

# EXCISE ACT, 2013

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## EXCISE ACT, 2013

### AN ACT TO PROVIDE FOR THE IMPOSITION AND COLLECTION OF EXCISE TAXES AND FOR CONNECTED PURPOSES

Enacted by the Parliament of The Bahamas

#### PART I - PRELIMINARY

**1. Short title.**

This Act may be cited as the Excise Act, 2013.

**2. Interpretation.**

(1) In this Act —

“**ad valorem**” means duties which are graduated according to the value of the taxable goods;

“**Comptroller**” means the comptroller of Customs or any other public officer acting on his behalf or under his authority;

“**Customs Officer**”, “**duty**”, “**entered**”, “**export**”, “**goods**”, “**import**”, “**warehoused**” have the meanings assigned to them in the Customs Management Act;

“**importer**”, in respect of goods, means the importer or proprietor of the goods;

“**licensed manufacturer**” means any manufacturer licensed by the Minister responsible for Trade and Industry;

“**manufacture**” or “**produce**”, in relation to goods, includes the application of any process in the course of manufacturing or producing the goods;

“**Minister**” means the Minister responsible for Finance;

“**sale**”, in relation to goods, includes —

- (a) the disposal of goods for consideration;
- (b) the transfer of possession of goods under a lease, a rental agreement, a licence agreement or a hire-purchase agreement within the meaning assigned to that expression by the Hire Purchase Act (*Ch. 342*);
- (c) the disposal of goods under an agreement where the purchase price is wholly or partly payable in installments; and
- (d) the transfer of trading stock by the owner of a business for his personal use or the personal use of an employee or other person, otherwise than by way of disposal for consideration;

“**taxable goods**” means goods specified in the Schedule.

- (2) The classification and description of goods specified in the Schedule and bearing the heading numbers as designated in the Tariff Act are to be interpreted in accordance with the rules for interpretation set out in the First Schedule to the Tariff Act.
- (3) For the purposes of this Act —
  - (a) a passenger who imports baggage for which no entry is required shall be deemed to have entered the baggage for use within The Bahamas at the time the baggage is delivered to the passenger in The Bahamas; and
  - (b) the addressee of goods imported by post for which no entry is required shall be deemed to have entered the goods for use within The Bahamas at the time the goods are delivered to the addressee.

## **PART II - IMPOSITION AND PAYMENT OF EXCISE TAX**

### **3. Imposition of tax.**

- (1) Subject to this Act and any other law relating to customs, the excise tax shall be paid in accordance with this Act at the rate specified in the third column of the Schedule on —
  - (a) taxable goods manufactured or produced in The Bahamas and sold in The Bahamas; and
  - (b) taxable goods imported into The Bahamas.
- (2) The Minister may, by Order, amend or revoke the Schedule.
- (3) An Order referred to in subsection (2) is subject to affirmative resolution of both Houses of Parliament.

**4. Value and quantity.**

- (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 referred to as the “chargeable value” equal to —
  - (a) if the goods are imported, the total of —
    - (i) the value of the goods as it would be determined under the Customs Management Act for the purpose of assessing ad valorem duty of customs on the goods, whether ad valorem duty of customs is payable on the goods or not; and
    - (ii) the amount of fees or other charges that are payable upon the entry of the goods into The Bahamas; and
  - (b) if the goods are manufactured or produced in The Bahamas and sold in The Bahamas, the amount of consideration in money that a manufacturer or producer of the goods would reasonably be expected to fetch for the goods on a sale in the open market to a purchaser who is not connected to the manufacturer or producer.
- (2) Where excise tax is payable under this Act on taxable goods by reference to a specific quantity measured by volume or weight, if the goods are imported, sold in The Bahamas or removed from a warehouse in any container intended for sale (with or of a kind usually sold with the goods in a sale by retail and the container is marked, labelled or commonly sold as containing, or commonly reputed to contain, a specific quantity of such goods) for the purpose of determining the excise tax payable in respect of the goods, the container is presumed to contain not less than that specific quantity unless the contrary is shown to the satisfaction of the Comptroller.

**5. Re-imported goods.**

- (1) Every set of import entries in respect of goods re-imported into The Bahamas to which section 177 of the Customs Management Act applies shall be subject to a processing fee.
- (2) Every set of import entries in respect of goods re-imported into The Bahamas to which section 177 of the Customs Management Act applies shall be subject to the relevant rates of tax in the Schedule, on the amount of the increase in the value of the goods.

