

2015-05-08

OBJECTS AND REASONS

This Bill would provide for the imposition and collection of excise taxes and for related matters.

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BARBADOS

A Bill entitled

An Act to provide for the imposition and collection of excise taxes and for related matters.

ENACTED by the Parliament of Barbados as follows:

Short title

- 1.** This Act may be cited as the *Excise Tax Act, 2015*.

Interpretation

2. In this Act,

“alcohol” or “ethyl alcohol” means any material or substance whether in liquid or any other form, containing any proportion by mass or volume of absolute ethyl alcohol;

“beer” means all liquor made in whole or in part from grain, malt or other saccharine matter without any process of distillation and that has an alcoholic strength not in excess of 11.9 per cent absolute ethyl alcohol by volume but does not include wine;

“brewery” means a place or premises

- (a) where beer is manufactured and includes offices, granaries and mash rooms, cooling rooms, vaults, cellars and store rooms connected therewith;
- (b) in which any material to be used in the manufacture of beer is kept or stored;
- (c) where any process of manufacture is carried on, where any apparatus is connected with the manufacture is kept or used or where any of the products of brewing or fermentation are kept or stored,

and the place or premises shall be included and form part of the brewery to which they are attached or appurtenant;

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

“compound” means

- (a) denatured alcohol; or
- (b) any substance intended for use as a flavouring or perfuming agent or as medication

which consists of locally manufactured ethyl alcohol to which other ingredients have been added;

“distiller” means any person who

- (a) conducts, works, occupies or carries on any distillery;
 - (b) rectifies any spirits by any process whatever either by himself or through his agent;
 - (c) has in his possession, complete or partially completed or who imports, makes or manufacturers, in whole or in part any still, worm, rectifying or other apparatus suitable for the manufacture of spirits;
 - (d) makes or keeps beer or wash prepared in preparation or fit for distilling or low wines or fairs; or
 - (e) has in his possession or use a still or rectifying apparatus,
- shall be deemed to be a distiller;

“distillery” means any place or premises where any

- (a) process of fermentation for the production of wash is carried on;
- (b) wash is kept or produced for the purpose of distillation;
- (c) mash-tub, fermenting-tub, worm or still for the distillation of spirits is set up or used;
- (d) process of distillation whatever of spirits is carried on;
- (e) process of rectification of spirits either by re-distillation, filtration or other process is carried on;
- (f) spirits are manufactured or produced from any substance whatsoever, by any process whatsoever; or
- (g) still, rectifier or other apparatus suitable for the manufacture of spirits, is in whole or in part manufactured, made or kept

and any office, warehouse, granary fermenting room, mash-house, still-room, rectifying house, vault, cellar, shed, yard or other place owned or occupied by or on behalf of or for the use of any distiller, or in which any part of his business is transacted;

“excise licence” means the document issued in accordance with section 5 of this Act;

“excise licensee” means a person to whom a licence is issued to engage in the activities of manufacturing, producing, finishing, processing, refining, storing, receiving and dispatching taxable goods in accordance with this Act;

“excise tax” means the tax imposed under this Act and payable on the taxable goods at the prescribed rates;

“excise tax payer” means a producer or importer of excise goods or person to whom the excise tax requirement may be transferred under this Act and where applicable includes an excise licensee;

“exempt person” means a person to whom the Commissioner may issue, in accordance with this Act, a licence allowing such person to procure, in the performance of its activities, non-taxable goods for purposes specified in this Act;

“importer” in respect of goods means the importer or proprietor of the goods within the meaning assigned to those terms by the *Customs Act*, Cap. 66, and any other person who is liable under that Act to pay duties in respect of those goods;

“landing certificate” means the certificate referred to in section 23 which is issued by the relevant authority in a country where taxable goods are landed;

“lodgement number” means a number generated by the system upon the electronic submission of any data;

