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EXCISE STAMP (TOBACCO PRODUCTS) CONTROL ACT, 2013

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No. 8 of 2013

EXCISE STAMP (TOBACCO PRODUCTS) CONTROL ACT, 2013

AN ACT TO PROVIDE FOR THE IMPOSITION OF EXCISE STAMPS TO REGULATE AND CONTROL THE IMPORTATION AND MANUFACTURE OF TOBACCO PRODUCTS; THE REGISTRATION OF IMPORTERS AND MANUFACTURERS OF TOBACCO PRODUCTS; THE DESIGNATION OF EXCISE OFFICERS AND FOR CONNECTED MATTERS

[Date of Assent - 12th April, 2013]

Enacted by the Parliament of The Bahamas

PART I – PRELIMINARY

1. Short title and commencement.

- (1) This Act may be cited as the Excise Stamp (Tobacco Products) Control Act, 2013.
- (2) This Act shall come into force on a date to be appointed by the Minister by notice published in the *Gazette*.

2. Interpretation.

In this Act, unless the context otherwise requires —

“cigarillo” means a slender cigar of the same approximate size as a cigarette wrapped in whole-leaf tobacco rather than paper;

“Customs authority” has the meaning given in section 2 of the Customs Management Act;

“Customs Management Act” means the Customs Management Act (*Ch. 293*);

"Customs territory" means the entire territory of the Commonwealth of The Bahamas, including its territorial waters, airspace and its Exclusive Economic Zone;

"Excise Act" means the Excise Act (*Ch. 293A*);

"Excise officer" means a person, designated by the Minister pursuant to section 29, responsible for the enforcement of this Act;

"excise registrant" for the purposes of this Act means —

- (a) a person authorised to import or manufacture tobacco products in accordance with an excise registration certificate issued pursuant to section 7; and
- (b) the Customs authority acting by its designated Customs or Excise officers;

"excise stamp" or **"stamp"** means a stamp appointed by the Minister pursuant to section 14 which —

- (a) is required in accordance with Part III to be affixed to a manufactured tobacco product;
- (b) indicates that excise tax has been paid, or is to be treated as having been paid, when such stamp is affixed to —
 - (i) a domestically manufactured tobacco product; or
 - (ii) an imported tobacco product that has been entered for home consumption;

"excise tax" means a tax levied under the Excise Act, the Tariff Act or the Customs Management Act;

"Government" means the Government of the Commonwealth of The Bahamas;

"manufactured tobacco" or **"manufactured tobacco product"** means an article for smoking, whether imported or manufactured —

- (a) made from raw-leaf tobacco by any process whatever; and
- (b) including cigars, cigarettes, tobacco sticks, pipe tobacco, chewing tobacco and snuff;

"Minister" means the Minister responsible for Finance;

"overseas manufacturer" means a foreign manufacturer or supplier of tobacco products operating outside the Customs territory with whom an excise registrant contracts for the supply of tobacco products to be imported by the registrant into the Customs territory;

"person" means —

- (a) an individual, partnership, corporation, trust, estate; or
- (b) a body that is a society, union, club, association, commission or other organisation of any kind whatever;

"raw leaf tobacco" means non-manufactured tobacco or the leaves and stems of the tobacco plant;

"re-work" means to reprocess or treat tobacco products in preparation for further use;

"small importer" means an importer not required to register as an excise registrant under section 3 who imports tobacco products for home consumption in a quantity not exceeding —

- (a) five cartons of cigarettes;
- (b) one thousand cigarettes;
- (c) two hundred and fifty cigars; or
- (d) five pounds in weight;

"Secretary" means a person holding the public office of Secretary of Revenue and includes a person authorized in writing by the Secretary to perform any of the functions conferred on the Secretary by this Act;

"stamped" means the affixing of an excise stamp to a tobacco product or its container in the prescribed manner;

"Tariff Act" means the Tariff Act (*Ch. 295*);

"tobacco manufactory" means a place or premises in The Bahamas —

- (a) where raw leaf tobacco or partially manufactured tobacco is worked up into manufactured tobacco;
- (b) including every workshop, office, store-room, warehouse, shed, yard or other place, whether or not attached or appurtenant to a tobacco manufactory, where —
 - (i) raw leaf tobacco or partially manufactured tobacco material is or is to be stored;
 - (ii) a process connected with the manufacture or preparation of manufactured tobacco is or is intended to be carried on;
 - (iii) any of the products of the manufacture of tobacco are or are intended to be stored;

"tobacco manufacturing equipment" means the machinery, tools, fixtures and equipment used in a any process connected with the manufacture, preparation, packaging and production of tobacco products;

"tobacco product(s)" means manufactured tobacco or manufactured tobacco product or raw leaf tobacco; and

"waste tobacco" means the residue produced during the process of manufacturing tobacco products.