**6. Payment of tax by licensed manufacturer.**

- (1) Where excise tax is imposed by this Act on goods domestically manufactured and sold in The Bahamas or removed from a warehouse, the duly licensed manufacturer who sold the goods or removed them from a

warehouse shall pay the tax to the Comptroller not later than 21 days after the end of that month during which the goods were so sold or removed.

- (2) A licensed manufacturer who defaults in paying any excise tax payable by him by the day prescribed by subsection (1) shall pay, in addition to the amount of tax in default —
  - (a) a penalty equal to 10% of the amount of tax in default; and
  - (b) interest at the rate of 2% above prime rate for each day the amount in default is outstanding.
- (3) Where the Minister, under section 8(4), extends the time within which a return of a licensed manufacturer shall be filed —
  - (a) any excise tax that the licensed manufacturer is required to report in the return shall be paid within the time so extended;
  - (b) interest is payable under subsection (2) as if the time for filing the return had not been extended; and
  - (c) the penalty under subsection (2), on any excise tax that the licensed manufacturer is required to report in the return is payable only if the tax is not paid within the time so extended and shall be calculated only on the amount of tax that is not paid within the time so extended.

## **7. Payment of tax by importers.**

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

## **8. Returns from licensed manufacturers.**

- (1) Every licensed manufacturer shall, within 21 days after the end of the month, whether or not he has sold any goods during the month or removed any goods from a warehouse during the month, file with the Comptroller in the prescribed manner an accurate return for the month in the prescribed form containing the prescribed information.
- (2) A person who has ceased being a licensed manufacturer shall, within 21 days after the day on which he ceased being a licensed manufacturer, whether or not he has sold any goods during the month in which he ceased being a licensed manufacturer or removed any goods from a warehouse during that month, file with the Comptroller in the prescribed manner an accurate return for the month in the prescribed form containing the prescribed information.
- (3) A person who, being required by subsection (1) or (2) to file a return, fails to do so within the time prescribed by that subsection shall pay to the Comptroller a penalty of \$1,000.00.

- (4) The Minister may at any time extend in writing the time for filing a return under this Act and, where the Minister does so, the return shall be filed within the time extended and the penalty under subsection (3) is payable only if the return is not filed within the time so extended.
- (5) The Comptroller may require a licensed manufacturer to furnish the Comptroller with such information relating to a return as the Comptroller considers necessary.

## **PART III - RELIEF FROM EXCISE TAX**

### **9. Exemptions.**

- (1) Goods for the use of institutions and persons exercising consular and diplomatic privileges, establishments of foreign states, The Bahamas National Trust, charitable organizations, and for gifting to the Government are eligible for exemptions from excise tax, as specified in the relevant sections of Chapter 98 in the Schedule.
- (2) The following categories of goods may be eligible for general exemptions from excise tax, as specified in the relevant sections of Chapter 98 in the Schedule —
  - (a) agricultural, floricultural, horticultural, agricultural co-operative societies, fisheries and forest industry goods;
  - (b) aircraft parts and accessories;
  - (c) baggage of passengers;
  - (d) educational, scientific and cultural goods;
  - (e) religious goods;
  - (f) production materials for cottage and light industries;
  - (g) printing equipment and raw materials;
  - (h) relief goods;
  - (i) vessel or vessel parts;
  - (j) goods manufactured or processed in the Port Area;
  - (k) any other goods which receive duty concessions under incentive legislation.

### **10. Relief for temporary importation.**

- (1) The Minister may grant permission for the importation of taxable goods without 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 three months or such period as may be extended by the Minister from the grant of the permission; and
  - (c) the person to whom the permission has been granted will deposit with the Comptroller an amount equal to the excise tax payable on the imported goods, or give security for payment of the tax.
- (2) Where the goods imported under subsection (1) are not exported within the period specified in paragraph (b) of subsection (1), any deposit with the Comptroller under paragraph (c) of subsection (1) shall be brought into account by the Comptroller as excise tax or, if security has been given under that paragraph, the importer shall pay to the Comptroller the full amount of excise tax payable on the goods imported.
- (3) Notwithstanding subsections (1) and (2), the Minister may, where he considers it necessary, allow such further period as he thinks fit for the export of the goods —
  - (a) if he is satisfied that the goods are bona fide property, and are for the exclusive use of a person temporarily in The Bahamas; and
  - (b) if the importer of the goods gives such security in addition to that given pursuant to paragraph (c) of subsection (1) as the Minister requires.
- (4) Where the goods referred to in subsections (1) and (2) are exported within the time specified in subsection (1) or the further period allowed pursuant to subsection (3), the Comptroller shall refund the deposit referred to in paragraph (c) of subsection (1) and cancel the security given pursuant to that paragraph and the additional security given pursuant to subsection (3).

