

Excise Duty Bill. 2006

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SAINT CHRISTOPHER AND NEVIS

No. of 2006

A BILL to revise the law relating to the imposition and collection of excise duties and in the connection to repeal and replace the Excise Act, Chapter 131 and to provide for related matters.

BE IT ENACTED by the Queen’s Most Excellent Majesty, by and with the advice and consent of the National Assembly of Saint Christopher and Nevis, and by the authority of the same as follows:

PART I – PRELIMINARY

Short title.

1. This bill may be cited as the Excise Duty Bill, 2006.

Interpretation

2. (1) In this Bill, unless the context otherwise requires,

“Comptroller” means the Comptroller of Customs;

“duty” “entered” “export” and “import” have the meaning assigned to them by the Customs (Control and Management) Act, No. 4 of 1992;

“importer”, in respect of goods means the importer or proprietor of the goods within the meaning assigned to those terms by the Customs (Control and Management) Act, 4 of 1992 and any other person

who is liable under that Act to pay duties in respect of the goods;

“manufacture” or “produce”, in relation to goods, includes the application of any process in the course of manufacturing or producing the goods and manufacturer or producers shall be construed accordingly;

“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 license agreement or a hire purchase agreement;
- (c) the disposal of goods under the agreement whereby the purchase price is wholly or partly payable in installments;
- (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;

“spirit” means ethyl alcohol manufactured or produced, in whole or part, by distillation or fermentation, and includes all liquors mixed with spirits, all mixtures and preparations made with spirit, rum, bay water and bay rum;

“dutiable” goods” means goods specified in the First Schedule;

“warehouse” has the meaning assigned to that term by Customs (Control and Management) Act, No. 4 of 1992.

- (2) The classification and description of goods specified in the First Schedule and bearing the heading numbers as designated in the Common External Tariff of the Caribbean Common Market based on the Harmonized Commodity

Description and Coding System (HS) Second Edition, (hereinafter referred to as the Customs Tariff) are to be interpreted in accordance with the rules of interpretation set out in Part I of the Customs Tariff.

(3) For the purpose 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 St. Kitts and Nevis at the time the baggage is delivered to the passenger in St. Kitts and Nevis; 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 St. Kitts and Nevis at the time the goods are delivered to the addressee.

PART II – IMPOSITION AND POSITION AND PAYMENT OF EXCISE DUTY

Imposition
of duty.

3. (1) Subject to section 8 to 13 of this Act, excise duty shall be paid in accordance with this Act on.

- (a) dutiable goods manufactured or produces in St. Kitts and Nevis;
- (b) dutiable goods imported into St. Kitts and Nevis,

at the rate specified in the third column of the first Schedule in respect of those goods.

(2) A manufacturer or producer of spirits who cannot account, to the satisfaction of the Comptroller, for any quantity of spirits manufactured, produced or warehoused by him or her shall be deemed to have removed those spirits from a warehouse for consumption in St. Kitts and Nevis during the month in which the deficiency arose.

(3) The Minister may, by order publish in the Official Gazette amend or revoke the First Schedule.

Value and
quantity

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

- (a) if the goods are imported, the total of,
 - (i) the cost, insurance and freight value of the goods as it would be determined under the Customs (Control and Management) Act, No. 4 of 1992, whether cost, insurance and freight duty value of customs is payable on the goods or not; and
 - (ii) the amount of any duties (other than duty payable under this Act or the Consumption Duty Act, Chapter No. 5 of 1974) fees or other charges that are payable upon the entry of the goods into St. Kitts and Nevis;
- (b) if the goods are manufactured or produced in St. Kitts and Nevis and sold in St. Kitts and Nevis, the amount of consideration in money that a manufacture or producer of the goods would reasonably be expected to fetch for the goods on a sale in the open market

(2) Where excise duty is payable under this Act on dutiable goods by reference to a specific quantity measured by volume or weight, if the goods are imported, sold in St. Kitts and Nevis 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, labeled or commonly sold as containing or commonly reputed to contain, a specific quantity in respect of goods, for the purpose of determining the excise duty payable in respect of the goods, the container is presumed to contain not less than specific quantity unless the contrary is shown to the satisfaction of the Comptroller.

