

ANTIGUA AND BARBUDA



**AUTOMATIC EXCHANGE OF FINANCIAL ACCOUNT INFORMATION  
(AMENDMENT) BILL 2017**

**No. 2017**



No. OF 2017,

*Automatic Exchange of Financial Account Information  
(Amendment) Bill 2017*

**ANTIGUA AND BARBUDA**

**AUTOMATIC EXCHANGE OF FINANCIAL ACCOUNT INFORMATION  
(AMENDMENT) BILL 2017**

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**ARRANGEMENT OF CLAUSES**

**CLAUSES**

1. Short title
2. Interpretation
3. Amendment of section 5 of the principal Act

**ANTIGUA AND BARBUDA**

**AUTOMATIC EXCHANGE OF FINANCIAL ACCOUNT INFORMATION  
(AMENDMENT) BILL 2017**

**No. of 2017**

**AN ACT** to provide for the amendment of the Automatic Exchange of Financial Account Information Act 2016, No. 11 of 2016, to clarify the supremacy of tax information exchange agreements to which Antigua and Barbuda is a party over domestic law and for connected and related purposes.

**ENACTED** by the Parliament of Antigua and Barbuda as follows:

**1. Short title**

This Act may be cited as the Automatic Exchange of Financial Account Information (Amendment) Act, 2017.

**2. Interpretation**

In this Act—

“principal Act” means the Automatic Exchange of Financial Account Information Act 2016;

**3. Amendment of section 5 of the principal Act**

The principal Act is amended by repealing section 5 in its entirety and replacing it as follows—

“5. Inconsistent laws

(1) Subject to subsection (3), if any inconsistency arises between the provisions of this Act, the Agreement or any other agreement for the mutual exchange of tax information to which Antigua and Barbuda is a party and any other law in Antigua and Barbuda, the provisions of this Act, the Agreement or the terms of any other agreement for the mutual exchange of tax information shall preside over any other law in Antigua and Barbuda to the extent of the inconsistency.

(2) If any inconsistency arises between this Act or the Agreement and any other agreement for the mutual exchange of tax information to which Antigua and Barbuda is a

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party, the provisions of the other agreement to which Antigua and Barbuda is a party shall  
prevail as it relates the obligation of the Contracting Parties to each other under that mutual  
exchange of tax information agreement.

(3) Subsection (1) does not apply to the Constitution of Antigua and Barbuda.”

Passed by the House of Representatives on  
the day of 2017.

Passed by the Senate on the  
day of 2017

*Speaker*

*President*

*Clerk to the House of Representatives*

*Clerk to the Senate*

## **EXPLANATORY MEMORANDUM**

The intent of this amendment is to unequivocally declare the supremacy of Antigua and Barbuda's tax information exchange agreements over domestic legislation, as well as, over the Automatic Exchange of Financial Account Information Act and the Agreement should any conflict arise in these instruments.

The amendment is an important step in Antigua and Barbuda fulfilling its obligations to be invited to sign the Multilateral Convention on Mutual Administrative Assistance in Tax Matters (MAC) under the OECD regime.

Clause 3 of the amendment deals with the substantive issue, that is, the repeal of the current section 5 dealing with inconsistent laws. In place of the general provision, the proposed amendment introduces a new section 5 with three subclauses –

Subclause (1) definitively states that except for the Constitution of Antigua and Barbuda, the provisions of the Automatic Exchange of Financial Account Information Act, the Agreement which comprises the schedule to the Act and any other agreement for mutual exchange of tax information to which Antigua and Barbuda is a party, shall preside over domestic law whenever a conflict arises between these tax exchange instruments and domestic law.

Subclause (2) definitively provides that if a conflict arises between the Automatic Exchange of Financial Account Information Act, the Agreement and any other mutual exchange of tax information Act, then, the particular mutual exchange of tax information agreement will preside over the terms of the Automatic Exchange of Financial Account Information Act and the Agreement as it relates to the obligations of the Contracting Parties to the specific tax information agreement.

Subclause (3), of course, clarifies the legal position, that no law (foreign or domestic) nor any agreement (regardless of the Parties thereto) can preside over the Constitution of Antigua and Barbuda.

**Hon. Gaston Browne**  
*Prime Minister*

*Minister of Finance and Corporate Governance*