

ANTIGUA AND BARBUDA



**LAW (MISCELLANEOUS AMENDMENTS) BILL, 2018**

**No.        of 2018**



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**LAW (MISCELLANEOUS AMENDMENTS) BILL 2018**  
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**ARRANGEMENT OF CLAUSES**

**CLAUSES**

1. Short title
2. Amendment of the International Banking Act, 2016
3. Amendment of the International Business Corporations Act, Cap. 222
4. Amendment of the Antigua and Barbuda Merchant Shipping Act 2006
5. Amendment of the Investment Authority Act 2006
6. Amendment of the Automatic Exchange of Financial Accounts Information Act 2016

**ANTIGUA AND BARBUDA**  
**LAW (MISCELLANEOUS AMENDMENTS) BILL 2018**  
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**AN ACT** to amend the provisions of certain Acts of Parliament to strengthen the effectiveness of laws relating to tax transparency and other incidental and related matters.

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

**1. Short title and commencement**

- (1) This Act may be cited as the Law (Miscellaneous Amendments) Act, 2018.
- (2) Except for the imposition of the Tonnage Tax, these amendments will come into effect on the 31<sup>st</sup> day of December, 2018; the Tonnage Tax will come into effect on the 1<sup>st</sup> day of January 2021.

**2. Amendment of the International Banking Act, 2016 No. 6 of 2016**

The International Banking Act 2016 is amended –

- (1) in section 117 by repealing subsection (3) thereof and replacing it as follows –

“(3) Without prejudice to the generality of subsection (2), no creditor, shareholder, depositor or any other person shall:

- (a) commence or continue any action, execution or other proceedings; or
- (b) seek to enforce in any way any judgment or order obtained against the licensed financial institution or licensed financial holding company or its successor or the transferee of the whole or any part of any property, assets or undertaking of the licensed financial institution for the recovery of any claim or in respect of any other liability,

Until the termination of official administration in relation to the licensed financial institution or without the prior leave of the court, unless the court directs otherwise.

- (2) by repealing Part XV – sections 167, 169, 170, 171 and 172 - in its entirety.

**3. Amendment of the International Business Corporations Act, Cap 222**

The International Business Corporations Act, Cap. 222 is amended as follows –

(1) in section 2 – Interpretation – by repealing the definition of “Commission” and replacing it with the following definition –

““Commission” means the Financial Services Regulatory Commission;”

(2) in section 4 subsection (1) at paragraph (e) by inserting immediately after the word “activities” the words “approved by the Commission.”

(3) by inserting immediately after section 4 a new section 4A to be worded as follows –

**“4A. International Business Corporations and domestic investments**

(1) Notwithstanding any other provision, a corporation may invest in, trade with or provide services to persons within the jurisdiction of Antigua and Barbuda if the corporation –

(a) apply to the Commission for a certificate to be registered to conduct business within Antigua and Barbuda;

(b) file with the Registrar of Intellectual Property copies of its incorporation documents, the certificate from the Commission and evidence that it is in good standing;

(c) file with the Registrar of Intellectual Property information on the beneficial ownership of the corporation;

(d) meet such other requirement as may be prescribed by the Companies Act 1995 and regulations made thereunder.

(2) A corporation that registers and conducts business with residents in Antigua and Barbuda shall be taxed at the applicable domestic rate under the Income Tax Act.”

(4) in section 5 by –

(a) repealing subsection (1) and replacing it as follows –

“(1) The following categories of persons are permitted to incorporate a corporation under the Act –

(a) any two citizens of Antigua and Barbuda, one of whom is entitled to practice as an Attorney-at-Law in Antigua and Barbuda;

(b) A corporation that was incorporated under this Act and holds a license as a registered Corporate Management and Trust Services Provider; or

(c) a body corporate authorized by a resolution of the House of Representatives.”

(b) by repealing subsection (1a) and subsection (3) thereof.

(5) in section 6 subsection (1) by repealing paragraph (f) thereof;

(6) in section 8 by repealing the section in its entirety and replacing it as follows –

“8. Documentation

In addition to the articles of incorporation, an incorporator must send to the commission the documents required by section 67(7), section 129(1), section 327 and the information specified in paragraphs (a) to (e) of section 6A(1).”

(7) in section 27 –

(a) at subsection (1), by repealing the words, “must be in registered or bearer form and” and replacing these with the words, “must be in the prescribed form only and” .

(b) by repealing subsections (3) and (4) thereof;

(8) in section 111 by repealing subsection (5) in its entirety;

(9) in section 130 by repealing paragraph (d) of subsection (2);

(10) in PART IV – Division G by repealing sections 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281.

(11) in section 319 by repealing the section in its entirety and replacing it as follows –

“319. Inspection of register

(1) A person who has paid the prescribed fee is entitled, during normal business hours, to examine the register of International Business Corporations, and to make copies of or extract from a document on the register, except where the document is a report that was sent to the Commission under section 344(2) of this Act.

(2) Subject to subsection (1), the Commission shall, upon request and payment of the prescribed fee, furnish any person with a copy or certified copy of the name, registration number, registered address, registered agent and corporate purpose of the corporation and such other document as requested.”