- “malt” means any substance prepared by steeping grain or leguminous seeds in water, allowing the grain or seeds to germinate and checking the germination by drying;
- “Minister” means the Minister responsible for Finance;
- “officer” means an officer of the Barbados Revenue Authority;
- “raw leaf tobacco” means unmanufactured tobacco or the leaves and stems of the tobacco plant;
- “still” means apparatus of any kind capable of distilling spirits;
- “spirits” means ethyl alcohol whether denatured or not, and includes spirituous beverages including brandy, gin, rum, vodka, whisky and every description of spirituous liquor derived from ethyl alcohol;
- “system” means the electronically controlled tax administration system implemented by the Barbados Revenue Authority;
- “taxable goods” means spirits, beer, tobacco and such other goods as may be prescribed;
- “TIN” means a tax payer identification number;
- “tobacco” means every article other than cigars that are made by a tobacco manufacturer from raw leaf tobacco by any process whatever and includes cigarettes, tobacco sticks and snuff;
- “tobacco manufacturer” means everyone who manufactures tobacco for himself or who employs others to manufacture tobacco, other than cigars, whether the manufacture is by casing, packing, cutting, pressing, grounding, rolling, drying, crushing or stemming any raw leaf tobacco or otherwise preparing raw leaf or manufactured or partially manufactured tobacco, by the putting up for use or consumption of scraps, waste, clippings, stems or deposits of tobacco, by sifting, twisting, screening or other purposes;
- “Tribunal” means the Barbados Revenue Authority Appeals Tribunal;

“warehouse” means a secure place approved by the Commissioner in which goods subject to excise tax are produced, stored, deposited or received by an excise licensee;

“worm” means any pipe, condenser or other equipment used or intended to be used for the condensation of spirit vapour.

Application of the system

3.(1) There is established an electronically controlled tax administration system implemented by the Barbados Revenue Authority.

(2) The system shall apply to the administration of excise tax under this Act and all excise licensees with the exception of small suppliers shall apply to the Commissioner for registration in the manner prescribed under the system, within one year of the date of the commencement of this Act or upon commencement of business, whichever is later.

(3) An excise licensee who is registered under subsection (2) shall file excise tax returns and any information that is required under this Act in accordance with the requirements of the system.

(4) An excise licensee registered under this Act shall be assigned a TIN number which shall be used by the Commissioner and the excise licensee in all transactions under this Act.

(5) A person who fails to apply for registration within the time required under subsection (2) or who wilfully furnishes incorrect or misleading information is liable to pay to the Commissioner a penalty of \$10 000.

(6) Every permit and approval that is required for the efficient application of this Act shall be issued electronically utilising the system.

(7) The Commissioner shall administer and enforce the provisions of this Act and collect the tax imposed hereunder.

(8) Where tax is imposed by this Act on the importation of goods into Barbados, the *Customs Act*, Cap. 66, and any other enactment relating to the importation of goods shall apply as if the tax were a duty.

(9) Sections 40, 70, 72 to 92 and 94 to 101 of the *Value Added Tax Act*, Cap. 87, apply to this section with such modifications as the circumstances require for the purposes of this Act and in respect of the tax imposed by this Act on goods manufactured or produced in Barbados and sold in Barbados.

Imposition of tax

4. Subject to sections 19, 20, 23 and 24 excise tax shall be paid in accordance with this Act on taxable goods that are

- (a) manufactured or produced in Barbados and are removed from a warehouse for local consumption;
- (b) imported into Barbados,

at such rate as may be prescribed.

Licence

5. No person shall unless licensed to do so, manufacture taxable goods or use any utensil, machinery or apparatus that is suitable for carrying on the manufacture of taxable goods.

Term of licence

6. A licence that is issued pursuant to this Act shall expire on 31st March next following the date of its issue but unless the licence is suspended, cancelled or revoked, it shall be reissued annually on the 1st April each year on payment of the prescribed fee, on or before 31st March in each year.

Application for licence

7.(1) A person or business who requires a licence under this Act shall submit an application to the Commissioner and the application shall contain the following information:

- (a) the name and national registration or tax identification number of the person or business making the application for the excise licence;
- (b) the address of the location of the premises of the business and the manner in which security of the premises is ensured;
- (c) the type of activity and the name of the taxable goods for which the excise licence is required;
- (d) the estimated quantities of goods that are produced annually and the quantity of the goods in stock;
- (e) documentation which clearly details a full description of the applicant's accounting system;
- (f) a detailed description of the applicant's production processes, including information on measuring devices used to measure produced, processed, stored and despatched quantities of taxable goods;
- (g) the method of despatching the taxable goods;
- (h) a statement that the conditions for the electronic exchange of information relating to the movement of taxable goods are satisfied.