Payment
of duty by
manufacturers.

5. (1) Where excise duty is imposed by this Act on goods sold in St. Kitts and Nevis or removed from a warehouse, the manufacturer who sold the goods or removed them from a warehouse shall pay the duty to the Comptroller not later than twenty one days after the end of the month during which the goods were sold or removed.

(2) No spirits shall be removed from a warehouse for any purpose unless the person who intends to so remove the spirits has, before so removing the spirit.

- (a) paid excise duty payable on spirits;
or
- (b) entered into,
 - (i) a bond with security equals to three times the amount of excise duty that would be payable on the spirits if the spirits were removed from the warehouse for consumption in St. Kitts and Nevis; or
 - (ii) a general bond, to continue in force for twelve months, with secretary in an amount approved by the Comptroller.

(3) Where a person who intends to remove spirits from a warehouse has entered into a general bond referred to in paragraph (b) (ii) of subsection (2), but the total of,

- (a) the excise duty on those spirits; and
- (b) the excise duty payable by the person on all other spirits removed from a warehouse that remains unpaid,

exceeds the amount of security under the general bond referred to in paragraph (b) (ii) of subsection (2), the person referred to in that subsection shall pay the excise duty on the spirits that he intends to remove from the warehouse before they are so removed.

(4) A manufacturer who defaults in paying any excise duty payable by him by the day prescribed subsection (1) or (3) shall pay, in addition to the amount of duty in default,

- (a) a penalty equal to ten percent of the amount of duty in default; and
- (b) the excise duty payable by the person on all other spirits removed from a warehouse that remains unpaid,

(5) No penalty or interest is payable by a manufacturer under subsection (4) if he pays all outstanding amounts of duty payable by him

Under this Act and, at the time of payment, the total of all penalties and interest payable by him under this Act is less than \$1500.

(6) Where the Comptroller, under section 7 (4), extends the time within which a return of a manufacturer shall be filed,

- (a) any excise duty that manufacturer is required to report in the return shall be paid within the time so extended
- (b) interest is payable under subsection (4) on any excise duty that the manufacturer is required to report in the return payable only if the duty is not paid within the time so extended and shall be calculated only on the amount of duty that is not paid within the time so extended; and
- (c) the penalty under subsection (4) on any excise duty that the manufacturer is required to report in the return is payable only if the duty is not paid within the time so extended and shall be calculated only if the amount of duty is not paid within the time so extended.

(7) Subsection (6) does not apply in respect of excise duty that a person is required to pay in accordance with subsection (3).

Payment of duty
by importers

6. Where excise duty is imposed by this Act on the importation of goods into St. Kitts and Nevis, the importer shall pay the duty to the Comptroller before the goods are entered for the use within St. Kitts and Nevis.

Returns of duty
manufacturers.

7. (1) Every manufacturer shall, within twenty-one days after the end of each 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 manufacturer shall, within 21 days after the day on which he ceased being a manufacturer, whether or not he sold any goods during the month in which he ceased being a 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 (10 or (2) to file a return, fails to do so within the time prescribed by that subsection shall pay to the Comptroller a penalty equal to \$150.

(4) The Comptroller may at the time extend in writing the time for filing a return under this Act and, where the Comptroller does so, the return shall be filed within the time so extended and the penalty under subsection (3) is payable only if the return is not filed within time as so extended.

(5) The Comptroller may require a manufacturer to furnish the Comptroller with such information relating to a return as the Comptroller considers necessary.

PART III – RELIEF FROM EXCISE DUTY

Exemptions,
Second Schedule.

8. The goods specified in the Second Schedule are exempt from excise duty.

Relief
for goods
imported
for use
in
government
contracts,
etc.

