signed by a taxation officer referred to in subsection (2) may be withdrawn or amended by the Comptroller or by the taxation officer concerned, and for the purposes this Act, until it has been so withdrawn, is deemed to have been made, issued, or signed by the Comptroller.

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(4) A written decision made by a taxation officer, other than the Comptroller, in the exercise of a discretionary power under this Act shall not be withdrawn or amended after the expiration of 1 year from the date of the written notification of such decision or of a notice of assessment giving effect thereto, unless material facts were withheld from the taxation officer by the taxpayer.

(5) Subject to subsections (6) and (7), a decision made and a notice or communication issued or signed by the Comptroller or his delegate may be withdrawn or amended at any time.

(6) Where the Comptroller, knowing all the material facts at the time, makes a decision that a person is required or not required to register, and the person accepts the Comptroller's decision, but subsequently the Comptroller withdraws the decision, the Comptroller's decision shall govern the liability or non-liability of such person for payment of tax on any transaction concluded or event which occurred before the withdrawal of the decision.

(7) Where the Comptroller, knowing all the material facts at the time, makes a decision as to the nature of a transaction concluded by a person, and the person accepts the Comptroller's decision, but the Comptroller subsequently withdraws the decision, the Comptroller's decision shall govern the liability or non-liability of that person for payment of tax on any transaction concluded before the withdrawal of the decision.

(8) For purposes of this section, "net GST" means gross GST receipts in a tax period less refunds and adjustments the Comptroller is required by this Act to pay during the same tax period.

Confidentiality of tax information

7. (1) Subject to this section, a taxation officer carrying out the provisions of this Act shall not—

(a) disclose to any person any matter in respect of any other person that may, in the exercise of the taxation officer's powers or the performance of the taxation officer's duties under the said provisions, come to the taxation officer's knowledge; or

(b) permit any person to have access to any records in the possession or custody of the Comptroller;

except in the exercise of the taxation officer's powers or the performance of the taxation officer's duties under this Act or by order of a court.

(2) Nothing in this section prevents the Comptroller from disclosing—

(a) any documents or information to—

(i) a person where the disclosure is necessary for the purposes of this Act or any other fiscal law,

(ii) the Director of Audit where the disclosure is necessary for the performance of the Director of Audit duties,

(iii) the competent authority of the government of another country with which Anguilla has entered into an agreement for the avoidance of double taxation or for the exchange of information, to the extent permitted under such agreement, or

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(iv) a law enforcement agency for the enforcement of any law; or

(b) any information which does not identify a specific person to a person in the service of the State where such disclosure is necessary for the performance of the person's official duties.

(3) A person receiving documents and information under subsection (2) is required to keep them secret under this section, except to the minimum extent necessary to achieve the purpose for which the disclosure was made.

(4) Documents or information obtained by the Comptroller in the performance of duties under this Act may be used by the Comptroller for the purposes of any other fiscal law administered by the Minister or Comptroller.

(5) If a person consents in writing, information concerning that person may be disclosed to another person.

(6) The Comptroller may disclose information concerning a taxpayer's affairs to a person claiming to be the taxpayer or the taxpayer's authorised representative only after obtaining reasonable assurance of the authenticity of the claim.

PART 3

IMPOSITION OF TAX AND PERSONS LIABLE

Imposition of tax and persons liable

8. (1) Subject to this Act, there shall be levied and paid a tax known as the goods and services tax, at a positive rate of 13% on the value of—

(a) every taxable supply by a taxable person in Anguilla except where the goods and services are zero-rated as listed in Schedule 1; and

(b) every import of goods or import of services, other than an exempt import.

(2) Except as otherwise provided in this Act, the tax payable under subsection (1) shall—

(a) in the case of a supply to which subsection (1)(a) applies, be accounted for by the taxable person making the supply;

(b) in the case of an import of goods, be paid by the importer; or

(c) in the case of an import of services, be paid by the recipient of the services.

(3) A transaction chargeable with tax under subsection (1)(a) and (b) shall be treated as a supply chargeable under subsection (1)(a).

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(4) No person, class of persons, transaction, class of transactions, import, or class of imports is exempt from GST, except as provided by this Act or the Regulations, or by law, and—

(a) exemptions of a general nature or application shall be provided for in the Act or the Regulations; and

(b) exemptions of an isolated or specific nature, or in relation to a particular transaction or event, may be provided for in a law specifically dealing with the person, event or transaction for which the exemption is granted.

PART 4

REGISTRATION

Taxable person

9. (1) A taxable person is a person who is registered or is required to register under section 10.

(2) For purposes of subsection (1), a person is a taxable person—

(a) for a person required to register under section 10(1), (6), (7), (8) or (9) from the date specified for that person under section 11(4)(a) and (b); and

(b) for a person who applies for registration under section 10(5) and is registered under section 11(2), from the date specified under section 11(4)(c).

Registration

10. (1) Subject to this Act, every person who carries on a taxable activity and is not registered, is required to apply for registration within 15 days of—

(a) the end of any period of 12 or fewer months where during that period the person made taxable supplies the total value of which equals or exceeds the amount of EC$300,000; or

(b) the beginning of any period of 12 months where there are reasonable grounds to expect that the total value of taxable supplies to be made by the person during that period will equal or exceed the amount of EC$300,000.

(2) In determining whether a person is required to apply for registration under subsection (1), the Comptroller may have regard to the value of taxable supplies made by another person where both persons are related persons or are acting in concert in making taxable supplies and taxable imports.

(3) For purposes of subsection (1), the value of a person's supplies is determined under section 15.

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(4) A person is not required to apply for registration under subsection (1) where the Comptroller is satisfied that the value of taxable supplies exceeded the amount specified under subsection (1) solely as a consequence of—

(a) the cessation, or substantial and permanent reduction in the size or scale, of a taxable activity carried on by the person; or

(b) the replacement of capital goods used in the taxable activity carried on by that person.

(5) A person who makes, or intends to make taxable supplies, but is not required to apply for registration under subsection (1), may apply to the Comptroller for registration under this Act, and the Comptroller is authorised to permit voluntary registration in accordance with regulations made by the Minister.

(6) Notwithstanding subsection (1), the State or a Statutory body that carries on a taxable activity is required to apply for registration from the date of commencement of that activity.

(7) Notwithstanding subsection (1), a person who is an auctioneer is required to apply for registration on the date on which the person becomes an auctioneer.

(8) Notwithstanding subsection (1), a promoter of public entertainment, and licensees and proprietors of places of public entertainment, are required to apply for registration before they begin making supplies in connection with the first public entertainment promoted by them, to the extent provided in regulations issued by the Minister.

(9) Notwithstanding subsection (1), a person who supplies accommodation that carries on a taxable activity is required to apply for registration from the date of commencement of that activity.

Requirements for registration

11. (1) A person to be registered is required to make an application for registration under section 10, in the form approved by the Comptroller, and to provide such further information as the Comptroller may require for the purposes of this Act.

(2) The Comptroller is required to register a person who applies for registration within 10 days of receipt of the application, unless the Comptroller is satisfied that the person is not eligible to apply for registration under section 10 and in the case of an application under section 10(5)—

(a) the person has no fixed place of abode or business; or

(b) the Comptroller has reasonable grounds to believe that the person—

(i) will not keep proper records, or

(ii) will not submit regular and reliable tax returns;

as required under this Act.

(3) Where a person required to register under this Act fails to apply for registration as required under section 10, the Comptroller may register the person from the date determined by the Comptroller.

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(4) Registration takes effect, in the case of—

(a) a person referred to in section 10(1)(a), from the beginning of the tax period immediately following the end of the 12 or fewer months;

(b) a person referred to in section 10(1)(b), 10(6), 10(7), 10(8), or 10(9), from the beginning of the 12-month period, the commencement of the activities, the date the person becomes an auctioneer, or the date the promoter, licensee or proprietor begins making taxable supplies in connection with public entertainment, respectively; or

(c) an application under section 10(5), from the beginning of the tax period immediately following the period in which the person applied for registration shall commence.

(5) The Comptroller shall, within 10 days of receipt of an application under subsection (2), serve a notice in writing on an applicant for registration of the decision in respect of the application.

(6) An applicant dissatisfied with a decision referred to under subsection (5) may challenge the decision only under Part 10.

(7) The Comptroller shall issue to each person registered, a certificate of registration and where applicable certified copies of such certificate, which state the name and other relevant details of the taxable person, the date on which the registration takes effect, and the Tax Identification Number of the taxable person.

(Act 5/2022, s. 5(a))

(8) The Comptroller is required to establish and maintain a register containing the relevant details of all taxable persons, which shall be open to the public at all reasonable hours and available in electronic media.

(Act 5/2022, s. 2(b))

(9) Every registrant is required to display the certificate of registration, or certified copies thereof, issued to him under subsection (7) in a conspicuous place at each location at which he engages in taxable activities.

(Act 5/2022, s. 5(b))

(10) The Comptroller may, where satisfied that a certificate has been lost, mutilated or destroyed, issue to a registrant, on written request, a certified copy of a registration certificate.

(11) A taxable person is required to notify the Comptroller, in writing, within 15 days of—

(a) any change in the name, address, place of business, constitution, name of partners, or nature of the principal taxable activity or activities of the person;

(b) any change of address from which, or name in which, any taxable activity is carried on by the taxable person; or

(c) any change in circumstances, if the person ceases to operate or closes on a temporary basis in a situation not covered in section 12(1).

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(12) Notwithstanding subsection (1), a taxpayer may apply to the Comptroller for exemption from registration if all or most of their taxable supplies are zero-rated and where they can demonstrate that, were they registered, their input tax (according to section 25) would exceed their tax payable (according to section 24) on a continuing annual basis.

(13) For any application in accordance with subsection (12), the Comptroller may, where satisfied that there will be no loss to the revenue, may so allow exemption.

(14) The Comptroller shall, within 10 days of receipt of an application under subsection (12), serve a notice in writing on an applicant for registration of the decision in respect of the application.

(Act 5/2022, s. 5(c))

Cancellation of registration

12. (1) Subject to subsection (2), a taxable person who ceases to carry on all taxable activities shall notify the Comptroller of that fact within 15 days of the date of such cessation, and the Comptroller is required to cancel the registration of that person with effect from the last day of the tax period during which all such taxable activities ceased, or from such other date as the Comptroller may determine.

(2) The Comptroller is not required to cancel the registration of a taxable person under subsection (1) where the Comptroller has reasonable grounds to believe that the person will carry on any taxable activity at any time within 12 months from that date of cessation.

(3) A notification pursuant to subsection (1) is required to be made in writing and to state the date upon which that person ceased to carry on all taxable activities, and whether or not that person intends to carry on any taxable activity within 12 months from that date.

(4) Where the Comptroller is satisfied that a taxable person is not carrying on a taxable activity or is neither required nor entitled to be registered, the Comptroller may cancel that person's registration with effect from the last day of the tax period during which the Comptroller became so satisfied, or from such other date as the Comptroller may determine, and is required to notify that person in writing of the date on which the cancellation takes effect.

(5) The Comptroller may cancel the registration of a person who is not required to apply for registration under section 10(5) if the person—

(a) has not kept proper accounting records relating to any business activity carried on by that person; or

(b) has not submitted regular and reliable tax returns as required by section 31.

(6) A date determined by the Comptroller for the cancellation of registration under subsection (4) or (5) may be retrospective to a date not earlier than—

(a) the last day of the tax period during which taxable activity carried on by the person ceased; or

(b) the date on which the person was registered under this Act, if the Comptroller is satisfied that the person did not, from that date, carry on any taxable activity.

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(7) Subject to subsections (8) and (9), a taxable person may apply in writing to the Comptroller to have the person's registration cancelled where, at any time, the value of that person's taxable supplies—

(a) in the past 12 months has not been; or

(b) in the period of 12 months then beginning will not be;

more than the amount specified under section 10(1).

(8) A person—

(a) required to register under section 10(1) who ceases to satisfy the criteria thereunder; or

(b) registered as a result of an application under section 10(5);

may apply for cancellation of the registration only after the expiration of 2 years from the date the registration took effect.

(9) Subsection (7) does not apply to the State or Statutory Body under section 10(6), to an auctioneer under section 10(7), to a promoter of public entertainment under section 10(8), or to a supplier of accommodation under section 10(9).

(10) Where the Comptroller is satisfied that a taxable person who has made an application under subsection (7) or (8) is entitled to have a registration cancelled, the Comptroller is required to cancel the person's registration with effect from the end of the tax period in which the registration is cancelled, unless the Comptroller orders the cancellation to take effect at an earlier date.

(11) Any obligation or liability under this Act, including the obligation to pay tax and file returns, of any person in respect of anything done or omitted to be done by that person while the person is a taxable person, is not affected by cancellation of the person's registration.

(12) Where the registration of a person is cancelled in accordance with subsection (10)—

(a) the registrant must on notification of the cancellation by the Comptroller remove the certificate of registration from public display; and

(b) the Comptroller is required to remove the person's name and details from the register described in section 11(8).

(13) Upon receipt of the cancellation notice, the person is required to return to the IRD the registration certificate issued in accordance with subsection 10(7).

(14) A person who fails to comply with subsection (13) by refusing or failing to return the certificate commits an offence and is liable, on summary conviction, to a fine of $15, 000 or to imprisonment for a term of 2 years, or to both.

(15) A person dissatisfied with a decision of the Comptroller under this section to cancel or not to cancel the person's registration may challenge the decision only under Part 10.

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PART 5

RULES RELATING TO SUPPLIES

Time of supply

13. (1) Subject to this Act, a supply of goods or services occurs on the earliest of the dates on which—

(a) the goods are delivered or made available or the performance of services is completed;

(b) an invoice for the supply is issued by the supplier; or

(c) any consideration for the supply is received.

(2) A supply of goods under a credit agreement occurs on the date of commencement of the agreement.

(3) A supply of goods pursuant to a lay-away agreement occurs when the goods are delivered to the purchaser.

(4) A supply of goods or services under section 3(6) occurs when the goods or services are applied to a different use.

(5) A supply of goods under section 3(7) occurs when the goods are repossessed, or where the debtor may under any law be reinstated in his rights and obligations under the credit agreement, the day after the last day of any period during which the debtor may under such law be so reinstated.

(6) A supply of services under section 3(8) occurs when the seller obtains the right to retain any amount paid by the purchaser or when the seller recovers any amount owing by the purchaser under the agreement.

(7) A supply for a consideration in money received by the supplier by means of a machine, meter, or other device operated by coin, note, or token occurs when the coin, note, or token is taken from that machine, meter, or other device by or on behalf of the supplier.

