Revised Regulations of Anguilla: A57-11

ANGUILLA AIR AND SEA PORTS AUTHORITY ACT (R.S.A. c. A57)

AIRLINE TICKET FEES REGULATIONS

Note: These Regulations are enabled under section 86 of the Anguilla Air and Sea Ports Authority Act, R.S.A. c. A57.

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SCHEDULE: Airline Ticket Fees

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Interpretation

1. (1) In these Regulations—

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

"assess" includes reassess;

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

"Court" means the High Court;

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

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

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

(b) for use by another person.

(2) Section 6(1)(d) of the Interpretation and General Clauses Act does not apply to computing time under these Regulations.

Application

2. These Regulations apply to airline tickets purchased from the commercial air carrier with Anguilla as a destination or from Anguilla as a point of departure to a destination outside Anguilla whether such tickets are purchased or issued in or outside of Anguilla.

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

3. (1) A purchaser of an airline ticket shall at the time of purchase pay the airline ticket fees specified in the Schedule.

(2) As an agent of the Anguilla Air and Sea Ports Authority, a commercial air carrier shall collect the airline ticket fee payable under these Regulations when such fee is paid by the purchaser under subsection (1).

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

(4) Notwithstanding subsection (1) the following persons shall be exempted from the payment of the airline ticket fees—

(a) children under the age of 5 years;

(b) the captain and crew of commercial air carriers;

(c) Heads of State and persons travelling on diplomatic passports.

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Filing returns and remitting airline ticket fee

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

(a) file a return in relation to airline tickets purchased from the commercial air carrier with Anguilla as a destination or from Anguilla as a point of departure to a destination outside Anguilla during the previous month, in the form and manner and containing the information specified by the Anguilla Air and Sea Ports Authority; and

(b) remit to the Anguilla Air and Sea Ports Authority in the currency of the United States of America or its equivalent in Eastern Caribbean currency the airline ticket fees collected by the commercial airline carrier during the previous month.

Assessment of airline ticket fee

5. (1) The Anguilla Air and Sea Ports Authority may—

(a) assess the airline ticket fees required to be remitted by a commercial air carrier; and

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

under these Regulations within 4 years from the day the airline ticket fees were required to be remitted.

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

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

(b) has committed fraud in making a return or in furnishing any information under these Regulations in relation to airline ticket fees; or

(c) has failed to disclose any relevant information;

the Anguilla Air and Sea Ports Authority may assess any airline ticket fees required to be remitted and assess interest and penalties within 6 years from the day the airline ticket fees were required to be remitted.

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

(4) The Anguilla Air and Sea Ports Authority is not bound by a return filed or information furnished by or on behalf of any commercial air carrier under these Regulations in relation to airline ticket fees and may, notwithstanding a return filed or information so furnished, or if no return has been filed or information has been furnished, assess the airline ticket fees payable under these Regulations.

Late filing penalty

6. If a commercial air carrier fails to file a return as and when required by these Regulations, the Anguilla Air and Sea Ports Authority may assess against the commercial air carrier a penalty of $50 for each day of default to a maximum of $2,000.

Effect of assessment

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

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

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(b) the amount assessed in an assessment under section 5, 6 or 10 is, for the purposes of collection and recovery, deemed to be an amount owing under these Regulations and to be conclusively established as a debt due to the Anguilla Air and Sea Ports Authority.

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

Notice of assessment

8. The Anguilla Air and Sea Ports Authority shall serve or cause to be served a notice of an assessment under these Regulations on the commercial air carrier assessed.

Onus of proof

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

Penalty in addition to amount owing

10. (1) When—

(a) a commercial air carrier owes an amount to the Anguilla Air and Sea Ports Authority under these Regulations; and

(b) the Anguilla Air and Sea Ports Authority is of the opinion that the reason that the amount is owing to the Anguilla Air and Sea Ports Authority by that commercial air carrier is attributable to—

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

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

the Anguilla Air and Sea Ports Authority may determine the amount owing by the commercial air carrier and assess against the commercial air carrier a penalty in the amount of 25% of the amount owing.

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

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

Notice of objection

11. (1) A commercial air carrier may, in accordance with this section object to an assessment under sections 5, 6 or 10 by the Anguilla Air and Sea Ports Authority.

(2) A commercial air carrier objecting to an assessment referred to in subsection (1) may within 90 days after the day the assessment is served on the carrier, serve on the Anguilla Air and Sea Ports Authority a notice of objection setting out the reasons for the objection and the relevant facts.

(3) On receipt of a notice of objection, the Anguilla Air and Sea Ports Authority shall without delay reconsider the assessment made by the Anguilla Air and Sea Ports Authority and shall serve a new notice of assessment either varying or confirming the original assessment made by the Anguilla Air and Sea Ports Authority.

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Records

12. (1) Every commercial air carrier shall keep such records and documents as may be specified by the Anguilla Air and Sea Ports Authority.

(2) A commercial air carrier shall produce such records and documents referred to in subsection (1) when requested to do so by the Anguilla Air and Sea Ports Authority.

Hindering officer

13. No person shall—

(a) hinder, molest or interfere with; or

(b) prevent or attempt to prevent;

an officer of the Anguilla Air and Sea Ports Authority from doing anything that he is authorised to do pursuant to sections 14, 15 or 16 in relation to the administration and enforcement of these Regulations.