(2) A licence referred to in subsection (1) shall authorise a person to carry on a business that is subject to excise tax at the premise stated in the application, however where a licence is granted for premises at one location the licence may be transferred from the premises at that location to other premises that are approved by the Commissioner.

Premises to be surveyed by officer

8. An excise licence shall be issued under this Act where the premises for the carrying on of the business that is subject to the excise tax have been inspected by an officer and that officer has certified in writing to the Commissioner that

- (a) the premises are suitable for the proposed business; and
- (b) the requirements of section 7(1) have been met.

Issue of licence

9.(1) Where the requirements of sections 7 and 8 have been satisfied, the Commissioner shall issue a licence to carry on the business and to use the utensils, machinery and apparatus specified in the application and in the premises so specified.

(2) An excise licensee shall display his licence in a conspicuous place in the premises.

(3) All licence fees are due and payable before the licence is granted and in no case shall a licence be issued until all of the requisite fees are paid to the Commissioner.

Proof of issue of licence

10. The burden of proof that a licence has been issued under this Act lies on the person to whom the licence is alleged to have been issued.

Obligations of excise licensees

11.(1) An excise licensee shall at all times when required to do so

- (a) supply any officer with assistance, lights, ladders, tools, staging or other things necessary for inspecting the premises, the stocks, the tools or any apparatus belonging to the excise licensee; or

- (b) weigh, gauge or test any article or any commodity on the premises for which the licence is granted and shall open all doors, packages, casks, barrels and other vessels for inspection when required by an officer to do so.
- (2) An excise licensee shall
- (a) provide the appropriate security for the taxable goods in a warehouse;
 - (b) supervise the despatch and receipt of taxable goods and establish losses or shortfalls that may occur with respect to the taxable goods;
 - (c) ensure that audit checks and verification by the Commissioner are carried out without any obstacles;
 - (d) keep a record of taxable goods by type and quantity and a record of the movement of taxable goods from each warehouse;
 - (e) submit to the Commissioner utilising the system, a monthly excise tax assessment and a monthly inventory of the goods in stock;
 - (f) inform the Commissioner of all changes in the information cited in the request for a licence; and
 - (g) in the case of a change of status, inform the Commissioner of the extension, reduction or abandonment of the taxable activity.

Notice of any alteration or addition to apparatus

- 12.** Where an excise licensee intends to
- (a) alter or add any utensils, machinery or apparatus to the premises;
 - (b) make use of any compartment or room on the premises for a purpose that is different from the purpose referred to in the application for the licence,

the excise licensee shall

- (i) give notice of the intended alterations or additions to the Commissioner setting out the particulars of the proposed alterations, addition, removals or changes to the premises; and
- (ii) on completion of the work referred to in paragraph (a) furnish the Commissioner with revised plans and a description of the alterations.

Expiry of a licence

- 13.(1)** A licence issued under section 9 shall expire when
- (a) the production of the taxable goods by the excise licensee ceases;
 - (b) the excise licensee surrenders the licence; or
 - (c) the Commissioner revokes the licence in accordance with this Act.
- (2) The Commissioner shall revoke a licence where the excise licensee fails to meet the requirements specified in the licence, but in particular where
- (a) the excise licensee fails to set up an appropriate electronic stock control system or fails to take inventory in the manner specified in the licence;
 - (b) the amount of the excise tax payment for a particular month does not correspond with the amount of the excise tax liability;
 - (c) the reasons and conditions based on which an excise licensee was issued under this Act cease to exist;
 - (d) an excise licensee fails to correct irregularities drawn to its attention by the Commissioner; or
 - (e) liquidation or insolvency proceedings are initiated in respect of the excise licensee.
- (3) An appeal against a decision to revoke a licence shall lie to the Tribunal.

Inspection of weights and measures

14.(1) All beams, scales, weights and measures used in or about any premises of an excise licensee shall be inspected, tested, and verified and a certificate shall be issued in respect thereof by the Barbados National Standards Institute.

(2) An excise licensee may be required to produce a valid certificate of inspection obtained under subsection (1) to an officer at any time.