#### **11. Relief for raw materials.**

- (1) Where the Comptroller is satisfied, upon a certificate by a licensed manufacturer, that taxable goods whether imported into The Bahamas or manufactured or produced in The Bahamas, are intended to be used by the licensed manufacturer as raw materials for the manufacture or production in The Bahamas of other taxable goods, the Comptroller may, in respect of the taxable goods intended to be used as raw materials, instead of requiring payment of the excise tax in full —
  - (a) require that the manufacturer deposits such security as the Comptroller thinks fit; or
  - (b) remit the excise tax.
- (2) Where taxable goods are intended to be used as raw materials for the manufacture or production in The Bahamas of other taxable goods, the importer, manufacturer or producer, as the case may be, shall certify to the

Comptroller in the prescribed form that the goods are to be used for the manufacture or production in The Bahamas of other taxable goods.

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

## **12. Refunds.**

- (1) Where a person pays an amount as or on account of excise tax on goods imported or sold by him that exceeds the amount payable by him under this Act, the Comptroller shall, subject to this section, pay a refund to that person equal to the amount of the excess if that person applies therefor within six months after the amount was paid.
- (2) Where a person who has imported taxable goods subsequently exports those goods or puts them on board a ship or aircraft for use as stores and the goods are in compliance with the conditions specified in the Customs Management Act for the payment of a drawback of duties, the Comptroller shall, subject to this section, pay an amount to the person equal to the excise tax paid on the goods if the person applies therefor within six months after he exported the goods or put them on board the ship or aircraft.
- (3) An application under this section shall —
  - (a) be made in the prescribed form;
  - (b) contain the prescribed information;
  - (c) be filed with the Comptroller in the prescribed manner.
- (4) Notwithstanding subsections (1) and (2), where a refund or other payment is payable to a person under this section, the Comptroller may apply it against any outstanding tax, penalty or interest payable by the person under this Act.

## **13. Relief and Remission.**

- (1) Any relief granted under Division Two of Part X of the Customs Management Act applies, with such modifications as the circumstances require, for the purposes of this Act in respect of goods produced in The Bahamas for export.
- (2) The Customs Management Act applies, with such modifications as the circumstances require, for the purposes of this Act with respect to the re-importation of taxable goods.



- (3) The Minister may remit, in whole or in part, an excise tax where he is satisfied that it is just and equitable to do so or to give effect to the terms of any agreement or arrangement binding the Crown.
- (4) Where any tax remitted under subsection (1) has already been paid, the tax shall be refunded by the Comptroller.
- (5) Notwithstanding subsections (2), (3) and (4) where an amount is payable to a person under this section, the Comptroller may apply it against any outstanding tax, penalty or interest payable by the person under this Act.

**14. Goods diverted from exempt use.**

- (1) Where goods liable to excise tax have been imported or taken out of bond free of excise tax or at a reduced rate in accordance with any law relating to the Customs Management Act and are subsequently disposed of or treated in any manner inconsistent with the conditions or purposes for which they were granted relief from excise duty, then, unless the Minister otherwise directs, they shall on such disposal or treatment be liable to excise tax at the full rate applicable to goods of that class or description at the time of such disposal or treatment.
- (2) Where it is proposed to dispose of goods to which subsection (1) applies, the person responsible for their disposal shall furnish the Comptroller with the particulars of the proposed disposal and, unless the Minister otherwise directs, shall cause the excise duty thereon to be paid.
- (3) Where goods to which subsection (1) applies are disposed of or dealt with without payment of excise duty to which they are liable, they shall be liable to forfeiture.
- (4) Any person who knowingly disposes of or acquires any goods to which subsection (1) applies without the excise duty having been paid in accordance with this section commits an offence and is subject to a penalty of twice the amount of excise tax payable.

## **PART IV - MISCELLANEOUS**

**15. Regulations.**

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

**16. Act binds Crown.**

This Act binds the Crown.

**17. Administration and enforcement.**

- (1) The Comptroller shall administer and enforce, subject to the control and direction of the Minister, this Act and collect the tax imposed by this Act.
- (2) Where tax is imposed by this Act on the importation of goods into The Bahamas for the purposes of collecting and enforcing the payment of the tax and, generally, for the purposes of administering and enforcing this Act, the Customs Management Act relating to the importation of goods apply as if the tax were a duty.

**18. Repeal of Ch. 293A.**

The Excise Act is repealed.