9. (1) The Minister may grant permission for the importation of dutiable good without payment of excise duty on such goods, if the goods are imported for use by a person contracted by the Government of St. Kitts and Nevis for an industrial, economic or other project, provided that such goods shall be exported within three months of the conclusion of such contract or such other periods as the Minister may allow.

(2) If the goods imported in the terms of subsection (1) are not exported within three months of the conclusion of the contract or such other period as may be allowed by the Minister, the full excise duty shall become payable forthwith.

Relief for
temporary
importation

10. (1) The Comptroller may grant permission for the importation of dutiable goods without payment of excise duty thereon upon being satisfied that,

- (a) the goods are imported for temporary use or for temporary purpose only;
- (b) the goods will be exported within 3 months 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 duty payable on the imported goods, or at the discretion of

the Comptroller, give security for payment of the duty.

(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 that subsection shall be brought into account by the Comptroller as excise duty or, if security has been given under that paragraph, the importer shall pay to the Comptroller the full amount of excise duty payable on the goods imported.

(3) Notwithstanding subsection (1) and (2), the Comptroller may, where he considers it necessary, allow such further period as he thinks fit for export of the goods,

- (a) if he is satisfied that the goods are *bona fide* property, and for the exclusive use of a person temporarily in St. Kitts and Nevis; and
- (b) if the importer of the goods give such security in addition to that given pursuant to paragraph (c) of subsection (1) as the Comptroller requires.

(2) Where the goods referred to in subsection (1) and (2) are exported within the 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).

Relief for raw materials.

11. (1) Where the Comptroller is satisfied, upon a certificate by a manufacturer, that dutiable goods (other than spirits), whether imported into St. Kitts and Nevis or manufacturer as raw materials for the manufacturer or production in St. Kitts and Nevis of other dutiable goods, the comptroller may, in respect of the dutiable goods intended to be used as raw material, instead of requiring payments of the excise duty in full,

- (a) require that manufacturer deposit such security as the Comptroller thinks fit; or
- (b) remit the excise duty,

(2) Where dutiable goods (other than spirits) are intended to be used as raw materials for the manufacture or production in St. Kitts and

Nevis of other goods, the importer, manufacturer or producer, as the case may be, must certify to the Comptroller in the prescribed form that the goods are to be used for the manufacture or production in St. Kitts and Nevis of other dutiable goods.

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

Refunds.

12. (1) Where a person pays an amount of excise duty on goods imported by him or her or sold by him or her 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 therefore within 2 years after the amount was paid.

(2) An application in terms of subsection (1) shall

(a) be made in the prescribed form;

(b) contain the prescribed information and;

(c) be filed with the Comptroller in the prescribed manner.

(3) Notwithstanding subsection (1) above, where a refund or other payment is payable to a person under this section, the Comptroller may apply it against any outstanding duty, penalty or interest payable by the person under this Act.

(4) Where a person files an application for a refund under this section and the amount of the refund is not paid or applied as required by this section within the six months in which the application in which the application was 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 Comptroller shall pay the amount plus interest to the person or apply it against any outstanding duty, penalty or interest payable under this Act by the person.

(5) Where the Comptroller 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 section 12 and 13 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 pay the amount or excess, as the case requires to the Comptroller 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 Comptroller so paid for applied the amount and the day on which the person repays the amount of excess, as the case may be, to the Comptroller.

Relief under the
Customs (Customs
and Management.)
Act.

13. (1) Part V of the Custom Act applied, with such modifications as the circumstances require, for the purposes of this Act in respect of goods produced in St. Kitts and Nevis for export.

(2) Section 70 of the Customs (Control and Management) Act, No.4 of 1992, applies, with such modifications as the circumstances require, for the purpose of this Act in respect to the re-importation of dutiable goods.

Remissions

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

(2) Where any duty remitted under subsection (1) has already been paid, the duty must be refunded by the Comptroller.