(8) Goods supplied under a rental agreement or services supplied under an agreement that provides for periodic payments are treated as successively supplied for successive parts of the period of the agreement, and each of the successive supplies occurs when a payment becomes due or is received, whichever is the earlier.

(9) Where—

(a) goods described under section 3(1)(a)(iii) are supplied; or

(b) goods or services are supplied directly in the construction, major reconstruction, manufacture, or extension of a building or engineering work;

and the consideration becomes due and payable in instalments or periodically, the goods or services are treated as successively supplied for each period to which a payment for the goods or services relates and each successive supply occurs when payment in respect of the supply becomes due, or is received, or any invoice relating only to that payment is issued, whichever is the earliest.

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(10) A supply under section 3(17) occurs when the supply under section 3(2), to which it relates, occurs.

(11) To the extent that the issuance of a token, voucher, gift certificate, or stamp is a supply under section 3(18), the supply occurs when the token, voucher, gift certificate, or stamp is issued.

(12) The forfeit of a deposit (other than a deposit on a returnable container) is a supply of services when the deposit is forfeited.

(13) A supply under section 3(20) occurs at the time the registration is cancelled.

Place of supply

14. (1) Subject to this Act, a supply of goods takes place where the goods are delivered or made available by the supplier or, if the delivery or making available involves the goods being transported, the place where the goods are when the transportation commences.

(2) A supply of thermal or electrical energy, heating, gas, refrigeration, air conditioning, or water takes place where the supply is received.

(3) Subject to this section, a supply of services takes place at the location of the supplier's place of business from which the services are supplied.

(4) The supply of the following goods or services takes place where the recipient uses or obtains the advantage of the goods or services—

(a) a transfer or assignment of a copyright, patent, licence, trademark, or similar right;

(b) the service of a consultant, engineer, lawyer, architect, or accountant, the processing of data or supplying information, or any similar service;

(c) an advertising service;

(d) the obligation to refrain from pursuing or exercising taxable activity, employment, or a right described in this subsection;

(e) the supply of personnel;

(f) the service of an agent in procuring for the agent's principal a service described in this subsection; or

(g) the leasing of movable property (other than transport property).

(5) The supply of cultural, artistic, sporting, educational, or similar activities, or services connected with movable goods, takes place where the service is physically carried out, unless the service is described in subsection (4).

(6) The supply of services connected with immovable property takes place where the property is located, unless the service is described in subsection (4).

(7) A supply of services of, or incidental to, transport takes place where the transport occurs, unless the service is described in subsection (4).

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(8) Services that are supplied from a place of business in Anguilla and that would be treated as supplied outside Anguilla under subsections (4) to (7) are considered as supplied in Anguilla and are considered as exported from Anguilla for purposes of Schedule 1.

Value of supply

15. (1) Subject to this Act, the value of a supply of goods or services is the amount of the consideration for the supply.

(2) Where a portion of the price of a supply represents tax imposed by this Act that is not accounted for separately, the value of the supply is the price reduced by an amount equal to the tax fraction multiplied by that price.

(3) Where—

(a) a supply is made by a taxable person for no consideration or for a consideration that is less than the fair market value of that supply; and

(b) the supplier and the recipient are related persons;

the value of the supply is the fair market value of the supply.

(4) Where a taxable person makes a supply of goods or services referred to in section 3(6), the value of the supply is the lesser of—

(a) the consideration paid or payable by the taxable person for those goods or services; or

(b) the fair market value of the supply.

(5) The Minister may by regulation prescribe rules to determine the value of a supply governed by subsection (4) where the taxable person applies less than the entire goods or services to a different use.

(6) The value of a supply of goods under a credit agreement is the cash value of the supply.

(7) Where a debtor makes a supply of goods as a result of the repossession of those goods from the debtor under a credit agreement, the value of the supply is an amount equal to the balance of the cash value of the supply of those goods to the debtor that has not been recovered at the time of the supply.

(8) For purposes of subsection (7), the balance of the cash value of the supply is the amount remaining after deducting from the cash value so much of the sum of the payments made by the debtor under the credit agreement as, on the basis of an apportionment in accordance with the rights and obligations of the parties to such agreement, may properly be regarded as having been made in respect of the cash value of the supply.

(9) The value of a supply of services under section 3(8) is an amount equal to the amount referred to in that subsection that is retained or recoverable.

(10) Where the grant of any right to receive goods or services for a monetary value stated on any token, voucher, gift certificate, or stamp is a supply under section 3(18), the value of the supply is an

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amount equal to the amount by which the consideration exceeds the monetary value of the token, voucher, gift certificate, or stamp.

(11) Where the holder of a token, voucher, gift certificate, or stamp issued by a taxable person (the issuer) for no consideration surrenders the token, voucher, gift certificate, or stamp to a supplier of goods or services (other than the issuer) in return for a price discount on a taxable supply, the supplier is required to include in the value of the supply of such goods or services the monetary value stated on the token, voucher, gift certificate, or stamp, less the tax fraction of the monetary value.

(12) For purposes of subsection (11), the monetary value is inclusive of tax.

(13) Where a taxable supply is not the only matter to which the consideration for the supply relates, the value of the supply is such part of the consideration as is properly attributable to the taxable supply.

(14) Except as otherwise provided in this section, if a supply is made for no consideration the value of the supply is nil.

(15) The value of a supply referred to in section 3(17) is the consideration for the acquisition of the taxable activity reduced by an amount which bears to the amount of such consideration the same ratio as the intended use or application of the taxable activity for making taxable supplies bears to the total intended use or application of the taxable activity.

(16) The value of a supply referred to in section 3(20) is equal to—

(a) except as provided in paragraph (b), the fair market value of the goods or services deemed to be supplied; and

(b) in the case of capital goods, the fair market value.

(17) Notwithstanding what is provided for in this section, the value of services consisting of a hotel accommodation or tour package in Anguilla arranged by a non-resident, unregistered travel agent or a non-resident, unregistered tour operator shall be the consideration charged by the taxable person for those services, less the commission or fee paid to the travel agent or tour operator for those services.

(Act 5/2022, s. 2(a))

(18) For the purposes of subsection (17)—

(a) the deduction for the commission or fee paid shall not exceed 20% of the taxable person's published rates for those services; and

(b) the output tax reported on hotel accommodation or tour package specified in subsection (17) shall not be less than the tax the taxable person charged the foreign travel agent or tour operator for the covered services.

(Act 5/2022, s. 2(a))

Zero-rating

16. (1) Where, but for this section, a supply of goods or services would be charged with tax under section 8(1)(a), the supply is charged with tax at the rate of zero % if it is specified by regulations made under Schedule 1.

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(2) Where a taxable person has applied the rate of zero % to a supply under this section, the taxable person is required to obtain and retain such documentary proof as is acceptable to the Comptroller substantiating the person's entitlement to apply the zero rate to the supply.

Exempt supply

17. (1) Subject to subsection (2), a supply of goods or services is an exempt supply if it is specified in item 2 of Schedule 2.

(2) A supply of goods or services is not an exempt supply if, in the absence of subsection (1), the supply would be charged with tax at the rate of zero % under section 16.

(3) Regulations may be made by the Minister subject to approval by Executive Council with regards to the treatment of exempt supplies.

Withholding of GST

18. (1) Where a taxable person is offering a good or providing a service to the Government and is required to charge GST for such good or service provided, the Government may withhold any GST so charged by the taxable person.

(2) The Minister may make Regulations to provide for the withholding of GST referred to in subsection (1).

PART 6

IMPORTS

Time of import

19. (1) An import of goods occurs when the goods are entered for purposes of the Customs Act.

(2) An import of services occurs at the time determined by applying section 13 to the import on the basis that the import is a supply of services.

Value of import

20. (1) The value of an import of goods is an amount equal to the sum of—

(a) the value of the goods for the purposes of customs duty under the Customs Act;

(b) the cost of insurance and freight which is not included in the customs value under paragraph (a); and

(c) the amount of any customs duty, excise tax, or any other fiscal charge (other than GST) payable on the importation of such goods.

(2) Subject to subsection (3), the value of an import of services is the amount of the consideration for the import.

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(3) Where—

(a) an import of services is made for no consideration or for a consideration that is less than the fair market value of that import; and

(b) the supplier and the recipient are related persons;

the value of the import is the fair market value of the import.

(4) Where a portion of the price of an import of services represents tax imposed by this Act that is not accounted for separately, the value of the import is the price reduced by an amount equal to the tax fraction multiplied by that price.

Exempt import

21. An import of goods or services is an exempt import if the import would be a zero-rated supply under section 16 or an exempt supply under section 17 if it were a supply of goods or services in Anguilla.

Import declaration and payment of tax

22. (1) Where tax is payable on an import of goods, the importer is required, upon entry of the goods, to furnish the Comptroller of Customs with an import declaration and pay the tax due on the import in accordance with the arrangements referred to in subsection (4).

(2) Where tax is payable on an import of services, other than where section 3(11) applies, the person liable for the tax under section 8(2)(c) is required to—

(a) furnish the Comptroller IRD with a GST Return; and

(b) pay the tax due in respect of the import;

within 20 days after the time of the import or any other time as specified by the Comptroller.

(3) An import declaration or GST Return under subsection (1) or (2) shall—

(a) be in the form prescribed by the Comptroller or Comptroller of Customs;

(b) state the information necessary to calculate the tax payable in respect of the import; and

(c) be furnished in the manner prescribed by the Comptroller or Comptroller of Customs.

(4) The Minister may publish GST regulations specifying−

(a) the conditions subject to which a registrant may defer payment of GST on the importation of taxable supplies of services;

(b) the subsequent tax periods within which the registrant must account for the deferred tax; and

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(c) the circumstances in which a bond or other approved security is required for a deferment of tax under this section.

(Act 5/2022, s. 7)

(5) Tax is payable under this section notwithstanding that—

(a) the recipient of a supply of services is a registrant, if the importation of such services is not for use in making taxable supplies; or

(b) the recipient of a supply of services is a not a taxable person or a registrant, whether because such recipient is not engaged in making taxable supplies or does not meet the registration threshold.

(6) For purposes of this section, a local branch or other affiliate of a non-resident branch or home office of a business is a separate person from such non-resident branch or home office.

(7) Except where the contrary intention appears, whether in this Act or in regulations made under this Act, the provisions of the Customs Act relating to the import, transit, coastwise carriage, clearance of goods, and payment and recovery of duty apply, so far as relevant, to the tax charged under this Act on the import of goods, with such exceptions, modifications, and adaptations as the Minister may by regulation prescribe.

PART 7

CALCULATION OF TAX PAYABLE

Tax Payable for tax period

23. (1) The tax payable by a taxable person for a tax period in respect of taxable supplies is the total amount of output tax payable by the person in respect of taxable supplies made by the person during the period, less the total input tax credit allowed to the person under section 24 for the period.

(2) Where the total amount of input tax credit allowed to a taxable person for a tax period under subsection (1) exceeds the total amount of output tax payable by the person for that period, the amount of the excess credit is dealt with in accordance with section 35.

Input tax credit

24. (1) Subject to this section, the total amount of input tax allowed as a credit for purposes of section 23 is the sum of—

(a) the input tax payable in respect of taxable supplies made to the person during the tax period, and paid in respect of any import of goods by the person during the tax period, where the supply or import is for use in a taxable activity carried on by the person;

(b) any input tax credit allowed under section 25 for the tax period;

(c) any input tax to which subsection (4) applies for the tax period;

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(d) an amount equal to the tax fraction of any amount paid during the tax period by the taxable person to a supplier in respect of the redemption of a token, voucher, gift certificate, or stamp referred to in section 15(11) by the supplier; and

(e) any amount carried forward under section 35(2).

(2) Subject to this section, no credit for input tax is allowed in respect of a supply or import unless—

(a) a tax invoice, tax debit or tax credit note, as the case may be, in relation to the supply, has been provided in accordance with section 28 or 29 and is held by the taxable person taking the credit at the time a return in respect of the supply is filed, other than when a tax invoice is not required to be provided; and

(Act 5/2022, s. 8(b))

(b) an import declaration or validating bill of entry under the Customs Act, or a document issued by the Comptroller of Customs evidencing payment of tax in relation to an import that has been delivered in accordance with the Customs Act or this Act and is held by the taxable person taking the credit at the time a return in respect of the import is filed.

(3) Where a taxable person does not have a tax invoice referred to in section 28 evidencing the input tax paid, the Comptroller may allow an input tax credit in the tax period in which the credit arises where the Comptroller is satisfied—

(a) that the taxable person took all reasonable steps to acquire a tax invoice;

(b) that the failure to acquire a tax invoice was not the fault of the taxable person; and

(c) that the amount of input tax claimed by the taxable person is correct.

(Am. in L.R.31/12/2022)

(4) Subject to subsection (5), a taxable person, in the first tax period in which the person is registered, is allowed a credit for input tax paid or payable by the person in respect of—

(a) any taxable supplies of goods, including capital goods, made to the person; and

(b) any import of goods, including capital goods, by the person;

prior to becoming registered, to the extent that the goods are for use or re-supply in a taxable activity carried on by the person after registration.

(5) Subsection (4) applies where—

(a) the supply or import occurred not more than 12 months prior to the date the registration takes effect;

(b) the goods are on hand at the date the registration takes effect; and

(c) the substantiation requirements referred to in subsection (2) are satisfied.

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Input tax credit allocation and disallowance rules

25. (1) In this section—

"entertainment" means the provision of food, beverages, tobacco, accommodation, amusement, recreation, or other hospitality by a taxable person, whether directly or indirectly, to any person;

"passenger vehicles" include motorcars and other motor vehicles principally designed for the transportation of people, including station wagons and sport utility vehicles, except pickup trucks exclusively used for commercial purposes.

(2) No amount may be deducted under section 24 by a taxable person for input tax paid or payable in respect of—

(a) a taxable supply to, or import by, the person of a passenger vehicle, unless the person is in the business of dealing in, or hiring of, such vehicles, and the vehicle was acquired for the purposes of such business;

(b) a taxable supply to, or import by, the person of goods or services acquired for the purposes of entertainment or providing entertainment, unless—

(i) the person is in the business of providing entertainment and the taxable supply or import relates to the provision of taxable supplies of entertainment in the ordinary course of that business, or

(ii) the person is in the business of providing taxable supplies of transportation services and the entertainment is provided to passengers as part of the transportation service; or

(c) any subscriptions fees paid by the person in respect of membership of any person in a club, association, or society of a sporting, social, or recreational nature.