Demand for information

14. (1) The Anguilla Air and Sea Ports Authority may, for the purpose of carrying out an assessment under these Regulations, by serving written notice, demand that a person provide or produce a record or document referred to in section 12 or such other information required to carry out the assessment, within a reasonable period of time stipulated in the notice, which shall not be less than 3 days.

(2) Any document provided or produced to the Anguilla Air and Sea Ports Authority under subsection (1) may be detained for a sufficient time to make a copy of it.

(3) If a person is served with a notice under this section and the person does not comply with the notice, or does not permit a document to be copied, the Anguilla Air and Sea Ports Authority may apply to the Court for an order directing the person to comply with the notice or permitting the copy to be made.

Inspection and audit

15. (1) Where the Anguilla Air and Sea Ports Authority—

(a) has reason to believe that a written notice issued under section 14 will not be complied with; and

(b) on reasonable grounds believes that the records or documents required to be kept under section 12 are located in a particular place;

the Anguilla Air and Sea Ports Authority may apply to the Court for an order authorising the Anguilla Air and Sea Ports Authority to enter the place and carry out an inspection, audit or examination, to remove any records or documents and to take them to another place for copying where copying facilities are not available at the first mentioned location.

(2) Where an order is granted under subsection (1), the Anguilla Air and Sea Ports Authority may require the owner, officer, director, manager or agent of the carrier to provide or produce a record or document referred to in section 12 or such other information required by the Anguilla Air and Sea Ports Authority to carry out the inspection or audit or examination.

(3) Any record or document provided or produced to the Anguilla Air and Sea Ports Authority under subsection (2) may be detained for a sufficient time to make a copy of it.

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Copies

16. (1) If documents have been detained, inspected, audited, examined or produced under section 14 or 15, the Anguilla Air and Sea Ports Authority may make, or cause to be made, one or more copies.

(2) The Anguilla Air and Sea Ports Authority may authorise the documents referred to in subsection (1) to be removed and taken to another place for copying, and when the Anguilla Air and Sea Ports Authority does so, it shall—

(a) give a receipt for the documents; and

(b) return the documents as soon as the copying is complete and in any event within a reasonable time.

(3) A document purporting to be certified by the Anguilla Air and Sea Ports Authority or a person authorized by the Authority to be a copy made pursuant to this section shall be admitted in evidence and has the same probative force as the original document would have had if it had been proven in the ordinary way.

Offence re documents and records

17. Any person who—

(a) makes, participates in, assents to or acquiesces in the making of false or deceptive statements in a return, statement, record or other document delivered or made under these Regulations in relation to airline ticket fees;

(b) destroys, alters, mutilates or disposes of records that a commercial air carrier is required to keep under these Regulations in relation to airline ticket fees;

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

(d) wilfully evades or attempts to evade compliance with these Regulations; or

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

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

Failure to file return

18. A commercial air carrier who fails to—

(a) file a return as and when required by these Regulations; or

(b) provide or produce information or a document as and when required by the Anguilla Air and Sea Ports Authority in relation to airline ticket fees;

is guilty of an offence and liable on summary conviction to a fine of $100 for each day of default.

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Failure to remit airline ticket fee

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

Actions by corporate agent

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

(a) knowingly; or

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

makes or participates in, assents to, or acquiesces in the making of, a false statement or omission in a return, application, statement or answer filed or made as required by or under these Regulations.

(2) The corporation is only guilty of an offence under subsection (1) if as a result of the person's actions under subsection (1), the airline ticket fee that would have been payable by the corporation, if the airline ticket fee had been assessed or determined on the basis of the information provided in the return, application, statement or answer, is less than the airline ticket fee actually owed by the corporation.

Offences and punishments re corporation

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

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

Offences and punishments re individual

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

(a) makes or participates in, assents to or acquiesces in the making of false or deceptive statements in a return, application, statement or answer filed or made as required by or under these Regulations;

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

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

(d) wilfully in any manner evades or attempts to evade compliance with these Regulations or payment of airline ticket fee imposed by these Regulations; or

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

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

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

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

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

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

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

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

Offences and punishments re officers, directors, etc.

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

General punishment

24. (1) A person who contravenes a provision of these Regulations for which a punishment is not otherwise provided is guilty of an offence and liable on summary conviction—

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

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

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

(2) For the purpose of this section "$" means Eastern Caribbean Dollar.

Limitation period

25. A prosecution for an offence under these Regulations may be commenced within 4 years from the date of the contravention but not afterwards.

Citation and Commencement

26. These Regulations may be cited as the Airline Ticket Fees Regulations, Revised Regulations of Anguilla, A57-11.

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SCHEDULE

(Section 3(1))

AIRLINE TICKET FEES

NAME OF AIRLINE TICKET FEE	DESCRIPTION OF FEE	FEE (USD)
Airports Expansion Charge	levied on each passenger arriving by air	$15.00
Airports Development Charge	levied on each passenger departing by air	$20.00
Luggage Handling Fees	levied on each passenger departing by air	$ 5.00.

(R.A. 7/2021, s. 2)

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