(3) Notwithstanding subsection (2), where an amount is payable to a person under this section, the Comptroller may apply it against any outstanding duty, penalty or interest payable by the person under this Act.

PART IV – ADMINISTRATION

Administration
And enforcement.

15. (1) The Comptroller shall administer and enforce this Act and collect the duty imposed by this Act.

(2) Where duty is imposed by this Act on the importation of goods into St. Kitts and Nevis, for the purpose of collecting and enforcing the payment of the duty and, generally, for the purposes of administering and enforcing the provision of this Act, the Customs Act and any other enactment relating to the importation of goods apply as if the duty were a duty.

Repeal

16. The Excise Act, Chapter 131 is hereby repealed.

Regulations.

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

Crown bound.

18. This Act binds the Crown.

FIRST SCHEDULE

TARIFF HEADING NO.	DESCRIPTION OF GOODS	RATES OF DUTY
22.03	Beer made from malt	15%
	Stout	15%
	Other	15%
22.04	Wine of fresh grapes, including fortified wines; grapes must other than that under tariff heading No. 20.09	15%
2204.10	Sparkling wine	15%
2204.20	Other wine; grape must with fermentation prevented or arrested	15%
	By the addition of alcohol:	
2204.21	In containers holding 2 litres or less	15%
2204.29	Other:	15%
2204.291	Grape must with fermentation prevented or arrested by the addition of alcohol:	15%
	Other	15%
2204.299	Other	15%
2204.30	Other grape must	15%
22.05	Vermouth and other wine of fresh grapes flavoured with plants or aromatic substances	15%
2205.10	In containers holding 2 litres or less	15%
2205.90	Other	15%
22.06	Other fermented beverages (for example, cider, perry, mead); and mixtures or fermented beverages and non-alcoholic beverages, not elsewhere specified or included:	15%
2206.001	Shandy	15%

22.08	Under natured ethyl alcohol of an alcoholic strength by volume of less than 80% vol; spirits, liqueurs and other spirituous beverages	15%
2208.20	Spirits obtained by distilling grape wine or grape marc:	15%
2208.201	Brandy, in bottle of strength not exceeding 46% vol.	15%
2208.209	Other	15%
2208.30	Whiskies	15%
2208.301	In bottles of strength not exceeding 46% vol.	15%
2208.309	Other	15%
2208.40	Rum and Tafia	
2208.401	In bottles of strength not exceeding 46% vol.	15%
2208.409	Other	15%
2208.50	Gin and Geneva	15%
2208.501	In bottles of strength not exceeding 46% vol.	15%
2208.509	Other	15%
2208.60	Vodka	15%
2208.70	Liqueurs and cordials	15%
2208.90	Other	15%
24.01	Unmanufactured tobacco; tobacco refuse.	15%
2401.10	Tobacco, not stemmed/stripped	15%
2401.20	Tobacco, partly or wholly stemmed/stripped	15%
24.30	Tobacco refuse	15%
24.02	Cigars, cheroots, cigarillos and cigarettes, of tobacco or tobacco substitutes	15%
2401.10	Cigars, cheroots and cigarillos, containing tobacco	15%
2402.20	Cigarettes containing tobacco	15%
2402.90	Other	15%
24.03	Other manufactured tobacco and manufacturers tobacco substitutes; "homogenized or reconstituted" tobacco; tobacco extracts and essences	15%
2403.10	Smoking tobacco, whether or not containing tobacco substitutes in any proportion	15%
2403.10	Other	15%

2403.91	“Homogenized and reconstituted” tobacco	
2403.99	Other	15%
2403.991	Snuff	15%
2403.999	Other	15%

SECOND SCHEDULE

(Section 8)

The following goods are exempted from the excise duty

- (a) Goods of any kind that are exempted from excise duty under any other enactment.

MARCELLA LIBURD
Speaker

Passed by the National Assembly this day of, 2006.

JOSE' LLOYD
Clerk of the National Assembly