(3) Subject to subsection (5), where only a part of the supplies made by a taxable person during a tax period are taxable supplies, the amount of the input tax allowed as a credit under section 24(1)(a) for that period is determined as follows—

(a) in respect of a supply or import received which is directly allocable to the making of taxable supplies, the full amount of input tax payable in respect of the supply or import shall be allowed as a credit;

(b) in respect of a supply or import received which is directly allocable to the making of exempt supplies, no amount of input tax payable in respect of the supply or import shall be allowed as a credit; or

(c) in respect of a supply or import received which is used for the making of both taxable and exempt supplies the amount is calculated according to the following formula—

$$A \times B/C$$

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where—

A is the total amount of input tax payable in respect of supplies and imports received during the period for which a credit is allowed under section 24(1)(a), less the input tax accounted for under paragraphs (a) and (b),

B is the total value of taxable supplies made by the taxable person during the tax period of the taxable person, and

C is the total value of all supplies made by the taxable person during the tax period of the taxable person.

(4) Where the fraction B/C in subsection (3)(c) is—

(a) more than 0.90, the taxable person may deduct the total amount of input tax on supplies and imports described in that paragraph;

(b) less than 0.10, the taxable person may not deduct any of the input tax on supplies and imports described in that paragraph.

(5) In the case of a bank or other financial institution making both exempt and taxable supplies for a tax period, subsection (3) shall not apply, and the amount of the input tax allowed as a deduction under section 24(1)(a) for that period shall be the amount of input tax payable in respect of supplies or imports received that are directly allocable to the making of taxable supplies.

(6) Notwithstanding subsection (3), where a taxable person makes both taxable and exempt supplies during a tax period, the Comptroller may determine the amount of input tax allowed for the tax period on such other basis as the Comptroller considers reasonable, to the extent provided in regulations issued by the Minister.

(7) A taxable person dissatisfied with a decision of the Comptroller under subsection (6) may challenge the decision only under Part 10.

Post-sale adjustments and bad debts

26. (1) This section applies where, in relation to a supply by a taxable person—

(a) the supply is cancelled;

(b) the taxation of the supply changes because the nature of the supply is fundamentally varied or altered;

(c) the previously agreed consideration for the supply is altered, whether due to an offer of a discount or for any other reason; or

(d) the whole or part of the supply is returned to the registrant supplier.

(2) Subsection (1) applies only where the taxable person making the supply has—

(a) provided a tax invoice in relation to the supply and the amount shown on the invoice as the tax charged on the supply is incorrect as a result of the occurrence of one or more of the events described under subsection (1)(a) to (d); or

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(b) filed a return for the tax period in which the supply occurred and has accounted for an incorrect amount of output tax on that supply as a result of the occurrence of one or more of the events described under subsection (1)(a) to (d).

(3) Where subsection (1) applies, the taxable person making the supply is required to make an adjustment as specified under subsection (4) or (6).

(4) Where the output tax properly chargeable in respect of the supply exceeds the output tax actually accounted for by the taxable person (the supplier), the amount of the excess is deemed to be output tax charged by the supplier in relation to a taxable supply made in the tax period in which the event referred to in subsection (1) occurred.

(5) For purposes of section 23, where a taxable person issues a tax debit note to rectify the output tax charged to a registered recipient in the circumstances specified under subsection (4), the additional tax specified in the tax debit note is deemed to be input tax payable by the registered recipient in the tax period in which the tax debit note is received.

(6) Subject to subsection (8), where the output tax actually accounted for by the taxable person exceeds the output tax properly chargeable in relation to the supply, the taxable person is allowed an input tax credit under section 24 for the amount of the excess in the tax period in which the event referred to in subsection (1) occurred.

(7) Where a supplier issues a tax credit note to rectify the output tax charged to the recipient who is a taxable person in the circumstances specified under subsection (6), the additional tax specified in the tax credit note is treated as output tax payable by the recipient in respect of a taxable supply made by the recipient in the tax period in which the tax credit note is received.

(8) Where the supply has been made to a person who is not a taxable person, a credit under subsection (6) is not allowed, unless the amount of the excess tax has been repaid to the recipient of the supply, whether in cash or as a credit against an amount owing to the taxable person by the recipient.

(9) Subject to subsection (13), a taxable person shall be allowed an input tax deduction under section 24 for tax paid in respect of a taxable supply made by the taxable person where the whole or part of the consideration for the supply is subsequently treated as a bad debt.

(10) The amount of the deduction allowed under subsection (9) is the amount of the tax paid in respect of the taxable supply which corresponds to the amount of the debt treated as bad.

(11) The deduction referred to in subsection (9) arises on the date on which the bad debt was written off in the accounts of the taxable person, if the taxable person satisfies the Comptroller that reasonable efforts have been made to recover the amounts due and payable.

(12) Where any amount in respect of which a deduction is allowed in accordance with subsection (9) is at any time wholly or partly recovered by the taxable person, the taxable person shall be treated as having charged tax in respect of a taxable supply made during the tax period in which the bad debt is wholly or partly recovered, being an amount of tax calculated according to the following formula—

A x B/C where—

(a) A is the amount allowed as a deduction under subsection (9);

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(b) B is the amount of the bad debt recovered; and

(c) C is the amount of the bad debt previously written off.

(13) A deduction shall be allowed under subsection (9) only if—

(a) the taxable supply is made to a person other than a taxable person; or

(b) the taxable supply is made to a taxable person and the person claiming the deduction under that subsection issued a tax credit note to the registered purchaser listing the amount claimed under the formula referred to in subsection (12).

(Act 5/2022, s. 2(a))

Interest on unpaid tax

27. (1) A person who fails to pay tax by the due date for payment under section 43 is liable for interest at the rate specified in item 1 of Schedule 4 on the amount unpaid, calculated from the date on which the payment was due until the date on which payment was made.

(2) Interest under subsection (1) is calculated as simple interest for each month, or part of a month, during which it remains unpaid.

(3) Interest paid by a person under subsection (1) shall be refunded to the person to the extent that the tax to which it relates is subsequently determined not to have been due and payable.

(4) The provisions of this Act relating to the payment, collection and recovery of tax apply to any interest charged under this section as if the interest were tax due under this Act.

Tax invoices and sales receipts

28. (1) A taxable person making a taxable supply to another taxable person, hereinafter referred to as a "registered recipient", is required to provide the registered recipient with an original tax invoice for the taxable supply containing such particulars as specified in item 1 of Schedule 3 within 40 days of the date of supply.

(2) A taxable person making a taxable supply to an unregistered recipient, is required to provide such unregistered recipient with a sales receipt for the taxable supply containing such particulars as specified in item 2 of Schedule 3.

(3) A person is prohibited from providing a tax invoice in circumstances other than those specified under this section.

(4) Subject to subsection (6), a taxable person shall issue only one tax invoice for each taxable supply.

(5) Where—

(a) a registered recipient has not received a tax invoice within 40 days after the date of a supply; or

(b) the invoice received by the registered recipient needs modifying or adjusting for good reason;

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the registered recipient may request, in writing, that the taxable person provides a tax invoice or modified tax invoice in respect of the taxable supply and the taxable person is required to comply with the request within 10 days after receiving it.

(6) Where a registered recipient claims to have lost the original tax invoice as referred to in this section for a taxable supply, the taxable person may provide a copy clearly marked "copy".

(7) For the purpose of this section—

"registered recipient" means a taxable person who receives a taxable supply from a taxable person;

"unregistered recipient" means a person who is not a taxable person who receives a taxable supply from a taxable person.

(Act 5/2022, s. 9)

Tax credit and debit notes

29. (1) Where a tax invoice has been issued in the circumstances specified in section 26(2)(a) and the amount shown as tax charged in that tax invoice exceeds the tax properly chargeable in respect of the supply, the taxable person making the supply is required to provide a registered recipient of the supply with a tax credit note containing the particulars specified in item 3 of Schedule 3.

(2) A person may not provide a tax credit note in any circumstances other than those specified under subsection (1).

(3) Where a tax invoice has been issued in the circumstances specified under section 26(2)(a) and the tax properly chargeable in respect of the supply exceeds the amount shown as tax charged in that tax invoice, the taxable person making the supply is required to provide a registered recipient of the supply with a tax debit note containing the particulars specified in item 4 of Schedule 3.

(4) A person may not provide a tax debit note in any circumstances other than those specified under subsection (3).

(5) A taxable person may issue only one tax credit note or tax debit note for the amount of the excess stated in subsections (1) and (3) respectively.

(6) Notwithstanding this section, where a taxable person claims to have lost the original tax credit note or tax debit note, the taxable person who made the supply may provide a copy clearly marked "copy".

(Act 5/2022, s. 2(a))

PART 8

TAX ADMINISTRATION PROVISIONS: TAX PERIOD, RETURNS AND ASSESSMENTS

Tax period

30. The tax period applicable to a taxable person is the calendar month as notified to the taxable person by the Comptroller.

(Act 5/2022, s. 2(a))

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Returns

31. (1) Every taxable person is required to file a tax return for each tax period with the Comptroller within 20 days after the end of the period, whether or not tax is payable in respect of that period.

(2) A tax return is required—

(a) to be in the form prescribed by the Comptroller;

(b) to state the information necessary to calculate the tax payable in accordance with section 23 for the period; and

(c) to be filed in the manner prescribed by the Comptroller.

(3) In addition to or instead of any return required under this Act, the Comptroller may by notice in writing require a person, whether or not a taxable person, to file with the Comptroller, whether on that person's own behalf or as agent or trustee of another person, such fewer, additional, or other returns in the prescribed form as and when required by the Comptroller for the purposes of this Act.

(4) A person dissatisfied with a decision of the Comptroller under subsection (3) may challenge the decision only under Part 10.

Extension of time

32. (1) Upon application in writing by a person, the Comptroller may, where good cause is shown by the person, extend the period within which a return required under section 31 is to be filed.

(2) The granting of an extension of time under subsection (1) does not alter the due date for payment of tax under section 43.

(3) A person dissatisfied with a decision of the Comptroller under subsection (1) may challenge the decision only under Part 10.

Assessments

33. (1) Where—

(a) a person fails to file a return as required by section 31 or fails to furnish any other document as required by section 22(1) or (2);

(b) the Comptroller is not satisfied with a return or any other document furnished by a person;

(c) the Comptroller has reason to believe that a person will become liable for the payment of an amount of tax but is unlikely to pay such amount;

(d) a person, other than a taxable person, supplies goods or services and represents that tax is charged on the supply;

(e) a taxable person supplies goods or services and the supply is not a taxable supply or is a taxable supply charged with tax at the rate of zero % and, in either case, the taxable person represents that a positive rate of tax is charged on the supply; or

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(f) the Comptroller has determined the liability of any person under section 96(2);

the Comptroller will make an assessment of the amount of tax payable by the person or of the amount of tax represented by the person as payable in respect of a supply.

(2) The person assessed under subsection (1)—

(a) in the case of an assessment under subsection (1)(d) or (e), is the person making the supply; or

(b) in the case of an assessment under subsection (1)(f), is the person whose liability has been determined under section 96(2); or

(c) in any other case, is the person required to account for the tax under this Act.

(3) An assessment under subsection (1)(a), (c), (d), (e), or (f) may be made at any time.

(4) An assessment under subsection (1)(b)—

(a) where the default was due to fraud, or gross or wilful neglect committed by, or on behalf of, the person who furnished the return or any other document, may be made at any time; or

(b) in any other case, may be made within 5 years after the date the return or any other document was furnished.

(5) The Comptroller may, based on the information available, estimate the tax payable by a person for the purposes of making an assessment under subsection (1).

(6) Where a taxable person is not satisfied with a return filed by that person under this Act, that person may apply to the Comptroller to make an addition or alteration to that return.

(7) An application under subsection (6) is required to be in writing, to specify in detail the grounds upon which it is made, and to be submitted within 3 years after the date the return was filed by the taxable person or, in the event an assessment is made by the Comptroller after such 3-year period, within 40 days after the date that notice of such assessment is served on the taxpayer.

(8) After considering an application under subsection (6), the Comptroller shall make an assessment of the amount that, in the Comptroller's opinion, is the amount of tax payable under this Act.

(9) Where an assessment has been made under this section, the Comptroller is required to serve a notice of the assessment on the person assessed, which notice shall state—

(a) the tax payable;

(b) the date the tax is due and payable; and

(c) the time, place, and manner of objecting to the assessment.

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(10) The Comptroller may, within 5 years after service of the notice of assessment, or in the case of assessments described in subsection (4), within the deadline specified therein, amend an assessment by making such alterations or additions to the assessment as the Comptroller considers necessary, in which case, the Comptroller is required to serve notice of the amended assessment on the person assessed.

(11) An amended assessment is treated in all respects as an assessment under this Act.

(12) An amount assessed under subsection (1)(d), (e) or (f) is treated, for all purposes of this Act, as tax charged under this Act.

(13) The action taken by the Comptroller under subsections (1) and (10) shall be subject to appeal under Part 10.

General provisions relating to assessments

34. (1) The original or a certified copy of a notice of assessment is receivable in any proceedings as conclusive evidence that the assessment has been duly made and, except in proceedings under Part 10 relating to the assessment, that the amount and all particulars of the assessment are correct.

(2) No assessment or other document purporting to be made, issued, or executed under this Act shall be—

(a) quashed or deemed to be void or voidable for want of form; or

(b) affected by reason of mistake, defect, or omission therein;

if it is, in substance and effect, in conformity with this Act and the person assessed, or intended to be assessed or affected by the document is designated in it according to common understanding.

PART 9

REFUND OF TAX AND TAX RELIEF

Carry forward of excess credits and refund of tax

35. (1) Where—

(a) the total amount of input tax creditable by a taxable person under section 24 for a tax period exceeds the person's output tax for that period; or

(b) the amount of tax paid by a person, other than in circumstances specified under paragraph (a), was in excess of the amount properly charged to tax under this Act;

the amount of the excess shall be treated in the manner provided in this section.

(2) Except as provided in subsection (5), the excess described in subsection (1)(a) is carried forward to the next tax period and treated as input tax creditable in that period.

(3) Subject to this section, if any of the excess referred to in subsection (1)(a) for a tax period remains after being carried forward and used as input tax creditable in 3 consecutive tax periods, the

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taxable person may file with the Comptroller a claim for refund for the amount remaining, in the form and with the documentation specified in the regulations.