PART II – EXCISE REGISTRATION

3. Requirement for registration.

- (1) Subject to this Act, no person other than an excise registrant in possession of a valid excise registration certificate issued in accordance with this Act shall import into or manufacture tobacco products within the Customs territory unless —
 - (a) such products are imported for personal use in quantities not in excess of the limits for duty-free entry prescribed by the regulations;
 - (b) such products are manufactured by an individual in quantities within the limits prescribed by the regulations for personal use;
 - (c) being a visitor to The Bahamas, such person has made an oral declaration to an Excise officer of accompanying tobacco products and, where such products are in excess of the duty free allowance, completed an 'Accompanied Baggage Declaration' in the form prescribed by the regulations;
 - (d) being a returning resident to The Bahamas, such person has made a written declaration and completed an 'Accompanied Baggage Declaration' in the form prescribed by the regulations;
 - (e) the imports fall within the privileges and immunities accorded to a diplomatic agent, embassy or consulate under the Diplomatic Privileges and Immunities Act (*Ch. 19*);
 - (f) such person is a small importer and the imported products are within the limits prescribed in the definition of "small importer" set out in section 2.
- (2) A separate excise registration certificate shall be required in respect of each premises in or from which a person imports or manufactures tobacco products.

4. Application for registration.

- (1) Application for registration or renewal of registration as an excise registrant shall be submitted in the prescribed form to the Secretary together with the fees as prescribed by the regulations.
- (2) Application for renewal of registration shall be submitted to the Secretary not less than thirty working days before the date of expiry of an excise registration certificate.

- (3) A person shall not knowingly provide, by electronic means or otherwise, inaccurate information in or pursuant to an application for registration under this Act.

5. Eligibility for registration.

An applicant shall be eligible for registration under section 4 where —

- (a) no bankruptcy or receivership order has been made, or is pending, in respect of the applicant;
- (b) in the five years immediately preceding the date of the application, the applicant has not been convicted of a criminal offence or acted to defraud the Government;
- (c) in the case of an individual, the applicant is at least eighteen years of age and has provided a bond in accordance with section 6;
- (d) in the case of a partnership or unincorporated body composed only of individuals, each individual is at least eighteen years of age and the applicant has provided a bond in accordance with section 6;
- (e) in the case of a partnership or unincorporated body composed only of corporations, each corporation has provided a bond in accordance with section 6 and holds a valid certificate of good standing;
- (f) in the case of a partnership or unincorporated body composed of both individuals and corporations, each individual is at least eighteen years of age and the applicant and each of the corporations has provided a bond in accordance with section 6;
- (g) in the case of a corporation, the applicant has provided a bond in accordance with section 6 and holds a valid certificate of good standing;
- (h) the applicant has paid all outstanding fees and is in possession of a valid business licence issued pursuant to the Business Licence Act (*No. 25 of 2010*);
- (i) the applicant has paid all relevant and outstanding fees and excise taxes payable under this Act, the Customs Management Act, the Tariff Act and the Excise Act;
- (j) the applicant has paid all outstanding contributions to the National Insurance Board; and
- (k) in the case of an applicant who carries on business in the Port Area, the applicant is in possession of a valid licence issued by the Grand Bahama Port Authority.

6. Requirement of a bond.

- (1) An applicant for registration, or renewal of registration, under section 4 shall provide the Secretary with a bond in an amount being the greater of —
 - (a) the value of the excise tax payable based on the applicant's forecast for the next quarter of estimated imports and domestic manufacture of tobacco products; or
 - (b) such minimum sum as may be prescribed by the regulations.
- (2) A bond under subsection (1) shall be either —
 - (a) a transferable bond payable on demand issued by a reputable issuer in The Bahamas; or
 - (b) a bond issued by the Government.
- (3) An excise registrant may, where there is a change in his estimated quarterly imports or manufacture of tobacco products, apply in writing to the Secretary to increase or decrease the value of his bond.