**4. Amendment of the Antigua and Barbuda Merchant Shipping Act 2006**

The Antigua and Barbuda Merchant Shipping Act 2006 is amended –

(1) by repealing section 11 subsection (5) in its entirety

(2) by inserting after section 17, a new section 17A to read as follows –

“17A. Tonnage Tax

- (1) There shall be assessed against all Antigua and Barbuda registered ship a tonnage tax based on the gross tonnage of the vessel.
- (2) The rate of the tax shall be in accordance with the Fifth Schedule.
- (3) The tonnage tax shall be paid into a Special Fund established by the Minister in accordance with the Finance Administration Act established for the development of Marine Services.

(3) by inserting a new schedule – the Fifth Schedule into the Act as follows-

“

**FIFTH SCHEDULE**

Tonnage Tax

*Section 17A (2)*

Vessel Tonnage (GT)	Initial Tonnage Tax (USD per GT)	Annual Tonnage Tax (USD per GT)
500 – 4999	0.50	0.45
5000 – 9999	0.40	0.35
10000 – 14999	0.25	0.20
15000 – 29999	0.15	0.12
30000 – 49999	0.10	0.07
50000 – 99999	0.09	0.05
100000 +	0.08	0.04

Vessels less than 500 GT

Vessel Tonnage (GT)	Initial Tonnage Tax (USD per meter)	Annual Tonnage Tax (USD per meter)
0 – 500	5.00	4.00

**5. Amendment of the Investment Authority Act 2006, No. 15 of 2006**

The Investment Authority Act 2006 is amended in Schedule I (Incentives and Concessions) by inserting after category 6 a new category of incentives and concessions to read as follows -

“7. For a new or established business which has an investment capital of over [\$300,000,000] United States Dollars to invest in

- (a) the provision of healthcare
- (b) tourism
- (c) infrastructure development
- (d) renewable energy
- (e) education
- (f) or any similar project being for the economic development of Antigua and Barbuda

the Authority may, with the approval of Cabinet, grant whatever incentives and concessions it deems fit to the level of the investment including incentives and concessions not granted under any previous category.”

#### **6. Amendment of the Automatic Exchange of Financial Account Information Act 2016**

The Automatic Exchange of Financial Account Information Act 2016 is amended in section 2 by inserting the following term and its meaning in the appropriate alphabetical position –

“ “Reportable person” means an individual or entity to include all non-citizens and persons with dual citizenship that have been identified by a another jurisdiction’s reporting financial institutions as resident in Antigua and Barbuda pursuant to due diligence procedures consistent with the Common Reporting Standard, or an estate of a decedent that was a resident in Antigua and Barbuda.”

Passed the House of Representatives on the  
2018.

Passed the Senate on the \_\_\_\_\_, 2018.

*Speaker.*

*President.*

*Clerk to the House of Representatives.*

*Clerk to the Senate.*



## EXPLANATORY MEMORANDUM

The purpose of these miscellaneous amendments is to improve transparency in tax matters and to close any existing gaps that might possibly lead to tax evasion or tax avoidance. More particularly, Antigua and Barbuda is endeavouring to reach international standards and to be recognised as such among our international partners. Several Tax Exchange Information Agreements have been signed by Antigua and Barbuda with other countries; additionally, Antigua and Barbuda signed the MAC which was recently ratified.

The laws to be amended are those which are within the mandate of the Financial Services Regulatory Commission (FSRC) (both the international and domestic financial services sector), The Antigua and Barbuda Department of Marine Services and Merchant Shipping (ADOMS), and the Commissioner of Inland Revenue (IRD) as Competent Authority in respect of tax matters. The respective laws to be amended are as follows:

1. The International Banking Act 2006;
2. The International Business Corporations Act, Cap. 222;
3. The Antigua and Barbuda Merchant Shipping Act 2006;
4. The Investment Authority Act 2006;
5. The Automatic Exchange of Financial Account Information Act 2016

The laws have been amended in strategic areas to address any issue of unfair tax practice and possible ring-fencing. Other minor amendments involving some of the Acts were also completed.

**Clause 2 – Amendment of the International Banking Act 2016:** Sub-clause (1) corrects a clerical error in the legislation; while sub-clause (2) repeals most of Part XV with exception of section 168 of the Act which was under the heading “Special Taxation Provisions”. The repeal of this Part brings an end to preferential tax treatment for corporations registered to do business under the International Banking Act 2016.

### **Clause 3 – Amendment of the International Business Corporations Act, Cap. 222**

This amendment sets out the procedure for an IBC registered company to engage in trade and the provision of services within the jurisdiction of Antigua and Barbuda. Similarly, by this amendment, citizens of Antigua and Barbuda are able to establish IBC if they meet the criteria.

**Clause 4 – Amendment to the Antigua and Barbuda Merchant Shipping Act.** This amendment notably repeals section 11(5) which provided for the waiver of several taxes for a period of 50 years. The amendment also introduces a tonnage tax which will be paid into a special fund for the benefit of ADOMS.

### **Clause 5 – Amendment of the Antigua and Barbuda Investment Authority**

The intention of this amendment is to re-establish eminence of the Antigua and Barbuda Investment Authority as the entity through which all concessions and incentives for investment are offered.

**Clause 6 – Amendment of the Automatic Exchange of Account Tax Information**

This amendment inserts into the principal legislation a definition of “reportable person”, the identity of whom is essential for tax exchange information purposes.

*Honourable Gaston B. Browne  
Prime Minister  
Minister of Finance and Corporate Governance*