(4) By the end of the second full calendar month following the date the claim for refund described in subsection (3) is lodged or, where the Comptroller orders an audit of the claim for refund described in subsection (3), within 10 days after conclusion of the audit, if later, the Comptroller, to the extent satisfied that the taxpayer is entitled to the amount of the refund claimed—

(a) shall apply the amount of the refund claimed under subsection (3) in reduction of any tax, levy, interest, or penalty payable by the person in terms of this Act, other taxes collected by the Comptroller, and any unpaid amounts under the repealed Tax Acts; and

(b) is required to refund any excess remaining to the taxable person.

(5) Where at least 50% of the amount of the taxable supplies of a taxable person for the taxable period is taxed at a zero rate, and the person reports an excess described in subsection (1)(a) for a taxable period, the person may file with the Comptroller a claim for refund for the excess credits attributable to the zero-rated supplies in the form and with the documentation specified in regulations.

(6) By the end of the first full calendar month following the date the return described in subsection (5) is filed or, where the Comptroller orders an audit of the claim for refund described in subsection (5), within 10 days after conclusion of the audit, if later, the Comptroller, to the extent satisfied that the taxpayer is entitled to the amount of the refund claimed–

(a) shall apply the amount of the refund claimed under subsection (5) in reduction of any tax, levy, interest, or penalty payable by the person in terms of this Act, other taxes collected by the Comptroller, and any unpaid amounts under the repealed Tax Acts; and

(b) is required to refund any excess remaining to the taxable person.

(7) Notwithstanding subsection (4)(b) or (6)(b), if the amount of the excess to be refunded is not more than the amount specified in item 3 of Schedule 4, the excess shall be carried forward to the next succeeding tax period and be accounted for as provided in section 24(1)(f).

(8) Where a person has overpaid tax in the circumstances specified under subsection (1)(b), the person may apply in writing to the Comptroller for a refund of the excess amount of tax, accompanied by documentary proof of payment of the excess amount.

(9) For purposes of subsection (8), if the claim for refund is lodged by a taxable person—

(a) the Comptroller is required to deal with the claim as if it were a claim under subsection (3); and

(b) to the extent that any output tax claimed to be refundable is an amount borne by a recipient who is not a taxable person, the output tax is refundable only to the extent that it will be repaid by the taxable person to that recipient, whether in cash or as a credit against an amount owing to the taxable person by the recipient.

(Act 5/2022, s. 2(a))

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(10) Where a taxable person has failed to file a return for any tax period as required under this Act, the Comptroller may withhold payment of any amount refundable under this section until the taxable person lodges such return as required.

(11) To be considered, a claim for a refund specified in subsection (3) or (5), must be made within 3 years after the date the person has the right to apply for the refund under this section.

(12) The Comptroller is required to serve on a person claiming a refund, a notice in writing of the decision in respect of the claim.

(13) A person claiming a refund under this section who is dissatisfied with a decision referred to in subsection (12) may challenge the decision only under Part 10.

Interest on overpayment

36. (1) Where the Comptroller fails to pay a refund of tax relating to an excess under section 35(1)(a) by the date specified under that section, the Comptroller is required to pay the taxable person entitled to the refund an additional amount as interest at the rate specified in item 4 of Schedule 4 commencing from the date on which the refund was due and ending on the date the payment of the refund is made.

(2) Where the Comptroller is required to refund an amount of tax to a person as a result of—

(a) a decision of the Comptroller under section 38; or

(b) a decision of the Appeals Tribunal under section 39; or

(c) a decision of the High Court under section 41;

the Comptroller is required to pay interest at the rate specified in item 4 of Schedule 4 on the amount of the refund for the period commencing from the date the refund is due and ending on the date the refund is made.

Others eligible for tax refund

37. (1) The Minister may make regulations authorising the grant of a refund of tax paid or borne on a supply to or import by—

(a) an approved not for profit Organisation;

(b) a diplomatic or consular mission of a foreign country established in Anguilla, relating to transactions concluded for the official purposes of such mission;

(c) an organisation or government to the extent provided under a technical assistance or humanitarian assistance agreement entered into with the Government; or

(d) a non-resident individual on goods specified in the regulations that are exported from Anguilla as accompanied baggage, but only if the total tax on such goods exceeds the amount specified in item 5 of Schedule 4.

(2) The refund provided for in subsection (1)(d) is not available to a resident of Anguilla.

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(3) The Minister in consultation with the Comptroller may authorise any relief under this section on such conditions and subject to such restrictions as the Minister may deem fit.

(4) A claim for a refund of tax under this section is to be made in such form and at such time as the Minister, in consultation with the Comptroller, may prescribe and shall be accompanied by proof of payment of tax.

(5) The Minister, in consultation with the Comptroller, may apply this section to a public international organisation and its officials and employees.

PART 10

OBJECTIONS AND APPEALS

Objections

38. (1) A person dissatisfied with an appealable decision may lodge an objection to the decision with the Comptroller within 90 days after the service of the notice of the decision.

(2) Where the Comptroller is satisfied that owing to absence from Anguilla, sickness, or other reasonable cause, the person was prevented from lodging an objection within the time specified under subsection (1) and there has been no unreasonable delay by the person in lodging the objection, the Comptroller may accept an objection lodged after the time specified under subsection (1).

(3) An objection to an appealable decision is required to be in writing and to specify in detail the grounds upon which it is made.

(4) Where a person disputes the amount of GST to be paid, such person shall be required to pay 50 percent of the amount disputed and such amount shall be paid before the Comptroller considers such objection.

(5) An objection to an assessment that is based solely on an error of calculation in a GST Return filed with the Comptroller does not suspend the objector's obligation to pay the amount assessed.

(6) After considering the objection, the Comptroller may allow the objection in whole or in part and amend the assessment or the decision objected to accordingly, or disallow the objection.

(7) The Comptroller is required to serve the person objecting with notice in writing of the decision on the objection within 90 days after the objection is lodged.

(8) Where the person objecting to an assessment succeeds in full or in part, any tax that has been overpaid by such person under subsection (4) shall be refunded to him within 30 days of notification of the decision of the Comptroller.

(9) Where tax due to be refunded under subsection (8) is not refunded before the expiry of 30 days, the Comptroller shall be liable to pay interest in accordance with section 36(2).

(10) A person dissatisfied with a decision of the Comptroller under subsection (2) may challenge the decision only under this Part.

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Appeal to Appeals Tribunal

39. (1) In this section "Appeals Tribunal" means a tribunal appointed by the Minister under section 40 to hear and decide any matter in dispute between the Comptroller and any person in respect of the person's liability or assessment for GST.

(2) A person dissatisfied with the Comptroller's decision on an objection under section 38(6) may, within 90 days after being served with notice of the decision—

(a) lodge a notice of appeal with the Appeals Tribunal; and

(b) serve a copy of the notice of appeal on the Comptroller.

(3) Upon application in writing by a person dissatisfied with a decision under section 38(5), the Appeals Tribunal may, where satisfied that owing to absence from Anguilla, sickness, or other reasonable cause, the person was prevented from lodging a notice of appeal within the time specified under subsection (2) and that there has been no unreasonable delay by the person in lodging the notice, accept a notice of appeal lodged after the time specified under subsection (2).

(4) If the Comptroller has not made an objection decision under section 38(6), and 90 days have passed since the objection was lodged, an appeal may be made under subsection (2) at any time, as if the Comptroller had made a decision to disallow the objection.

(5) In an appeal to the Appeals Tribunal against an objection decision, the person is limited to the grounds set out in the person's objection, unless the Appeals Tribunal grants the person leave to add new grounds.

(6) In deciding an appeal, the Appeals Tribunal may make an order—

(a) affirming, reducing, increasing, or varying the assessment under appeal; or

(b) remitting the assessment for reconsideration by the Comptroller in accordance with the directions of the Appeals Tribunal.

(7) Where the person objecting to an assessment succeeds in full or in part, any tax that has been overpaid by such person under subsection 38(4) shall be refunded to him within 30 days of notification of the decision of the Appeals Tribunal.

(8) Where tax due to be refunded under subsection (7) is not refunded before the expiry of 30 days, the Comptroller shall be liable to pay interest in accordance with section 36(2).

(9) A person dissatisfied with a decision of the Appeals Tribunal under subsection (3) may challenge the decision in accordance with this Part.

Establishment of an Appeals Tribunal

40. (1) The Appeals Tribunal shall consist of a Chairman and not less than 3, nor more than 4, other members appointed by the Minister.

(2) The Chairman shall be an attorney-at-law of not less than 7 years standing.

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(3) The other members shall be appointed from among persons appearing to the Minister to be qualified as having had experience of, and shown capacity in, social services, finance or accountancy or any other related or similar discipline.

(4) Each member, including the Chairman, shall be appointed for 2 years.

(5) The Appeals Tribunal shall regulate its own procedure.

(6) Decisions of the Tribunal shall be by a majority, except that in case of a tie the Chairman shall have a casting vote.

Appeal to High Court

41. (1) A party who is dissatisfied with the decision of the Appeals Tribunal mentioned in section 39 may, within 90 days after being notified of the decision, appeal to a judge of the High Court; and the party so appealing shall serve a copy of the notice of appeal on the other party to the proceeding before the Appeals Tribunal.

(2) An appeal under subsection (1) may be made only on a question of law, including a question of mixed fact and law, and the notice of the appeal shall state the question of law that will be raised on the appeal.

(3) Where on appeal, the High Court directs a refund of any tax that has been overpaid by a person under section 38(4), the Comptroller shall be required to give such refund within 30 days of notification of the decision of the High Court.

(4) Where tax due to be refunded under subsection (3) is not refunded before the expiry of 30 days after the notification referred to in subsection (3), the Comptroller is liable to pay interest in accordance with section 36(2).

Burden of Proof

42. The burden of proving that an assessment is excessive or that a decision of the Comptroller is wrong is on the person objecting to the assessment or decision.

PART 11

PAYMENT, COLLECTION AND RECOVERY

Due date for payment of tax

43. (1) Tax payable under this Act is due and payable—

(a) by a taxable person for a tax period, by the due date for the return for the tax period;

(b) by a person assessed under an assessment issued under this Act, on the date specified in the notice of assessment;

(c) by an importer of goods or a recipient of an import of services, by the due date specified under section 22 in respect of the import; or

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(d) by any other person, by the date the taxable transaction occurs, as determined under this Act.

(2) Where an objection to, or a notice of appeal against, an assessment has been lodged, 50% of the tax payable under the assessment is due and payable under subsection (1), and may be recovered, notwithstanding that objection or appeal.

(3) Upon application in writing by a person liable for tax, the Comptroller may, where good cause is shown, extend the time for payment of tax by the person beyond the date on which it is due and payable under this section, or make such other arrangements as appropriate to ensure the payment of the tax due, and any such extension does not alter the due date for purposes of section 27.

(4) A person dissatisfied with a decision of the Comptroller under subsection (3) may challenge the decision in accordance with Part 10.

Allocation of payments

44. Where, in addition to any amount of tax which is due and payable by a person under this Act, an amount of interest or a penalty is payable, a payment made by the person in respect of such tax, interest, or penalty which is less than the total amount due is deemed to be made—

(a) first in respect of such penalty;

(b) to the extent that such payment exceeds the amount of such penalty, then in respect of such interest; and

(c) to the extent that such payment exceeds the sum of such penalty and interest, then in respect of such tax.

Recovery of tax as debt due

45. (1) An amount of tax due and payable under this Act shall be recoverable by the Comptroller as a debt due to the State from the person liable, in the manner provided in this section.

(2) Except where a person has lodged an appeal or where his case is engaging the attention of the Court, where a person fails to pay tax when it is due and payable, referred to as the "defaulter", the Comptroller may file, with the clerk or registrar of a court of competent jurisdiction, a statement certified by the Comptroller setting forth the amount of the tax due and payable by that person, and that statement shall have the effect of a civil judgment lawfully given in that court in favour of the Comptroller for a debt in the amount specified in the statement, and the Court shall issue a writ of execution against the defaulter.

(3) A writ of execution under subsection (2) shall not be issued until 10 days after service by the Court on the defaulter of a notice informing the defaulter that a writ of execution will be issued by the Court in respect of tax owed by the defaulter, and unpaid, unless before the expiration of that period of 10 days the defaulter produces proof of payment satisfactory to the Court.

(4) The Comptroller may, without prejudice to re-instituting proceedings under subsection (2), by notice in writing addressed to the clerk or registrar of the Court, withdraw the statement referred to in subsection (2) and such statement shall cease to have any effect.

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(5) Except where the contrary intention appears, the provisions of the Customs Act on imported goods shall, with such exceptions, modifications, and adaptations as the Minister may by Order prescribe, apply in relation to any tax chargeable on imported goods.

Recovery of monies from persons leaving Anguilla

46. (1) Where the Comptroller has reasonable grounds to believe that a person may leave Anguilla without paying all tax due under this Act, he may, subject to subsection (2), issue a certificate to the Chief Immigration Officer containing particulars of the tax due and request that the Chief Immigration Officer take the necessary steps to prevent the person from leaving Anguilla until the person makes—

(a) payment in full; or

(b) an arrangement satisfactory to the Comptroller for the payment of the tax.

(2) The Comptroller may not proceed under subsection (1) unless he has obtained an Order of the Court in respect of the tax due.

(3) A copy of the certificate issued under subsection (1) shall be served by the Comptroller on the person named in the certificate if it is practicable to do so.

(4) If a certificate is issued under subsection (1), proof of payment to the Comptroller of the tax specified in the certificate or the production of the certificate signed by the Comptroller stating that the tax has been paid or satisfactory arrangements for payment have been made shall be sufficient authority for an immigration officer to allow the person to leave Anguilla.

Security

47. (1) Where it is reasonable to do so for the protection of the revenue or as provided for in this Act, the Comptroller, by notice in writing, may require a person to give security for the payment of tax that is or may become payable by the person under this Act.

(2) Security required under subsection (1), including security required from a promoter of public entertainment, shall be for such amount, in such form, and furnished within such period as the Comptroller may specify in the notice.

(3) Where security under subsection (1) is in cash and the Comptroller is satisfied that the security is no longer required, the Comptroller is required to apply the amount of the security as specified under section 35(4).

(4) A person dissatisfied with a decision of the Comptroller under subsection (1) may challenge the decision in accordance with Part 10.

(5) A promoter of public entertainment is not permitted to allow the public entertainment to take place unless the promoter has paid the amount required under subsection (2) and has received the Comptroller's written approval.

Preferential claim to assets

48. From the date on which tax becomes due and payable under this Act, the Comptroller has a preferential claim upon the assets of the person liable to pay the tax until the tax is paid.