Entry of exciseable goods

15.(1) Information in respect of exciseable goods shall on production within a warehouse or on removal from a warehouse be entered,

(a) into a computer or other prescribed device; and

(b) within the time as may be prescribed.

(2) Goods required to be entered under subsection (1) may be entered

(a) by the excise licensee of the warehouse where the goods are produced or from which the goods are removed; or

(b) in such circumstances as may be determined by the owner of the goods, after consultation with the Commissioner.

(3) Where an entry required by this section relates to goods that are taxable in accordance with the volume of alcohol present in the goods, the person making the entry shall specify the volume of alcohol that is present in the goods, in the prescribed manner.

Assessment and payment excise tax

16.(1) An excise tax payer shall independently assess the excise tax payable on taxable goods.

(2) The tax period for assessing the excise tax referred to in subsection (1) is one calendar month from the date the goods were removed from the warehouse.

- (3) The excise tax payer shall present the assessed excise tax in a monthly excise tax return that is filed under the system.
- (4) Every excise tax return unless provided otherwise in this Act shall be filed
 - (a) on or before the fifteenth working day of each month for the month last preceding that day; and
 - (b) separately for each month and shall relate to the month last preceding the day of making the return.
- (5) Every return filed in accordance with this Act shall be electronically signed
 - (a) by the person carrying on the business to which the return relates or his agent; and
 - (b) the Manager or a person designated by the Manager who is employed on the premises where the business is carried on and who has personal knowledge of the activity in relation to the taxable goods.
- (6) Where an excise tax payer has more than one warehouse, that excise tax payer may submit a joint return for an assessment of the excise tax for all the warehouses and a separate record of the assessed excise tax for each warehouse shall be kept and made available for inspection at such times as the officer responsible for that excise tax payer may determine.
- (7) Every return that is filed under this section shall be validly filed where it is delivered to the Commissioner by electronic means using the system, within the time required by this Act.
- (8) The burden of proof that a return has been validly delivered shall rest on the person whose duty it is to file the return within the time stated in this Act.
- (9) The Commissioner may at any time in writing extend the time for filing a return under this Act and where the Commissioner does so the return shall be filed within the time so extended and the penalty under section 21 is payable only where the return is not filed within the extended time period granted.

- (10) A person who has ceased to be an excise licensee shall by the fifteenth day of the month immediately following the date on which he ceased to be an excise licensee, whether or not he has sold any goods during the month in which he ceased being an excise licensee or removed any goods from a warehouse during that month, file with the Commissioner in the prescribed manner, an accurate return for the month in the prescribed form and containing the prescribed information.
- (11) A person who is required under subsection (7) to file a return and fails to do so within the time prescribed by that subsection, shall pay to the Commissioner a penalty of \$1 000.
- (12) An excise licensee shall furnish the Commissioner with such information relating to a return as the Commissioner considers necessary.
- (13) Where a person pays excise tax on goods imported or sold by him that exceed the amount payable by him under this Act, the Commissioner shall, where the person applies for a refund within one year of the date on which the amount was paid, refund that person the amount that is equal to the amount of the excess.
- (14) The time at which entry of goods is made onto the system shall be the date and time that the system generates a lodgement number in respect of receipt of the entry.
- (15) An entry referred to in subsection (14) in respect of taxable goods is passed
- (a) in the case of an entry for domestic consumption, when the system debits the importer's deferred payment account or sets up a cash account in respect of the duty payable;
 - (b) in the case of imported taxable goods, when those goods are entered into the system in accordance with section 18; and
 - (c) in any other case, when a delivery order message is generated by the system.

Payment of excise tax

17.(1) The amount of tax payable on taxable goods shall be calculated on the mass, measurements and returns taken or entered into the system under this Act and be subject to correction by an officer.

(2) Where the amount of tax payable on taxable goods is calculated using two or more methods for determining the quantities or the amount of tax to be paid, the amount that yields the largest quantity or the greatest amount of duty shall be the standard.

(3) Where an officer after an inspection or audit has any reason to doubt the correctness of any return, that officer shall compute the mass, measurements or quantities and levy the tax accordingly.