7. Grant and renewal of registration certificate.

- (1) The Minister shall, where an applicant for registration under section 4 satisfies the eligibility requirements under section 5, grant the application and issue an excise registration certificate in the prescribed form.
- (2) The Minister may grant an application under subsection (1) subject to such conditions or restrictions as the Minister may determine.
- (3) An excise registration certificate shall —
 - (a) be issued in the name of the applicant;
 - (b) be issued or renewed for a period not exceeding twenty-four calendar months from the date of the issue or renewal;
 - (c) be valid for the period specified in the certificate;
 - (d) permit the excise registrant to import or manufacture tobacco products in or from the premises specified in the certificate;
 - (e) specify in the certificate any conditions or restrictions to which the certificate is subject; and
 - (f) be non-transferable.

8. Amendment of registration certificate.

- (1) An excise registrant shall notify the Secretary in writing within fifteen working days of any changes —
 - (a) in the information provided in or pursuant to his application for registration;

- (b) to the registrant's fiscal year.
- (2) The Minister may, upon receipt of a notification under subsection (1), amend, suspend or cancel the excise registration certificate.

9. Suspension of registration certificate.

- (1) The Minister may at any time suspend an excise registration certificate where the excise registrant —
 - (a) no longer satisfies any one or more of the eligibility requirements of section 5;
 - (b) fails to comply with a condition or restriction to which the certificate was subject; or
 - (c) contravenes or fails to comply with a provision of this Act or the regulations.
- (2) The Minister shall, immediately after suspending a certificate, notify the excise registrant in writing of the suspension and the grounds for the suspension.
- (3) An excise registrant may, within thirty working days after the date on which the certificate is suspended, make representations to the Minister with respect to the reasons why the suspension should be lifted and the certificate reinstated.
- (4) The Minister may lift a suspension and reinstate an excise registration certificate where the Minister determines that the grounds for the suspension no longer exist.

10. Cancellation of registration certificate.

- (1) The Minister may at any time cancel an excise registration certificate where the excise registrant —
 - (a) makes a written request to the Minister to cancel the certificate;
 - (b) contravenes a provision of, or commits an offence under, this Act or the regulations;
 - (c) no longer satisfies an eligibility requirement under section 5; or
 - (d) ceases to carry on the business in or from the premises in respect of which the certificate was granted.
- (2) The Minister shall, before cancelling a certificate pursuant to paragraphs (b), (c) or (d) of subsection (1), give the excise registrant sixty working days notice in writing of the proposed cancellation and the grounds for such cancellation.
- (3) An excise registrant may, within sixty working days after the date on which the notice referred to in subsection (2) is given, make

representations to the Minister and the Minister shall give a response within thirty working days.

11. Maintenance of register, certification and replacement copies of certificate.

- (1) The Secretary shall maintain an up-to-date register of excise registrants containing the —
 - (a) name and address of each excise registrant; and
 - (b) the address and description of the premises of the excise registrant in respect of which an excise registration certificate has been issued.
- (2) The register of excise registrants shall be open to the public at all reasonable hours.
- (3) A person may, upon payment of the prescribed fee, require an extract or copy of an entry from the register of excise registrants to be certified by or on behalf of the Minister.
- (4) The Minister may, where satisfied a certificate has been lost, mutilated or destroyed, issue a replacement copy of an excise registration certificate upon payment of such fees as may be prescribed.
- (5) An extract or copy of an entry from the register of excise registrants, certified by or on behalf of the Minister, shall in all legal proceedings be received in evidence as proof of the registration of an excise registrant and issue of an excise registration certificate to him.

PART V – EXCISE STAMPS

12. Excise stamps.

- (1) An excise registrant in possession of a valid excise registration certificate may apply to the Secretary in the prescribed form for the purchase and issuance of excise stamps for affixing to imported or domestically manufactured tobacco products.
- (2) A registrant who domestically manufactures tobacco products shall not be eligible to apply for excise stamps under subsection (1) unless and until he has paid the applicable excise taxes on such products.
- (3) A registrant who imports tobacco products may in an application under subsection (1), upon payment of all prescribed fees and costs, request that the excise stamps issued pursuant to the application for affixing to imported tobacco products be delivered to an overseas manufacturer.