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Seizure of goods and vehicles

49. (1) Where the Comptroller is satisfied on reasonable grounds that—

(a) tax on a supply of goods has not been paid; or

(b) tax on the import of goods has not been paid;

the Comptroller may apply to the Court for an order to seize the goods.

(2) Where an order has been obtained under subsection (1) the Comptroller may seize a vehicle used in the removal or carriage of goods liable to be seized under subsection (1), unless it is shown that such vehicle was so used without the consent or knowledge of the owner of that vehicle or other person lawfully in possession or charge, and at the discretion of the Comptroller, the vehicle may be sold by public auction or may be dealt with in such other manner as the Comptroller may direct.

(3) Goods seized under subsection (1) shall be stored in a place approved by the Comptroller for the storage of such goods.

(4) Where goods are seized under subsection (1), the Comptroller is required to serve on the owner of the goods or the person who had custody or control of the goods immediately before seizure, a notice in writing as soon as practicable after the seizure—

(a) identifying the goods;

(b) stating that the goods have been seized under this section and the reason for seizure; and

(c) setting out the terms of subsections (7), (8), and (9).

(5) The Comptroller is not required to serve notice under subsection (4) if, after making reasonable enquiries, the Comptroller or the Comptroller of Customs does not have sufficient information to identify the person on whom the notice should be served.

(6) Where subsection (5) applies, the Comptroller or the Comptroller of Customs may serve a notice under subsection (4) on a person claiming the goods, provided the person has given the Comptroller sufficient information to enable such a notice to be served.

(7) Subject to subsection (8), the Comptroller or the Comptroller of Customs may authorise the delivery of goods seized under subsection (1) to the person on whom a notice under subsection (4) has been served, where that person pays or gives security, in accordance with section 48, for the payment of tax due and payable or that will become due and payable in respect of the supply or import of the goods.

(8) The Comptroller is permitted to detain the goods seized under subsection (1)—

(a) in the case of perishable goods, only for such period as the Comptroller or the Comptroller of Customs considers reasonable having regard to the condition of the goods; or

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(b) in any other case, until the later of—

(i) 10 days after the seizure of the goods, or

(ii) 10 days after the due date for payment of the tax on the supply or import of the goods.

(9) Where the detention period in subsection (8) has expired, the Comptroller or the Comptroller of Customs may sell the goods in the manner specified under section 50(1) and (5) and apply the proceeds of sale as set out in section 50(6).

(10) Notwithstanding the provisions of this section, the Comptroller or the Comptroller of Customs may proceed under section 45 with respect to any balance owed if the proceeds of sale are not sufficient to meet the costs thereof and the tax due.

Distress proceedings

50. (1) Where goods have been detained under section 49, and the Comptroller wishes to sell such goods to recover tax due, the Comptroller may apply to the Court for an order to proceed with distress proceedings in accordance with this section.

(2) The Comptroller may recover unpaid tax by distress proceedings against the goods of the person liable to pay the tax, referred to as the "person liable", by issuing an order in writing, specifying the person liable, the location of the property, and the tax liability to which the proceedings relate.

(3) For the purposes of executing distress under subsection (1), the Comptroller may—

(a) at any time enter any house or premises described in the order of the Court authorising the distress proceedings; and

(b) require a police officer to be present while the distress is being executed.

(4) Property upon which a distress is levied under this section, other than perishable goods, must be kept for 10 days either at the premises where the distress was levied or at such other place as the Comptroller may consider appropriate, at the cost of the person liable.

(5) Where the person liable does not pay the tax due, together with the costs of the distress—

(a) in the case of perishable goods, within such period as the Comptroller considers reasonable having regard to the condition of the goods; or

(b) in any other case, within 10 days after the distress is levied;

the property distrained upon may be sold by public auction, or in such other manner as provided in the regulations.

(6) The proceeds of a disposal under subsection (5) shall be applied by the auctioneer or seller first towards the cost of taking, keeping, and selling the property distrained upon, then by the Comptroller towards the tax due and payable, and the remainder of the proceeds, if any, shall be restored to the person liable.

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(7) Nothing in this section precludes the Comptroller from proceeding under section 45 with respect to any balance owed if the proceeds of the distress are not sufficient to meet the costs thereof and the tax due.

(8) All costs incurred by the Comptroller in respect of a distress may be recovered by the Comptroller from the person liable as tax due under this Act.

Recovery of tax from recipient of supply

51. (1) Where, in respect of a taxable supply by a taxable person, the taxable person has, in consequence of a fraudulent action or misrepresentation by the recipient of the supply, incorrectly treated the supply as an exempt or zero-rated supply, the Comptroller may raise an assessment upon the recipient for the amount of unpaid tax in respect of the supply together with any interest or penalty that has become payable under sections 27 and 45.

(2) The Comptroller is required to serve notice of an assessment under subsection (1) on the recipient specifying—

(a) the tax payable;

(b) the date the tax is due and payable; and

(c) the time, place, and manner of objecting to the assessment.

(3) An assessment raised under subsection (1) is treated as an assessment for all purposes of this Act.

(4) Subsection (1) does not preclude the Comptroller from recovering the tax, interest, or penalty from the taxable person making the supply.

(5) For purposes of subsection (4)—

(a) any amount recovered from the recipient is to be credited against the liability of the taxable person; and

(b) any amount recovered from the taxable person is to be credited against the liability of the recipient.

(6) Where an amount of tax, interest, or penalty referred to in subsection (1) is paid by the taxable person, the taxable person may recover the amount paid from the recipient.

(7) An amount assessed under this section is treated, for all purposes of this Act, as tax charged under this Act.

Recovery of tax from third parties

52. (1) Where a person liable to pay tax under this Act, referred to as the "person liable", fails to pay the tax by the due date, the Comptroller may, by notice in writing, require any other person—

(a) owing or who may owe money to the person liable;

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(b) holding or who may subsequently hold money for, or on account of, the person liable; or

(c) having authority from some other person to pay money to the person liable;

to pay the money to the Comptroller on the date set out in the notice, up to the amount of the tax due.

(2) The date specified in the notice under subsection (1) shall not be a date before the money becomes due to the person liable to pay tax, or held on the person's behalf.

(3) A copy of a notice issued under subsection (1) shall be served on the person liable.

(4) A person making a payment pursuant to a notice under subsection (1) is deemed to have acted under the authority of the person liable and of all other persons concerned and is indemnified in respect of the payment.

(5) The provisions of this Act relating to the payment, collection and recovery of tax apply to any amount due under this section as if the amount were tax due under this Act.

Duties of receivers

53. (1) In this section, "receiver" means a person who, with respect to an asset in Anguilla, is—

(a) a liquidator of a company;

(b) a receiver appointed out of court or by a court;

(c) a mortgagee in possession;

(d) an executor of the estate of a deceased person; or

(e) any other person conducting business on behalf of a person legally incapacitated.

(2) A receiver is required to notify the Comptroller in writing within 10 days after being appointed to the position or taking possession of an asset in Anguilla, whichever first occurs.

(3) The Comptroller may in writing notify a receiver of the amount which appears to the Comptroller to be sufficient to provide for any tax which is or will become payable by the person whose assets are in the possession of the receiver.

(4) A receiver—

(a) is required to set aside, out of the proceeds of sale of an asset, the amount notified by the Comptroller under subsection (3), or such lesser amount as is subsequently agreed on by the Comptroller;

(b) is liable to the extent of the amount set aside for the tax of the person who owned the asset.

(5) A receiver is personally liable to the extent of any amount required to be set aside under subsection (4) for the tax referred to in subsection (3) if, and to the extent that, the receiver fails to comply with the requirements of this section.

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PART 12

REPRESENTATIVES AND SPECIAL CASES OF TAXABLE PERSONS

Persons acting in a representative capacity

54. (1) In this section—

"representative", in relation to a taxable person, means—

(a) in the case of a corporation, the treasurer or other designated officer or officers;

(b) in the case of an unincorporated association or body, any member of the committee of management;

(c) in the case of a company—

(i) for a company other than a company in liquidation, the secretary of the company, or

(ii) for a company in liquidation, the liquidator;

(d) in the case of the State, any person responsible for accounting for the receipt and payment of money under any law or for the receipt and payment of public funds or of funds voted by the House of Assembly;

(e) in the case of a statutory body or board, any person who is responsible for accounting for the receipt and payment of money or funds on behalf of the statutory body;

(f) in the case of a partnership, any partner in the partnership;

(g) in the case of a trust, any trustee; or

(h) in the case of a non-resident person or a person referred to in paragraph (d) of the definition of "resident person", any person controlling the non-resident person's affairs in Anguilla, including any manager of a taxable activity of the non-resident person in Anguilla.

(2) Every representative of a taxable person is responsible for performing any duties, including the payment of tax, imposed by this Act on the taxable person.

(3) Every representative who in that capacity pays any tax payable under this Act by a taxable person is entitled to recover the amount so paid from the taxable person or to retain the amount so paid out of any money of the taxable person that is in the representative's possession or under the representative's control.

(4) Every representative is personally liable for the payment of any tax payable by the representative in his representative capacity if, while the amount remains unpaid, the representative—

(a) alienates, charges, or disposes of any money received or accrued in respect of which the tax is payable; or

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(b) disposes of or parts with any fund or money belonging to the taxable person which is in the possession of the representative or which comes to the representative after the tax is payable, if such tax could legally have been paid from or out of such fund or money.

(5) Nothing in this section shall be construed as relieving a taxable person from performing any duties imposed by this Act on the taxable person which the representative of the person has failed to perform.

Power to appoint agent

55. (1) The Comptroller may, if the Comptroller considers it necessary to do so, declare a person to be an agent of a taxable person and the person declared to be agent is deemed to be a representative of the taxable person for the purposes of section 54.

(2) A person dissatisfied with a decision referred to in subsection (1) may challenge the decision only under Part 10.

Branches

56. (1) Where a taxable activity is conducted by a taxable person in branches or divisions, the taxable person is deemed to be a single person conducting the taxable activity for purposes of this Act.

(2) Subject to subsection (3), a taxable person who conducts a taxable activity in branches or divisions is required to register in the name of the taxable person and not in the names of its branches and divisions.

(3) Upon application in writing, the Comptroller may authorise a taxable person to register one or more of its branches or divisions as separate taxable persons if the Comptroller is satisfied that the branch or division maintains an independent system of accounting and can be separately identified by the nature of its activities or its location.

(4) The registration of a branch or division under subsection (3) is subject to such conditions and restrictions as the Minister may deem fit.

Bodies of persons (other than incorporated companies)

57. (1) This Act applies to a partnership as if the partnership were a person separate from the partners of the partnership, except that—

(a) obligations that would be imposed on the partnership are instead imposed on each partner, but may be discharged by any of the partners;

(b) the partners are jointly and severally liable to pay any amount due under this Act that would be payable by the partnership; and

(c) any offence under this Act that would otherwise be committed by the partnership is taken to have been committed by each of the partners.

(2) This Act applies to an unincorporated association or body as if it were a person separate from the members of the association or body, but the obligations that would be imposed on the

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association or body are instead imposed on each member of the committee of management of the unincorporated association or body but may be discharged by any of those members.

(3) Where—

(a) a partnership, or unincorporated association or body is dissolved, referred to as the "dissolved entity", in consequence of—

(i) the retirement or withdrawal of one or more, but not all, of its partners or members, or

(ii) the admission of a new partner or member;

(b) a new partnership, or association or body comes into existence, referred to as the "new entity", consisting of the remaining members and one or more new members; and

(c) the new entity continues to carry on the taxable activity of the dissolved entity as a going concern;

the dissolved entity and the new entity, for the purposes of this Act, are deemed to be one and the same, unless the Comptroller, having regard to the circumstances of the case, otherwise directs.

Trustee or mortgagee carrying on taxable activity after death or insolvency of taxable person

58. (1) Where, after the death of a taxable person or the sequestration of a taxable person's estate, any taxable activity previously carried on by the taxable person is carried on by or on behalf of the executor or trustee of the person's estate, or anything is done in connection with the termination of the taxable activity, the estate of the taxable person, as represented by the executor or trustee, is deemed for the purposes of this Act to be the taxable person in respect of the taxable activity.

(2) Where a mortgagee is in possession of any land or other property previously mortgaged by a mortgagor who is a taxable person, and the mortgagee carries on a taxable activity in relation to the land or other property, the mortgagee is deemed, from the date the mortgagee took possession of that land or property until such time as the mortgagee ceases to be in possession of the land or property, to be the taxable person carrying on the taxable activity.

Trustee

59. A person who is a trustee in more than one capacity is treated for the purposes of this Act as a separate person in relation to each of those capacities.

PART 13

RECORDS AND INVESTIGATION POWERS

Interpretation for this Part

60. In this Part, "records" means financial statements, accounting records, accounts, books, computer-stored information, diaries, despatch notes, delivery notes, bank statements, purchase invoices and debit notes, sales invoices and credit notes, sales receipts, contracts, payroll data, order books, till rolls, and any other documents.

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Record-keeping

61. (1) Every taxable person or any other person liable for tax under this Act is required to maintain in Anguilla—

(a) a GST account, in which must be listed the total amount of GST due on sales in the period, the total amount of GST reclaimable on purchases in the period, the net amount of GST payable to IRD in the period, or if applicable, the net amount of GST reclaimable from IRD in the period;

(b) original tax invoices, tax credit notes, and tax debit notes received by the person;

(c) a copy of all tax invoices, tax credit notes, and tax debit notes issued by the person;

(d) customs documentation relating to imports and exports by the person;

(e) accounting records relating to taxable activities carried on in Anguilla; and

(f) any other records as may be prescribed by regulations.

(2) Records required to be maintained under subsection (1) are required to be maintained in English and retained for 7 years after the end of the tax period to which they relate.

(3) A taxable person or any other person liable for tax under this Act who provides retail supplies shall be required to use a point of sales system for the recording of sales and issuing of sales receipts.

(Act 5/2022, s. 10)

Access to records, computers, goods, and vehicles

62. (1) The Comptroller may, for any purpose under any Part of this Act, order a routine audit of the accounts of a taxable person or any other person.

(2) Furthermore, in order to enforce this Act, the Comptroller, a taxation officer or any other officer authorised in writing by the Comptroller—

(a) shall have at all times during normal working hours and without any prior notice to any person full and free access to any premises, place, book, record, or computer;

(b) may make an extract or copy from any book, record, or computer-stored information to which access is obtained under paragraph (a);

(c) may seize any book or record that, in his or her opinion, affords evidence that may be material in determining the liability of any person under this Act;

(d) may retain any such book or record for as long as is required for determining a person's liability or for any proceeding under this Act; and

(e) may, where a hard copy or computer disk of information stored on a computer is not provided, seize and retain the computer for as long as is necessary to copy the information required.