(4) The computation performed under subsection (3) shall be based on any reliable evidence regarding the quantity of material brought into the premises that is subject to excise tax, the quantity of the taxable goods removed therefrom or the quantity or strength of any articles used in any of the manufacturing processes.

(5) Where the result of a computation under subsection (3) is disputed, the burden of proof of error shall lie with the person who is liable for the payment of the tax.

(6) Where an application for a refund is made in writing by an excise tax payer, within one year from the date when payment of the tax is made, the Commissioner may grant a refund of any tax that was erroneously paid or overpaid under this Act.

Payment of excise tax by importers

18.(1) Where excise tax is imposed by this Act on the importation of goods into Barbados, the importer shall pay or assess and secure the tax payable to the Commissioner, before the goods are entered for use within Barbados.

(2) An entry of imported taxable goods is made into the system on the date and at the time that the system generates a lodgement number in respect of the receipt of the entry.

Value and quantity

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

- (a) where the goods are imported, the total of
 - (i) the value of the goods as it would be determined under the *Customs Act*, Cap. 66, for the purpose of assessing *ad valorem* duty of customs on the goods, whether *ad valorem* duty of customs is payable on the goods or not; and
 - (ii) the amount of any duties, other than tax payable under this Act or the *Value Added Tax Act*, Cap. 87, fees or other charges that are payable upon the entry of the goods into Barbados; or
- (b) where the goods are manufactured or produced in Barbados and sold in Barbados, the amount of consideration in money, after deducting therefrom any tax payable in respect of the sale of the goods under the *Value Added Tax Act*, Cap. 87, that a manufacturer or producer of the goods would reasonably be expected to fetch for the goods on a sale in the open market to a purchaser who is not connected to the manufacturer or producer.

(2) For the purposes of paragraph (b) of subsection (1), a manufacturer or producer and a purchaser are connected to each other if they are connected to each other under section 5(1) of the *Value Added Tax Act*, Cap. 87.

(3) Where excise tax is payable under this Act on taxable goods by reference to a specific quantity measured by volume or weight, if the goods are imported, sold in Barbados or removed from a warehouse in any container intended for sale with or of a kind usually sold with the goods in a sale by retail and the container

is marked, labelled or commonly sold as containing, or commonly reported to contain, a specific quantity of such goods, for the purpose of determining the excise tax payable in respect of the goods, the container is presumed to contain not less than that specific quantity unless the contrary is shown to the satisfaction of the Commissioner.

No removal unless tax paid or bond entered into

20.(1) Where excise tax is imposed by this Act on taxable goods manufactured or produced in Barbados or removed from a warehouse or brewery, the excise licensee who sold the goods or removed them from the warehouse or brewery shall

- (a) pay the tax to the Commissioner not later than the fifteenth day of the month immediately following the month during which the goods were sold or removed; or
- (b) enter into a bond
 - (i) with security equal to the amount of the excise tax that would be payable if the taxable goods were removed from the warehouse for consumption in Barbados; or
 - (ii) of a general nature to continue in force for 12 months with security in an amount approved by the Commissioner.

(2) Where an excise licensee who intends to remove taxable goods from a warehouse or has entered into a general bond referred to in subsection (1)(b)(ii) of subsection (1), but the total of

- (a) the excise tax on those taxable goods; and
- (b) the excise tax payable by the excise licensee on all other taxable goods removed from a warehouse that remains unpaid,

exceeds the amount of the security under the general bond referred to in subsection (1)(b)(ii) of subsection (1), the excise licensee shall pay the excise tax

on the taxable goods that he intends to remove from the warehouse before they are so removed.

Penalties

21.(1) Every excise licensee who fails to file a return for a period when so required under section 16 shall pay, in addition to the tax payable under this Act,

- (a) a penalty equal to the sum of an amount equal to 10 per cent of the amount of tax in default; and
- (b) interest at the prescribed rate for each month or part of a month during which the tax remains unpaid.

(2) No penalty or interest is payable by an excise licensee under subsection (1) where that excise licensee pays all outstanding amounts of tax payable by him under this Act and at the time of the payment, the penalty and interest payable by him is less than \$5.00.

