

ANTIGUA AND BARBUDA



TELECOMMUNICATIONS TAX BILL, 2017

NO. OF 2017

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AN ACT to raise a tax on incoming telecommunication originating outside Antigua and Barbuda and to provide for matters ancillary thereto.

ENACTED by the Parliament of Antigua and Barbuda as follows-

1. Short Title

This Act may be cited as the Telecommunications Tax Act, 2017 and comes into force on such date as the Minister may, by Notice published in the *Gazette*, appoint.

2. Interpretation

In this Act,

“Commissioner” means the Commissioner of Inland Revenue.

“licence holder” includes a person who has been granted a licence by the Minister to provide telecommunication service to the public **or** to a class of persons.

“telecommunication” means a message transmitted by means of electronic waves or otherwise in the form of words, writing, images, symbols or other indicatives.

3. Imposition of tax on telecommunication originating outside Antigua and Barbuda

(1) There shall be paid by the licence holder a tax of five cent per minute for every telecommunication originating outside Antigua and Barbuda and received by the licence holder for transmission to customers of the licence holder.

(2) The tax imposed by this section shall be levied on the sender of the overseas telecommunication and collected by the licence holder on behalf of the Commissioner.

4. Duty of Licence holder to collect tax

(1) The licence holder shall, as agent of the Commissioner, collect the tax imposed under section 3 of this Act at the same time as the charge of the telecommunication service provided by the licence holder is invoiced to the customer and the rent payable by the user.

(2) The licence holder shall provide to the Commissioner at the time of payment of the tax or at the time prescribed by regulation, such information or documents as the Commissioner may require in the manner prescribed.

(3) In calculating the taxes payable under this Act, a fraction of a minute, if equal to or greater than thirty seconds, shall be counted as one minute.

5. Offences

(1) A licence holder who-

- (a) fails to furnish to the Commissioner the information or documents referred to in subsection (2) of section 4 in the manner and at the time prescribed under this Act or the regulations; or
- (b) knowingly, in such report, information, or document, makes a false statement or representation,

commits an offence and is liable on conviction to a fine of five thousand (EC\$5,000.00) dollars and to a further fine of (EC\$250.00) per day, commencing on the date of conviction, for each day that the offence continues.

(2) Any person who-

- (a) being an agent of the Commissioner, refuses or neglects to collect, account for, report or remit the tax in whole in accordance with this Act or the regulations, commits an offence and is liable on conviction thereof to a fine \$10,000.00

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

Passed by the Senate on the
day of 2017.

Speaker

Principal

Clerk to the House of Representative

Clerk to the Senate

EXPLANATORY MEMORANDUM

This Bill seeks to impose a tax on telecommunication originating outside Antigua and Barbuda. In this regard, it is proposed to confer on the licence holder, as agent of the Commissioner, the responsibility of collecting the tax.

The current legislation on telecommunication limits the definition of telecommunication to voice messages transmitted through radio waves. However, the technology in telecommunication is so far advanced that transmission of messages is not only limited to radio waves in the form of telephone, phototelegram, telex, telegram or cable, but includes the transmission of messages by means of electronic waves or otherwise in the form of words, writing, images, symbols or other indicatives. The technology in telecommunication is so advanced that a need for a revision of the definition of telecommunication is necessary.

Clause 3 of the Bill seeks to impose a tax of five cents per minute on every telecommunication originating outside Antigua and Barbuda. The tax proposed is to be levied on the sender of the message and collected by the licence holder on behalf of the commissioner.

For the purpose of collecting the tax, imposed by this Act, the licence holder is declared to be an agent of the Commissioner of Inland Revenue. This clause also proposes to prescribe the contents of the information or other documents, which the licence holder would be required to provide to the Commissioner of Inland Revenue when making the payment. Clause 5 would also prescribe the manner of calculating the tax and proposes that in calculating the tax, a fraction of a minute, if equal to or greater than one half of a minute, shall be counted as one minute.

Clause 5 of the Bill creates an offence, the violation of which is punishable, on conviction, by a fixed rate of fine and, if the offence continues after conviction the offender becomes liable to a mandatory daily maximum fine.

Hon. Melford Nicholas
Minister responsible
for Telecommunications