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(3) No officer shall exercise the powers under subsection (2) without authorisation in writing from the Comptroller, and the officer shall produce the authorisation on request by the occupier of the premises or place.

(4) The owner, manager, or any other person on the premises or at the place entered or proposed to be entered under this section shall provide all reasonable facilities and assistance for the effective exercise by the Comptroller or Officer of the powers under this section.

(5) A person whose books, records, or computer have been removed and retained under subsection (2) may examine them and make copies or extracts from them during regular office hours under such supervision as the Comptroller may determine.

(6) Notwithstanding anything in this section, a taxation officer having a writ of assistance issued from the High Court (which is hereby authorised and requested to grant such writs upon application by the Comptroller) may by day or night, enter into and search any premises or place where records are kept and seize and bring away any such records which in the taxation officer's opinion, may afford evidence that may be material in determining the liability of any person for tax payable under this Act, and may exercise all other powers that are exercisable under this section by a taxation officer with a warrant.

(7) Where the Comptroller, in relation to paragraphs (a) to (g), or the Comptroller of Customs in relation to section 98 of the Customs Act, has reasonable grounds to believe that an offence in connection with any tax is being, or is about to be committed on any premises, or that evidence of the commission of such an offence is to be found therein, he shall apply to the Magistrate for a warrant to allow a taxation officer—

(a) without any prior notice and at any time, to enter any premises or place where records are kept and on such premises search for any records;

(b) in carrying out a search referred to in paragraph (a) and in any manner, to open or cause to be opened or removed and opened, any article in which the taxation officer suspects that any records are kept;

(c) to seize any records which in the taxation officer's opinion may afford evidence that may be material in determining the liability of any person for tax payable under this Act;

(d) to retain any records seized under paragraph (c) for as long as they may be required for determining a person's liability under this Act or for any proceeding under this Act;

(e) to examine and make extracts from, and copies of, any records, and require from any person an explanation of any entry therein;

(f) where a hard copy or computer disk of computer-stored information is not provided, to seize and retain the computer in which the information is stored for as long as is necessary to copy the information required; and

(g) to stop and board a vehicle which the taxation officer has reasonable cause to believe is importing goods into Anguilla, search any such vehicle or any person found in the vehicle and question the person with respect to any matter dealt with in this Act.

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(9) A taxation officer who attempts to exercise a power under subsection (2) on behalf of the Comptroller is not entitled to enter or remain on any premises or at any place if, upon being requested by the occupier of the premises or place, the taxation officer does not produce an authorisation in writing from the Comptroller to the effect that the taxation officer is authorised to exercise that power under this section.

(10) A taxation officer exercising a power under subsection (2) may request the assistance of a police officer as the taxation officer may consider reasonably necessary and any such police officer shall render such assistance as may be required by the taxation officer.

(11) A person who fails to provide a taxation officer with reasonable facilities and assistance as required by subsection (4) is liable to a civil penalty of $5,000.

(12) A warrant issued under this section shall remain in force for one month, but then expire.

Records not in English language

63. Where a record referred to in section 61 or 62 is also kept in a language that is not English, the Comptroller may, by notice in writing, require the person keeping the record to provide at that person's expense a translation into English by a translator selected by the Comptroller for this purpose.

Notice to obtain information or evidence

64. (1) Where the Comptroller has reasonable grounds to believe that a tax liability may arise, the Comptroller may, by notice in writing, require a person, whether or not liable for tax under this Act—

(a) to furnish such information concerning that person or any other person as may be required by the notice; or

(b) to attend, at the time and place designated in the notice, for the purpose of being examined on oath before the Comptroller, or any other taxation officer specifically authorised for this purpose by the Comptroller, concerning the tax affairs of that person or any other person, and at that time to produce any record or computer in the control of the person and relevant to the examination.

(2) Where the notice requires the production of any record or computer, it is sufficient if such record or computer is described in the notice with reasonable certainty.

(3) A notice issued under this section must be signed and is required to be served by or at the direction of the Comptroller in one of the following ways—

(a) by registered post;

(b) by hand to the person to whom it is directed; or

(c) left at the person's last and usual place of abode.

(4) Where a notice is delivered pursuant to subsection (3), the certificate of service signed by the person serving the notice is evidence of the facts stated therein.

(5) This section has effect notwithstanding any rule of law relating to privilege or the public interest in relation to the furnishing of information or the production of records or documents.

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PART 14

OFFENCES AND PENALTIES

Division 1

Criminal Offences

Power to bring criminal charges

65. (1) No criminal proceedings in respect of any offence under this Act shall be commenced except where the Comptroller determines to bring charges and prosecute.

(2) Criminal proceedings under this Act shall be commenced in the name of the Comptroller in a court of summary conviction.

Time limits for proceedings to be taken

66. Proceedings under this Division may be commenced—

(a) where the offence alleged involves the doing of any act in violation of this Act, within 5 years after the discovery of the act;

(b) where the offence alleged involves the failure to do any act as required under this Act, within 5 years after the Comptroller has become aware of such failure; or

(c) where the offence alleged has involved the non-disclosure or incorrect disclosure by any person of information relating to that person's liability to tax for a tax period, within 3 years after his correct liability to tax has become final for that tax period.

Failure to apply for GST registration

67. A person who knowingly or recklessly fails to apply for GST registration as required by section 10(1), (7), or (8) commits an offence and is liable on conviction to a fine of $5,000 and imprisonment for a term of 2 years.

Improper GST documentation

68. (1) A person who knowingly or recklessly fails to furnish any import declaration as required by section 22 commits an offence and is liable on conviction to a fine of $5,000 and to imprisonment for a term of 3 years.

(2) Where a person convicted of an offence under subsection (1) fails to furnish the import declaration within a further period specified by the Comptroller by notice in writing, that person commits an offence and is liable on conviction to a fine of $500 for each day during which the failure continues and to imprisonment for 3 months.

(3) A taxable person who knowingly or recklessly fails to provide a tax invoice as required by section 28 commits an offence and is liable on conviction to a fine of $5,000 and to imprisonment for a term of 6 months.

(Act 5/2022, s. 2(a))

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(4) A person who knowingly or recklessly provides a tax invoice or sales receipt otherwise than as provided for in section 28 commits an offence and is liable on conviction to a fine of $5,000 and to imprisonment for a term of 2 years.

(5) A taxable person who fails to provide a tax credit note or tax debit note as required by section 29 commits an offence and is liable on conviction to a fine of $5,000 and to imprisonment for a term of 6 months.

(Act 5/2022, s. 2(a))

(6) A person who knowingly or recklessly provides a tax credit note or tax debit note otherwise than as provided for in section 29 commits an offence and is liable on conviction to a fine of $5,000 and to imprisonment for a term of 2 years.

(7) A person who knowingly or recklessly uses a false GST registration number, including the GST registration number of another person, on a return, notice, or other document prescribed or used for the purposes of this Act commits an offence and is liable on conviction to a fine of $20,000 and to imprisonment for a term of 2 years.

(8) Subsection (7) does not apply to a person who uses the GST registration number of another person with the permission of that other person on a return, notice, or other document relating to the tax affairs of that other person.

False claim for GST refund

69. A person who knowingly or recklessly makes a false claim for refund under section 35 commits an offence and is liable on conviction to a fine of $5,000 and to imprisonment for a term of 6 months.

Failure to notify Comptroller of cessation of taxable activity

70. (1) A person who fails to notify the Comptroller of a change in circumstances as required by section 11(11) commits an offence and is liable on conviction—

(a) where the failure was made knowingly or recklessly, to a fine of $5,000 and to imprisonment for a term of 2 years; or

(b) in any other case, to a fine of $5,000.

(2) A person who fails to notify the Comptroller as required by section 12(1) commits an offence and is liable on conviction—

(a) where the failure was made knowingly or recklessly, to a fine of $20,000 and to imprisonment for a term of 2 years; or

(b) in any other case, to a fine of $25,000.

Failure to comply with third-party payment notice

71. (1) A person who fails to comply with a third-party payment notice under section 52 commits an offence and is liable on conviction to a fine of $10,000 and to imprisonment for a term of 1 year.

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(2) Where a person is convicted of an offence under subsection (1), the Court may, in addition to imposing a fine and imprisonment, order the convicted person to pay to the Comptroller an amount of the amount which the person failed to pay as required under section 51.

(3) A person who fails to comply with a notice issued under section 63 commits an offence and is liable on conviction to a fine of $15,000 or to imprisonment for a term of 6 months or both.

Failure to comply with duties as receiver

72. (1) A person who fails to comply with the requirements of section 53(4) commits an offence and is liable on conviction to a fine of $10,000 or to imprisonment for a term of 1 year or both.

(2) Where a person is convicted of an offence under subsection (1) for failing to set aside an amount as required under section 53(4), the Court may, in addition to imposing a fine and imprisonment, order the convicted person to pay to the Comptroller an amount of the amount which the person failed to set aside as required under section 53(4).

Failure to file GST return

73. (1) A person who knowingly or recklessly fails to lodge a return as required by section 31 commits an offence and is liable on conviction to a fine of $5,000.

(2) Where a person convicted of an offence under subsection (1) fails to lodge the return within a further period specified by the Comptroller by notice in writing, that person commits an offence and is liable on conviction to a fine of $5,000 for each day during which the failure continues or to imprisonment for 3 months or to both.

Failure to maintain proper records

74. A person who knowingly or recklessly fails to maintain proper records in accordance with section 61 commits an offence and is liable on conviction to a fine of $5,000.

Disclosure of confidential information

75. A person who knowingly or recklessly contravenes the secrecy requirements of section 7 commits an offence and is liable on conviction to a fine of $5,000.

False or misleading statements

76. (1) A person who, knowingly or recklessly—

(a) makes a statement to a taxation officer that is false or misleading in a material particular; or

(b) omits from a statement made to a taxation officer any matter or thing without which the statement is misleading in a material particular;

commits an offence and is liable on conviction to a fine of $5,000 or to imprisonment for a term of 2 years or both.

(2) A reference in this section to a statement made to a taxation officer is a reference to a statement made orally, in writing, or in any other form to that taxation officer acting in the performance of the taxation officer's duties under this Act, and includes a statement made—

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(a) in an application, certificate, declaration, notification, return, objection, or other document made, prepared, given, filed, lodged, or furnished under this Act;

(b) in any information required to be furnished under this Act;

(c) in a document furnished to a taxation officer otherwise than pursuant to this Act;

(d) in an answer to a question asked of a person by a taxation officer; or

(e) to another person with the knowledge or reasonable expectation that the statement would be conveyed to a taxation officer.

(3) It is a defence to a prosecution under subsection (1) that the person did not know and could not reasonably be expected to have known that the statement to which the prosecution relates was false or misleading.

Obstructing taxation officers

77. (1) A person who obstructs a taxation officer in the performance of the taxation officer's duties under this Act commits an offence and is liable on conviction to a fine of $5,000 and to imprisonment for a term of 2 years.

(2) A person who fails to provide a taxation officer with reasonable facilities and assistance as required by section 62(4) commits an offence and is liable on conviction to a fine of $5,000.

Offences by taxation officers

78. A taxation officer, in carrying out the provisions of this Act, who—

(a) directly or indirectly asks for, or takes in connection with any of the taxation officer's duties a payment or reward, whether pecuniary or otherwise, or any promise or security for any such payment or reward, not being a payment or reward which the taxation officer was lawfully entitled to receive; or

(b) enters into or acquiesces in an agreement to do, abstain from doing, permit, conceal, or connive to commit an act or thing whereby the tax revenue is or may be defrauded or which is contrary to this Act or to the proper execution of the taxation officer's duty;

commits an offence and is liable on conviction to a fine of $25,000 and to imprisonment for a term of 5 years, and the Court may, in addition to imposing a fine, order the convicted person to pay to the Comptroller an amount of tax that has not been paid as a result of the taxation officer's wrongdoing and which cannot be recovered from the person liable for the tax.

Offences by companies

79. (1) Where an offence under this Act has been committed by a company, every person who at the time of the commission of the offence—

(a) was a representative officer, director, general manager, secretary, or other similar officer of the company; or

(b) was acting or purporting to act in such capacity;

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is deemed to have committed the offence.

(2) Subsection (1) does not apply where—

(a) the offence was committed without such person's consent or knowledge; and

(b) the person exercised all such diligence to prevent the commission of the offence as ought to have been exercised by him, having regard to the nature of the person's functions and all the circumstances.

General penalty for offences and aiding and abetting the commission of an offence

80. (1) A person who commits an offence under this Act for which no other penalty is provided is liable on summary conviction to a fine of $10,000 or imprisonment for one year or both.

(2) A person aiding and abetting the commission of an offence under this Act shall also be guilty of that offence and liable to the same penalties as the person who committed the offence.

Compounding of offences

81. (1) Where a person has committed an offence under this Act, other than an offence under sections 74 or 77, the Comptroller may, with the approval of the Minister, at any time prior to the commencement of the court proceedings relating thereto, compound such offence and order the person to pay such sum of money as specified by the Comptroller, not exceeding the maximum amount of the fine prescribed for the offence.

(2) The Comptroller may compound an offence under this section only if the person concerned admits in writing that the person has committed the offence, or requests in writing that the Comptroller so deal with the offence.

(3) Where the Comptroller compounds an offence under this section, the order referred to in subsection (1)—

(a) shall be in writing and shall have attached the written admission or request;

(b) shall specify—

(i) the offence committed,

(ii) the sum of money to be paid, and

(iii) the due date for the payment;

(c) shall be served on the person who committed the offence; and

(d) shall be final and not subject to any appeal.

(4) When the Comptroller compounds an offence under this section, the person concerned shall not be liable for prosecution in respect of such offence or for a civil penalty under section 83, 84, 85 or 86.

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(5) The amount ordered to be paid under subsection (1) is recoverable as if it were tax due and payable.

Division 2

Civil Penalties

Application of this Division

82. In so far as circumstances permit the provisions of this Division should first be utilised before resort is had to the provisions of Division 1.

Civil penalty for failure to apply for GST registration

83. (1) A person who fails to apply for registration as required by sections 10(1), (7), or (8) is liable for a penalty equal to double the amount of output tax payable from the time the person is required to apply for registration until the person files an application for registration with the Comptroller.