Exemption for Diplomatic, Consular Missions and International Organisations

22.(1) Excise tax shall not be paid on the following taxable goods:

- (a) goods for the official needs of diplomatic and consular missions which are accredited in Barbados, where the Ministry of Foreign Affairs certifies the usage;
- (b) goods for the official needs of international organisations where such goods have been identified by virtue of an international agreement;
- (c) goods for the personal use of foreign staff members of diplomatic and consular missions accredited in Barbados including their family members;
- (d) goods for the personal needs of foreign staff members of international organisations including their family members where the goods are identified in international agreements.

- (2) Taxable goods that are exempt under this section may not be transferred outside of Barbados unless the excise tax is paid in respect of those goods.
- (3) The Commissioner shall regulate the manner in which exemptions are managed under this section.

Other Exemptions

- 23.(1)** No excise tax is payable on taxable goods where those goods are
- (a) goods that are to be used as ships stores in accordance with the *Customs Act*, Cap. 66 and in aircraft or on international traffic routes;
 - (b) goods that a passenger may bring in from abroad as part of his personal luggage and which are also exempt from the payment of import duties;
 - (c) goods that are despatched from a warehouse to duty free shops that are opened to sell the goods to passengers of ships and aircraft in accordance with customs requirements;
 - (d) compounds made from spirits distilled in Barbados, other than in a distillery or in a warehouse or beer brewed in Barbados and are delivered to a ship or an aircraft by an excise licensee;
 - (e) such other goods as may be prescribed.
- (2) Where an excise licensee exports a compound or beer otherwise than by delivery to a ship or aircraft under subsection (1)(d), that person shall produce to the Commissioner within 6 months after the compound is exported, a landing certificate issued by the relevant authority of the country in which the goods were landed stating that the goods were so landed and, where the person fails to do so, the excise licensee shall pay to the Commissioner the excise tax in respect of those goods.
- (3) The Commissioner may waive the requirements for the production of the landing certificate referred to in subsection (2) where he is satisfied that in the circumstances the requirement to produce such a certificate is unreasonable or may cause undue hardship.

- (4) An excise licensee of a compound may be required prior to exportation to execute a bond in such form as the Commissioner determines, for the repayment of excise tax on failure to produce the landing certificate.
- (5) The Commissioner may grant permission for the importation of taxable goods without the payment of excise tax thereon upon being satisfied that
- (a) the goods are imported for temporary use or for a temporary purpose only;
 - (b) the goods will be exported within 3 months from the grant of the permission; and
 - (c) the excise licensee to whom the permission has been granted will deposit with the Commissioner an amount equal to the excise tax payable on the imported goods or at the discretion of the Commissioner, give security for the payment of the tax.
- (6) Where the goods imported under subsection (5) are not exported within the period specified in paragraph (b) of subsection (5), any deposit with the Commissioner under paragraph (c) of that subsection shall be brought into account by the Commissioner as excise tax or where security has been given under that paragraph, the importer shall pay the Commissioner the full amount of excise tax payable on the imported goods.
- (7) Notwithstanding subsections (5) and (6), the Commissioner may where he considers it necessary, allow such further period as he thinks fit for the export of the goods where
- (a) the Commissioner is satisfied that the goods are the *bona fide* property and are for the exclusive use of the person temporarily in Barbados;
 - (b) the importer of the goods gives such security in addition to that given pursuant paragraph (c) of subsection (5) as the Commissioner requires.
- (8) Where the goods referred to in subsections (5) and (6) are exported within the time specified in subsection (5) or a further period is allowed pursuant to subsection (7), the Commissioner shall refund the deposit referred to in paragraph

(c) of subsection (5) and cancel the security given pursuant to that paragraph and the additional security given pursuant to subsection (7).

Refunds

24.(1) Where an authorised person within the meaning assigned thereto by the *Customs Drawback of Duties on Sale of Goods to Tourist Regulations, 1958* (L.N. 1958 No. 86(d)) and goods have been delivered to a ship or aircraft by which a tourist departs from Barbados, the Commissioner shall, subject to this Act pay an amount to the authorised person equal to the excise tax paid on the goods if the person applied therefor within one year after he sold the goods.