(2) No penalty is payable under subsection (1) where the person has been convicted of an offence under section 67 in respect of the same act or omission, or where an offence has been compounded under section 81.

(3) If a penalty under subsection (1) has been paid and the Comptroller institutes a prosecution proceeding under section 67 in respect of the same act or omission, the Comptroller shall refund the amount of the penalty paid, and that penalty is not payable unless the prosecution is withdrawn.

Civil penalty for failure to declare or pay GST on import

84. (1) A person who fails to furnish any import declaration within the time required under this Act is liable for a penalty which is the greater of—

(a) $500 per day for each day or part thereof that the import declaration remains outstanding; or

(b) an amount equal to 10 % of the tax payable for the period of such import declaration, or any other document as specified by the Comptroller, for each month that the import declaration or other document remains outstanding.

(2) The penalty imposed under subsection (1) shall not exceed the amount of tax payable in respect of the import declaration or any other document as specified by the Comptroller.

(3) A person who fails to pay tax payable on an import in accordance with section 22 on or before the due date is liable for a penalty in an amount equal to the greater of—

(a) $500 per day for each day or part thereof that the tax remains outstanding; or

(b) an amount equal to 10% of the tax outstanding, for each month or part thereof that the tax remains outstanding.

(4) The penalty imposed under subsection (3) shall not exceed the amount of unpaid tax.

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(5) A penalty paid by a person under subsection (3) shall be refunded to the person to the extent that the tax to which it relates is subsequently determined not to have been due and payable.

(6) A penalty imposed under subsection (3) is in addition to any interest payable under section 27.

Civil penalty for failure to file GST return

85. (1) A person who fails to lodge a return within the time required under this Act is liable for a penalty, which is the greater of—

(a) $500 per day for each day or part thereof that the return remains outstanding; or

(b) an amount equal to 10% of the tax payable for the period of such return, for each month or part thereof that the return remains outstanding.

(2) The penalty imposed under subsection (1) shall not exceed the amount of tax payable in respect of the return.

(3) Where the return filed is nil or a credit return, the penalty in subsection (1)(a) applies.

(4) No penalty is payable under subsection (1) where the person has been convicted of an offence under section 73 in respect of the same act or omission, or an offence has been compounded under section 81.

Civil penalty for failure to maintain proper records

86. (1) A person who fails to maintain proper records in a tax period in accordance with the requirements of section 61 is liable for a penalty of $100 per day for each day or part thereof that the failure continues.

(2) No penalty is payable under subsection (1) where the person has been convicted of an offence under section 74 in respect of the same act or omission, or an offence has been compounded under section 81.

(3) If a penalty under subsection (1) has been paid, and the Comptroller institutes a prosecution proceeding under section 74 in respect of the same act or omission, the Comptroller is required to refund the amount of civil penalty paid, and that civil penalty is not payable unless the prosecution is withdrawn.

Civil penalty for making false or misleading statements

87. (1) Where a person knowingly or recklessly—

(a) makes a statement to a taxation officer that is false or misleading in a material particular; or

(b) omits from a statement made to a taxation officer any matter or thing without which the statement is misleading in a material particular;

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and the tax properly payable by the person exceeds the tax that would be payable if the person were assessed on the basis that the statement is true, the person is liable for a penalty equal to an amount determined by the Comptroller.

(2) Section 76(2) applies in determining whether a person has made a statement to a taxation officer.

(3) No penalty is payable under this section where the person has been convicted of an offence under section 76 in respect of the same act or omission, or where an offence has been compounded under section 81.

(4) If a penalty under this section has been paid and the Comptroller institutes a prosecution proceeding under section 76 in respect of the same act or omission, the Comptroller shall refund the amount of the penalty paid, and that penalty is not payable unless the prosecution is withdrawn.

Civil penalty for failure to display Registration Certificate

88. A person who fails to display, as required by section 11(9), his Goods and Services Tax Registration Certificate or a certified copy thereof issued by the Comptroller, whichever is applicable, is liable to a penalty of $500 for each day or part thereof that the failure continues.

(Act 5/2022, s. 11)

Failure to pay GST due

89. A person who fails to pay net GST by the due date is liable to a penalty equal to 20% of the amount due.

Recovery or remission of penalties

90. (1) Penalties may be assessed and collected as if the amount of penalty is tax due under this Act.

(2) Except as otherwise provided in this Act, the imposition of a civil penalty is in addition to any fine and imprisonment imposed as a result of a conviction for an offence under Division 1 of Part 14.

(3) In accordance with section 33(2) and (3) of the IRD Act, the Comptroller may, with the approval of the waiver committee, remit in whole or in part any civil penalty up to a maximum of EC$1,000.

Temporary closure of business premises

91. (1) Where a person repeatedly violates—

(a) section 68 in relation to tax invoices;

(b) section 68 in relation to tax debit notes or tax credit notes;

(c) section 73 by failing to file returns;

(d) section 69 by falsely claiming tax refunds;

(e) section 77 by obstructing taxation officers;

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(f) section 89 by failing to pay net GST due; or

(g) section 22 or 43 by failing to pay tax when due;

after obtaining an order of a court having jurisdiction in respect of the person, the Comptroller may forcibly close one or more business premises of the person for a period of between 3 and 30 days.

(2) For purposes of subsection (1), the Comptroller may use reasonable force and police assistance necessary to close all or any premises of the person, barring access with locks, fencing, boarding, or other appropriate methods.

(3) For purposes of this section, a "repeated violation" means a violation that is committed within 1 year of receipt by the person of a written warning—

(a) that a violation of such kind has been committed more than once within the year preceding the year of the warning; and

(b) that repetition may result in closure under this section.

PART 15

MISCELLANEOUS

GST registration number

92. The Comptroller may require a person to include the Tax Identification Number (TIN) issued to the person as the GST registration number issued by the Comptroller to that person, or may require the use of a different number as the GST registration number, in any return, notice, or other document prescribed or used for the purposes of this Act.

Forms and notices and authentication of documents

93. (1) Forms, notices, returns, and other documents prescribed or published by the Comptroller may be in such form as the Comptroller determines for the efficient administration of this Act.

(2) The Comptroller is required to make the documents referred to in subsection (1) available to the public at the offices of IRD, online and electronically.

(3) A notice or other document issued, served, or given by the Comptroller under this Act is sufficiently authenticated if the name or title of the Comptroller, or authorised taxation officer, is printed, stamped, or written on the document.

Service of notices

94. (1) Unless otherwise provided in this Act, a notice required by this Act to be in writing shall be served on the recipient of the notice.

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(2) A notice mentioned in subsection (1) is considered sufficiently served—

(a) on a person being an individual, other than in a representative capacity, if it is—

(i) personally served on that person,

(ii) left at the person's usual or last known place of abode, office, or place of business in Anguilla, or

(iii) sent by registered post to such place of abode, office, or place of business, or to the person's usual or last known address in Anguilla; or

(b) on any other person, if it is—

(i) personally served on the representative of the person,

(ii) left at the registered office of the person or the person's address for service of notices under this Act, or

(iii) where there is no such office or address, left at or sent by registered post to an office or place of business of the person in Anguilla.

Tax-inclusive pricing

95. (1) A price charged by a taxable person in respect of a taxable supply is deemed to include, for the purposes of this Act, the tax charged on the supply under section 8(1)(a), whether or not the taxable person has included the tax in such price.

(2) Subject to subsection (3), a price advertised or quoted by a taxable person in respect of a taxable supply is required to include tax and to state in the advertisement or quotation that tax is included.

(3) A taxable person may advertise or quote a price in respect of a taxable supply as exclusive of tax provided—

(a) the advertisement or quotation also states the amount of tax charged on the supply and the price inclusive of tax; and

(b) the price inclusive of tax and the price exclusive of tax are advertised or quoted with equal prominence or impact.

(4) Subject to subsection (5), price tickets on goods supplied by a taxable person need not state that the price includes tax if this is stated by way of a notice prominently displayed at the premises in which the taxable person carries on a taxable activity, including the places in such premises where payments are effected.

(5) The Comptroller may in the case of a taxable person or class of taxable person approve any other method of displaying prices of goods or services by such persons.

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Schemes for obtaining tax benefits

96. (1) In this section—

"scheme" includes an agreement, arrangement, promise, or undertaking whether express or implied and whether or not legally enforceable, and a plan, proposal, course of action, or course of conduct; and

"tax benefit" includes—

(a) a reduction in the liability of a person to pay Goods and Services Tax;

(b) an increase in the entitlement of a person to a credit or refund;

(c) any postponement of liability for the payment of Goods and Services Tax;

(d) any acceleration of a deduction for input tax; or

(e) any other avoidance or benefit from the delay in payment of tax or acceleration of a deduction for input tax.

(2) Notwithstanding anything in this Act, if the Comptroller is satisfied that a scheme has been entered into or carried out where—

(a) a person has obtained a tax benefit in connection with the scheme in a manner that constitutes a misuse of the provisions of this Act; and

(b) having regard to the substance of the scheme, it would be concluded that the person, or one of the persons, who entered into or carried out the scheme did so for the sole or dominant purpose of enabling the person to obtain the tax benefit;

the Comptroller may determine the liability of the person who has obtained the tax benefit as if the scheme had not been entered into or carried out, or in such manner as in the circumstances the Comptroller considers appropriate for the prevention or reduction of the tax benefit.

Currency conversion

97. (1) For the purposes of this Act, all amounts of money are to be expressed in Eastern Caribbean Currency (XCD).

(2) Where an amount is expressed in a currency other than in Eastern Caribbean Currency—

(a) in the case of imports, the amount shall be converted at the exchange rate as determined in accordance with section 64(5) of the Customs Act; or
(Act 5/2022, s. 12)

(b) in all other cases, the amount shall be converted at the exchange rate applying between the currency and the Eastern Caribbean Currency at the time the amount is taken into account under this Act.

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Registration of certain goods prohibited in certain circumstances

98. (1) For purposes of this section, "registering authority" means a person appointed under a law to issue a licence, permit, certificate, concession, or other authorisation.

(2) Where a form of registration is required under a law in respect of goods consisting of an aircraft, boat, fishing vessel, ship, yacht, motorcycle, motor vehicle, tractor, caravan, or trailer, hereinafter referred to as "taxable goods", no registering authority responsible for such registration under such law may effect such registration upon a change of ownership or importation into Anguilla of taxable goods unless the person applying for registration produces to such registering authority—

(a) in the case of taxable goods that form the subject of any supply, or are imported into Anguilla—

(i) a document issued by the Comptroller showing that tax which is payable under this Act has been paid in respect of such supply or importation into Anguilla, or

(ii) a receipt or certificate showing that no tax is payable under this Act in respect of such supply or importation, as the case may be,

of the taxable goods in consequence of which the registration is required;

(b) a declaration, in such form as the Comptroller may specify or prescribe, issued by a taxable person who, in carrying on a taxable activity in the ordinary course of which taxable goods are dealt in, supplied such goods in consequence of which the registration is required, certifying that the tax payable under this Act has been, or will be, paid by such person; or

(c) a certificate issued by the Comptroller, or other documentation acceptable to the Comptroller, to the effect that the supply or import of the taxable goods was an exempt supply or exempt import, as the case may be.

(Act 5/2022, s. 2(a))

Auctioneer and agent

99. (1) Where a taxable supply has been made in circumstances specified under section 4(1)(a), the agent may issue a tax invoice in accordance with this Act in relation to the supply as if the agent had made the supply, in which case the principal may not also issue a tax invoice or sales receipt in accordance with section 28 in relation to the supply.

(2) Where a taxable supply has been made in the circumstances specified under section 4(1)(b), at the request of the agent, a tax invoice in relation to the supply may be issued to the agent, in which case the supplier may not issue a tax invoice to the principal in relation to the supply.

(3) Where tax is payable by an auctioneer in respect of the supply of goods specified under section 4(3), the auctioneer is required—

(a) to charge the purchaser the amount of tax payable in respect of the sale by adding the tax to the amount of a successful bid or, in the case of sales out-of-hand, to the purchase price, and

(b) to recover that tax from the purchaser.

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Regulations

100. (1) The Minister may make regulations—

(a) for matters that under this Act are to be prescribed by regulations, as specified in sections 3(12), 3(20), 8(4), 10(5), 10(8), 15(5), 17(3), 18(2), 22(4), 22(7), 25(6), 35(3), 35(5), 37(1), 50(5), 61(1)(f), 101(3), 101(4), 103(1), 105(4), 105(5), Schedule 1 and Schedule 2;

(b) whether or not to be prescribed by regulations under this Act, for any matters necessary or convenient to be prescribed for the better carrying out or giving effect to this Act, including revisions to the Schedules hereto;

and without prejudice to the generality of the foregoing, such regulations may contain provisions of a saving or transitional nature consequent on the coming into force of this Act.

(2) Regulations made under this Act may prescribe specific offences for breach of the regulations, and the penalties, but such penalties may not exceed a fine of $100,000 and imprisonment for a term of 5 years.

(3) Subject to subsection (4), regulations made under this Act are subject to an affirmative resolution of the House of Assembly.

(4) Regulations pertaining to the description of the nature and form of filing and documentation requirements, including but not limited to those specified in sections 35(3), 35(5), and 61(1)(f), may be made by the Minister and published in the *Gazette*.

Variation of consideration on a change in rate

101. (1) Where—

(a) an agreement for a supply of goods or services by a taxable person has been entered into; and

(b) subsequent to entering into the agreement, tax is imposed on the supply or the rate of tax applicable to the supply is increased;

the supplier may, notwithstanding anything to the contrary in any agreement or law, recover from the recipient, in addition to the amounts payable by the recipient, an amount equal to the amount of tax imposed or the amount by which tax was increased, as the case may be.

(Act 5/2022, s. 2(a))

(2) Where—

(a) an agreement for a supply of goods or services by a taxable person has been entered into; and

(b) subsequent to entering into the agreement, tax on the supply is withdrawn or the rate of tax applicable to the supply is decreased;

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the supplier, notwithstanding anything to the contrary in any agreement or law, is required to reduce the amount payable by the recipient by an amount equal to the amount of tax withdrawn or the amount by which tax was decreased, as the case may be.

(Act 5/2022, s. 2(a))

(3) Subject to subsections (4) and (5), where subsection (1) or (2) applies in respect of a supply of goods or services subject to any fee, charge, or other amount, whether a fixed, maximum, or minimum fee, charge, or other amount, prescribed by, or determined pursuant to, any Act, regulation, or measure having force of law, that fee, charge, or other amount may be increased or shall be decreased, as the case may be, by the amount of tax or additional tax chargeable, or the amount of tax no longer chargeable.