(2) Where a person who has imported taxable goods subsequently exports those goods or puts them on board a ship or aircraft for use as stores and the goods are in compliance with the conditions specified in Part XIII of the *Customs Regulations, 1963* (L.N. 1963 No. 61) for the payment of a drawback of duties, the Commissioner shall subject to this section pay an amount to the person that is equal to the excise tax paid on the goods where the person applies therefor within one year after he exported the goods or put them on board the ship or aircraft.

(3) An application under this section shall

- (a) be made in the prescribed form;
- (b) contain the prescribed information; and
- (c) be filed with the Commissioner in the prescribed manner.

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

- (a) under this Act; or
- (b) under an Act that is specified in the *First Schedule* of the *Barbados Revenue Authority Act, 2014* (Act 2014-1) and is administered by the Barbados Revenue Authority.

(5) Where a person files an application for a refund or other payment under this section and the amount of the refund or other payment is not paid or applied as required by this section within the period of 6 months after the month in which the application is filed

- (a) interest shall be calculated on the amount at the prescribed rate for each month or part of a month from the day after the expiration of that period until the amount is paid or applied as required by this section; and
- (b) the Commissioner shall pay the amount plus interest to the person or apply it against any outstanding tax, penalty or interest payable under this Act by the person.

(6) Where the Commissioner pays an amount to a person or applies it against an outstanding liability of the person, as a refund or other payment under this section or as interest thereon and that amount was not payable to the person or exceeded the amount that was payable to the person, the person shall repay the amount or excess, as the case requires to the Commissioner forthwith after receiving it, together with interest thereon at the prescribed rate for each month or part of a month from the date on which the person repays the amount or excess, to the Commissioner.

(7) Interest of less than \$5.00 shall not be payable under subsection (5) or (6).

(8) A refund or other payment under section 25 shall be a charge on the Consolidated Fund.

Relief under the *Customs Act*, Cap. 66

25.(1) Part V of the *Customs Act*, Cap. 66 applies with such modifications as the circumstances require for the purposes of this Act in respect of goods produced in Barbados for export.

(2) Section 106 of the *Customs Act* applies with such modifications as the circumstances require, for the purposes of this Act with respect to the re-importation of taxable goods.

Remissions

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

(2) Where any tax remitted under subsection (1) has already been paid, the tax shall be refunded by the Commissioner.

(3) Notwithstanding subsection (2), where an amount is payable to a person under this section, the Commissioner may apply it against any outstanding tax, penalty or interest payment due to the Crown

(a) under this Act; or

(b) under an Act that is specified in the *First Schedule* of the *Barbados Revenue Authority Act, 2014* (Act 2014-1) and is administered by the Barbados Revenue Authority.

Goods diverted from exempt use

27.(1) Where an excise licensee who is exempt from the payment of excise tax under this Act is in breach of any of the conditions for exemption from duty under the *Customs Tariff (Vehicles Exemption from Duty) Regulations, 1958* (L.N. 1958 No. 86(c)), the exemption ceases to apply and excise tax is due and payable from the date on which the breach occurs and must be calculated by reference to the chargeable value of the motor vehicle at the date of importation.

(2) Where a person is exempt from the payment of excise tax under this Act or any other enactment and the exemption is conditional upon the goods to which the exemption relates

(a) being used exclusively by that person; or

(b) not being sold or transferred within a specified period of time,

then on breach of that condition, the exemption ceases to apply and the excise tax becomes due and payable from the date on which the breach occurs and shall

be calculated by reference to the chargeable value of the goods at the date of importation.

(3) Where at the time of importation a motor vehicle is not taxable because of the exemption provided in heading No. 87.02 of the *Excise Tax Regulations, 2015* (S.I. 2015 No.), but is subsequently converted into a vehicle that does not fall within the exemption, the exemption ceases to apply and the excise tax on the vehicle becomes due and payable as at the date of the conversion and shall be calculated by reference to the chargeable value, determined in accordance with this Act at the date of conversion.

(4) The date of the conversion of the vehicle to which subsection (3) refers is to be determined by the Commissioner.

Small suppliers

28.(1) A person is a small supplier throughout a month where the person became an excise licensee

(a) at least 12 months before the beginning of the month, the total value of all taxable goods, other than sales of goods that are capital property of the excise licensee and his associates in the 12 month period ending immediately before the beginning of the particular month is less than \$80 000; and

(b) less than 12 months before the beginning of the month referred to in paragraph (a), the average monthly value, for the period beginning with the month in which the person began to carry on taxable activities and ending with the month immediately before that month, of all taxable goods other than sales of goods that are capital property of the excise licensee made by that excise licensee and his associates is less than \$5 000.

(2) For the purposes of this section,

(a) a corporation and another person are associates of each other if the other person and his other associates, if any, directly or indirectly own,

hold or control more than 50 per cent of the outstanding voting stock or shares of the corporation;

- (b) a partnership and a partner thereof are associates of each other if the partner and his other associates, if any, are entitled to share in more than 50 per cent of the total profits of the partnership;
- (c) a joint venture and a member thereof are associates of each other if the member and his other associates, if any, are entitled to share in more than 50 per cent of the total profits of the joint venture;
- (d) a trust and a beneficiary of the trust are associates of each other if the total value of interests in the trust of the beneficiary and his other associates, if any, is more than 50 per cent of the total value of all interests in the trust; and
- (e) two persons are associates of each other if each is an associate of the same third person.

(3) A small supplier may at any time apply to the Commissioner to be registered under this Act.

(4) An application for registration under this section must be in such form as the Commissioner approves.

Articles imported for use in manufacture of compounds exempt from import duty

29. Any article that is imported into Barbados for the purpose of being added to taxable goods that are manufactured in Barbados or is used in converting spirits that are manufactured in Barbados into compounds is exempt from import duty and shall be kept by the importer in the manner directed by the Commissioner.

Assignment of officers and visits to warehouses and breweries

30.(1) An officer may visit a warehouse or brewery to which he has been assigned

- (a) at a time determined by that officer and the officer shall notify the excise licensee of the visit within 24 hours of the visit; or
- (b) at a time which is shorter than the 24 hour period mentioned in paragraph (a) where the Commissioner has reason to believe that suspicious activity is being conducted

and the officer shall undertake random inspections and audits of the warehouse or brewery to verify that the information that is filed by the excise licensee is accurate.

(2) An excise licensee or employee of an excise licensee who obstructs, hinders or molests an officer in the execution of his duty is guilty of an offence and is liable on conviction on indictment to a fine of \$25 000.

Warehousing of taxable goods and duties

31.(1) Taxable goods that are manufactured or produced in Barbados shall within a period of 7 days be

- (a) warehoused in a warehouse in accordance with this Act; or
- (b) exported in accordance with the *Customs Act*, Cap. 66.

(2) Spirits that are permitted to be redistilled need not be warehoused.

(3) Any taxable goods that are not warehoused in accordance with this section shall be accounted for by the excise licensee in the licensee's entries into the system and where on a random inspection or audit it is found that there has been no compliance with this section the excise licensee shall pay the prescribed penalty.

(4) Taxable goods on which excise tax is paid shall be removed from the warehouse within 48 hours of payment or within such longer period as the Commissioner may determine.

(5) An excise licensee of a still and an excise licensee who manufactures compounds in a warehouse may convert locally distilled spirits on which no duty is paid into compounds.

(6) An excise licensee shall have a single bond.

Determination of admixture

32. In the manufacture of a non-potable compound, the minimum rate of admixture with articles other than spirits for the purpose of rendering those articles non-potable shall be fixed by the Minister responsible for Health.

Offences

33. A person who contravenes section 5 is guilty of an offence and is liable on summary conviction to a fine of \$10 000.

Regulations

34. The Minister may make regulations

- (a) prescribing any matter to be prescribed; and
- (b) for generally giving effect to the provisions of this Act.

Transitional provisions

35. Every existing manufacturer and producer and every new manufacturer and producer of taxable goods shall within one year of the date of commencement of this Act apply for a licence in the manner prescribed.

Act to bind the Crown

36. This Act binds the Crown.

Repeal

37. The *Spirits Act*, Cap. 90B, the *Excise Tax Act*, Cap. 69 and the *Brewery Act*, Cap. 326 are repealed.

Commencement

38. This Act shall come into operation on a date to be fixed by proclamation.

Read three times and passed the House of Assembly this
day of _____, 2015.

Speaker

Read three times and passed the Senate this _____ day of
, 2015.

President