(4) Subsection (3) does not apply where the fee, charge, or other amount has been altered in an Act, regulation, or measure having force of law to take account of an imposition, increase, decrease, or withdrawal of tax.

(5) Nothing in subsection (3) shall be construed so as to permit a further increase or require a further decrease, as the case may be, in a fee, charge, or other amount where the fee, charge, or other amount is calculated as a percentage or fraction of another amount which represents the consideration in money for a taxable supply.

Application of increased or reduced rate

102. (1) Where goods, other than immovable property, are provided by a supplier before the date on which a change in the rate of tax levied under section 8(1)(a) becomes effective in respect of the supply of the goods or the date on which the tax is imposed or withdrawn in respect of the supply, and the supply is treated under section 13 as having been made on or after the said date, then—

(a) in the case of a change in rate on the said date, the rate of tax applicable to the supply is the rate applicable immediately before the said date;

(b) in the case of the imposition of tax on the said date, the supply is treated as not being subject to tax; or

(c) in the case of the withdrawal of the tax on the said date, the supply is deemed to be subject to tax as if the tax had not been withdrawn.

(2) Where—

(a) services are performed; or

(b) goods, other than immovable property, are provided in respect of a successive supply contemplated in section 13(8) or (9);

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during a period beginning and ending before the date on which a change in the rate of tax levied under section 8(1)(a) becomes effective in respect of the supply of the goods or the date on which the tax is imposed or withdrawn in respect of the supply, and the supply is deemed under section 13 to have been made on or after the said date, then in the case of—

(c) a change in rate on the said date, the rate of tax applicable to the supply is the rate applicable immediately before the said date;

(d) the imposition of tax on the said date, the supply is treated as not being subject to tax; or

(e) the withdrawal of the tax on the said date, the supply is deemed to be subject to tax as if the tax had not been withdrawn.

(3) Where—

(a) services are performed; or

(b) goods, other than immovable property, are provided in respect of a successive supply contemplated in section 13(8) or (9);

during a period beginning before and ending on or after the date on which a change in the rate of tax levied under section 8(1)(a) becomes effective in respect of the supply of the goods or the date on which the tax is imposed or withdrawn in respect of the supply, and the supply is deemed under section 13 to have been made on or after the said date, the value of the supply shall, on the basis of a fair and reasonable apportionment, be deemed to consist of a part, referred to as the "first part", relating to the performance of services or provision of goods before the said date and a part, referred to as the "second part", relating to the performance of services or provision of goods on or after the said date.

(4) For purposes of subsection (3), in the case of—

(a) a change in the rate on the said date, the tax payable in respect of the first part shall be determined at the rate applicable before the said date and the tax payable in respect of the second part shall be determined at the rate applicable on the said date;

(b) the imposition of tax on the said date, the first part shall not be subject to tax; or

(c) the withdrawal of the tax, the first part shall be subject to tax as if the tax had not been withdrawn.

(5) For the purposes of subsections (1), (2) and (3), goods are deemed to be provided by the supplier of the goods when the goods are delivered to the recipient and goods supplied under a rental agreement are deemed to be provided to the recipient when the recipient takes possession or occupation of the goods.

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(6) Subject to section 101, where, before the date on which an increase in the rate of tax becomes effective—

(a) a written agreement is concluded for—

(i) the sale of immovable property consisting of dwelling together with land on which it is erected, or of any real right conferring a right of occupation of a dwelling, or

(ii) the construction of a new dwelling by a taxable person carrying on a construction business;

(b) the price of the sale or construction in question was determined and stated in the agreement which was in operation before the said date and signed by the parties thereto before that date; and

(c) the supply of such immovable property or construction services under the said agreement is deemed under section 13 to have been made on or after the said date;

the rate of tax levied under section 8 on that supply shall be the rate at which tax would have been levied had the supply taken place on the date on which such agreement was concluded.

Orders to amend Schedules or change amounts

103. (1) The Minister may, by regulations, make orders to—

(a) amend the Schedules 1, 2, 3 and 4; or

(b) increase or decrease any monetary amount set out in this Act.

(2) An order under subsection (1) shall be subject to affirmative resolution of the House of Assembly.

Remission of tax

104. (1) Where the Comptroller takes all steps which are permissible under this Act in order to recover tax and the Comptroller is unable to recover the tax, penalty and interest due and payable under this Act by a person for a specified period, the Comptroller shall advise the Minister accordingly.

(2) The Minister may, upon being advised by the Comptroller in accordance with subsection (1), refer the matter back to the Comptroller requiring him to retake the steps referred to in subsection (1) or may, subject to subsections (4) and (5), order the remission of the debt owed to the Crown pursuant to section 16 of the Financial Administration and Audit Act.

(3) An order made pursuant to subsection (2) shall be subject to the approval of the Executive Council.

(4) If the Comptroller determines that a person whose debt was remitted in accordance with subsection (2) has assets which may be attached for the purpose of recovering the unpaid tax, penalty and interest specified in the order, then, with the approval of the Executive Council, the order may be revoked and the liability reinstated.

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(5) For the avoidance of doubt, this section does not apply to penalties that have been remitted under section 90.

Transitional

105. (1) The repealed Tax Acts, including the laws governing the levy, payment, assessment, reporting, and recovery of those repealed taxes, continue to apply to a supply or import taking place prior to 1 July 2022.

(2) Where a contract was concluded between two or more parties before 1 July 2022, and no provision relating to tax was made in the contract, the supplier may recover from the recipient tax due on any taxable supplies made under the contract after that date .

(3) Where a contract concluded after 1 July 2022 does not include a provision relating to tax, the contract price is deemed to include tax and the supplier under the contract is required to account for the tax due.

(4) The Minister may make regulations for other transitional measures relating to the end of repealed taxes under the repealed Tax Acts, the start of Goods and Services Tax, or the transition from repealed taxes to Goods and Services Tax.

(5) For the period ending on 1 July 2023, the Minister may make regulations to allow the Comptroller to remit a civil penalty, in full or in part, imposed under sections 83 to 88, where good cause is shown in writing by the person liable for such civil penalty.

(6) All forms and documents used in relation to the repealed Tax Acts may continue to be used under this Act, and all references in those forms and documents to provisions of and expressions appropriate to the repealed Tax Acts are taken to refer to the corresponding provisions and expressions of this Act.

Citation

106. This Act may be cited as the Goods and Services Tax Act, Revised Statutes of Anguilla, Chapter G12.

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SCHEDULE 1

(Sections 8 and 16)

ZERO-RATED SUPPLIES FOR PURPOSES OF SECTION 16

1. The following are zero-rated for the purposes of section 16—

(a) Exports of goods and services as provided for in regulations;

(b) Goods imported or supplied for the purpose of fishing or farming as provided for in regulations;

(c) Goods used in the course of manufacture in Anguilla as provided for in regulations;

(d) Essential foods or other goods as provided for in regulations;

(e) A supply of sales of contraceptives and sanitary products to the extent provided for in regulations;

(f) A supply of electricity by ANGLEC to a domestic meter, up to 130kWh per month.

2. Item 1(a) shall not apply in respect of any supply of goods that have been or will be re-imported into Anguilla by the supplier.

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SCHEDULE 2

(Section 17)

EXEMPT SUPPLIES FOR PURPOSES OF SECTION 17

1. In this Schedule—

"education services" means education and hostel facilities for students and scholars provided by—

(a) a pre-primary, primary, or secondary school;

(b) a technical college, community college, or university;

(c) an educational institution established for the promotion of adult education, vocational training, technical education, or the education or training of physically or mentally handicapped persons; or

(d) an institution established for training of sport persons;

"foreign-going aircraft" means an aircraft engaged in the transportation for reward of passengers or goods wholly or mainly on flights between a location or locations in Anguilla and an airport or airports in export countries, or between airports in export countries;

"residential dwelling" means a building, premises, structure, or any other place, or any part thereof, used predominantly as a place of residence or abode of a natural person or which is intended for use as a place of residence or abode of a natural person, together with any appurtenances belonging thereto and enjoyed therewith, but does not include short-term accommodation.

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2. The following supplies are specified as exempt supplies for the purposes of section 17—

(a) a supply of financial services to the extent provided in regulations issued by the Minister;
(Act 5/2022, s. 14(a))

(b) a supply of Insurance services in the course of carrying on an insurance business in or from Anguilla limited only to—

(i) life insurance, annuities and savings products, and

(ii) a supply of insuring, arranging for the insurance of, or arranging for, the international transport, and

(iii) a supply of health insurance;

(c) a supply of medical services and devices to the extent provided in regulations issued by the Minister;

(d) a supply of prescription drugs to the extent provided in regulations issued by the Minister;

(e) a supply of education services to the extent provided for in regulations issued by the Minister;

(f) a supply of education materials to the extent provided for in regulations issued by the Minister;

(g) a supply of services in a qualifying nursing home or residential care facility for aged, indigent, infirm or disabled persons who need permanent care to the extent provided for in regulations issued by the Minister;

(h) a supply of services rendered as day-care, including after-school care, and by a summer camp for children aged under 17 years old to the extent provided for in regulations issued by the Minister;
(Act 5/2022, s. 14(b))

(i) a supply of—

(i) a lease, licence, hire rental or other form of supply of accommodation, to the extent that it is a supply of the right to occupy or be accommodated in premises for 183 days or more,

(ii) leasehold land by way of lease (not being a grant or sale of the lease of that land) to the extent that the subject land is used or is to be used for the principal purpose of accommodation in a residential dwelling erected or to be erected on that land, where the lease is for 183 days or more;

(j) a supply of the following immovable property—

(i) vacant land,

(ii) a residential dwelling, that is—

(A) resold by the initial purchaser including all subsequent sales of such property, and

(B) sold by the first-time owner after 2 years of continuous occupancy of such premises by the owner or his immediate family,

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(iii) a tourism accommodation development such as condominiums, villas, hotels, resorts and similar establishments and luxury real estate products as defined under the Resort Residence Annual Levy Act;

(Act 5/2022, s. 14(c))

(k) a lease, licence, hire rental of land to the extent that it is to be used for agricultural purposes;

(Act 5/2022, s. 14(c))

(l) a lease, licence, hire rental of land to the extent that it is to be used for tourism accommodation development;

(Act 5/2022, s. 14(c))

(m) a lease, licence, hire rental of land except for in item (j), where the lease is for 183 days or more;

(Act 5/2022, s. 14(c))

(n) a supply of religious service by an approved religious organisation;

(Act 5/2022, s. 14(c))

(o) a supply of piped water from the Water Corporation of Anguilla to consumers in Anguilla;

(Act 6/2022, s. 2)

(p) goods imported by Anguillians returning home for permanent residence as may be provided in regulations made under this Act;

(Act 5/2022, s. 14(c))

(q) a supply of public domestic transport and international transport;

(Act 5/2022, s. 14(c))

(r) a supply of a game of chance;

(Act 5/2022, s. 14(c))

(s) a supply of fuel specifically gasoline, diesel and liquid propane gas;

(Act 5/2022, s. 14(c))

(t) bikes and bike parts;

(Act 5/2022, s. 14(c))

(u) goods approved for Conditional Exemption.

(Act 5/2022, s. 14(c))

3. Item 2 (s) of this Schedule shall expire on 30 June 2023.

(Act 5/2022, s. 14(d))

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SCHEDULE 3

(Sections 28 and 29)

TAX INVOICES, SALES RECEIPTS, TAX CREDIT NOTES, AND TAX DEBIT NOTES FOR THE PURPOSES OF SECTIONS 28 AND 29

1. A tax invoice as required by section 28(1) shall contain the following particulars—

   (a) the words "tax invoice" in a prominent place;

   (b) the name, address, and GST registration number of the taxable person making the supply;

   (c) the name, address, and GST registration number of the registered recipient of the supply;

   (d) the individualised serial number and the date on which the tax invoice was issued;

   (e) a description of the goods or services supplied;

   (f) the quantity or volume of the goods or services supplied; and

   (g) the consideration for the supply in Eastern Caribbean Currency, excluding GST, the rate of GST, the total amount of the GST charged and the consideration including GST.

2. A sales receipt as required by section 28(2) shall contain the following particulars—

   (a) the words "sales receipt" in a prominent place;

   (b) the name, address, and GST registration number of the taxable person making the supply;

   (c) the individualised serial number and the date on which the sales receipt was issued;

   (d) a description which identifies the goods or services supplied;

   (e) the quantity or volume of the goods and services supplied;

   (f) for each GST rate applicable, the consideration for the supply in Eastern Caribbean Currency, including or excluding the GST amount; and

   (g) the total consideration and the GST amount.

3. A tax credit note as required by section 29(1) shall contain the following particulars—

   (a) the words "tax credit note" in a prominent place;

   (b) the name, address, and GST registration number of the taxable person making the supply;

   (c) the name, address, and GST registration number of the recipient of the supply;

   (d) the individualised serial number and the date on which the tax credit note was issued;

   (e) the value of the supply shown on the tax invoice, the correct amount of the value of the supply, the difference between those two amounts, and the tax charged that relates to that difference;

   (f) a brief explanation of the circumstances giving rise to the issuing of the tax credit note; and

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(g) information sufficient to identify the taxable supply to which the tax credit note relates.

4. A tax debit note as required by section 29(3) shall contain the following particulars—

(a) the words "tax debit note" in a prominent place;

(b) the name, address, and GST registration number of the taxable person making the supply;

(c) the name, address, and GST registration number of the recipient of the supply;

(d) the individualised serial number and the date on which the tax debit note was issued;

(e) the value of the supply shown on the tax invoice, the correct amount of the value of the supply, the difference between those two amounts, and the tax that relates to that difference;

(f) a brief explanation of the circumstances giving rise to the issuing of the tax debit note; and

(g) information sufficient to identify the taxable supply to which the tax debit note relates.

(Act 5/2022, s. 15)

SCHEDULE 4

(Sections 27, 28, 35, 36 and 37)

INTEREST RATES AND OTHER AMOUNTS FOR PURPOSES OF SECTIONS 27, 28, 35, 36, AND 37

1. For purposes of section 27(1), the interest rate is 1% per month or part thereof.
2. For purposes of section 28(2), the amount is $1,000.
3. For purposes of section 35(7), the amount is $1,000.
4. For purposes of section 36(1), (2), the interest rate is 1% simple interest per month or part thereof.
5. For purposes of section 37(1)(d), the amount of tax is $1,000.

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