- (4) The Minister shall upon application by an excise registrant, and payment of all taxes, fees and costs as prescribed, issue or deliver excise stamps to the applicant or overseas manufacturer, as the case may be, for affixing to the relevant tobacco products.
- (5) An excise stamp —
 - (a) when affixed to a domestically manufactured or imported tobacco product, shall be taken as evidence that the applicable excise taxes have been paid on the tobacco product; and
 - (b) when affixed by an overseas manufacturer to a tobacco product imported into the Customs territory and not yet entered for home consumption, shall be taken as evidence by a Customs or Excise officer that the applicable excise taxes are to be paid by the importer before such products are entered for home consumption.
- (6) The Minister —
 - (a) shall be the sole issuer of excise stamps under this Act;
 - (b) shall not issue excise stamps to any person other than an excise registrant or a small importer; and
 - (c) shall issue excise stamps to a registrant in respect of domestically manufactured tobacco products only where the registrant has presented evidence of payment of all applicable excise taxes on such products;
 - (d) shall deliver stamps to an overseas manufacturer only where the excise registrant has identified the manufacturer and the specific imports and has paid all fees and costs, including costs of delivery, as prescribed.

13. Cost of excise stamp and calculation of excise tax.

- (1) The cost of an excise stamp shall be as prescribed by the Minister by regulations published in the Gazette and the Minister may vary such cost from time to time.
- (2) The chargeable value for the calculation of the amount of applicable excise taxes payable by an excise registrant or a small importer in respect of a tobacco product shall be in accordance with —
 - (a) section 4 of the Excise Act;
 - (b) the Fourth Schedule to the Tariff Act; and
 - (c) the Third Schedule to the Customs Management Act.
- (3) An excise registrant of domestically manufactured tobacco products shall apply for excise stamps and affix them in the presence of an Excise officer to all tobacco products —

- (a) manufactured by such registrant; and
 - (b) in respect of which excise taxes calculated and payable in accordance with subsection (2) have been paid.
- (4) The Secretary shall pay all proceeds from the sale of excise stamps under this Act into the Consolidated Fund.

14. Appointment and production of excise stamps.

- (1) Subject to this Act, the Minister shall —
- (a) approve the design and construction of an excise stamp with visible and hidden identifiers and security features to deter and detect counterfeit stamps and contraband tobacco products; and
 - (b) enter into a written agreement with a specialised printer for the production of the approved excise stamp.
- (2) The Minister shall by notice published in the Gazette appoint the approved excise stamp to be used for the purposes of this Act.
- (3) No person shall produce, or purport to produce, excise stamps for the purposes of this Act except —
- (a) under the direction and control of, and pursuant to a written agreement with, the Minister pursuant to subsection (1); and
 - (b) in accordance with the provisions of this Act and the regulations.
- (4) No person shall —
- (a) produce,
 - (b) possess,
 - (c) sell or otherwise supply,
 - (d) offer to sell or supply,
- anything that is intended to resemble or pass for an excise stamp appointed under this Act.

15. Prohibition of excise stamps not affixed to tobacco products.

- (1) Subject to subsection (2), no person shall have in his possession an excise stamp that is not affixed to a tobacco product or its container as prescribed.
- (2) Subsection (1) does not apply in the case of possession of an excise stamp by —
- (a) an excise registrant in the process of affixing an excise stamp to a domestically manufactured tobacco product;
 - (b) a person who lawfully produced the excise stamp pursuant to a written agreement with the Minister under section 14;

- (c) an overseas manufacturer to whom stamps have been delivered upon the request of the registrant and authorisation of the Minister; or
 - (d) such other persons as may be prescribed.
- (3) For the purposes of subsection (2), the process of affixing a stamp to a tobacco product continues for the duration of the period that an Excise officer allows for the affixing of the stamp.

16. Record keeping and accounting.

- (1) An excise registrant shall —
 - (a) maintain for a period of ten years records and accounts as prescribed of all excise stamps —
 - (i) issued to him;
 - (ii) issued to him and delivered on his behalf to an overseas manufacturer;
 - (b) where he domestically manufactures tobacco products, affix as prescribed to such products all excise stamps issued for that purpose —
 - (i) within the time period allowed by an Excise officer for the process of affixing such stamps; and
 - (ii) in the presence of an Excise officer.
- (2) An excise registrant shall at all times, upon the reasonable request of an Excise officer, account for excise stamps issued to him by demonstrating that the whole or a portion of such stamps —
 - (a) were affixed to tobacco products or their containers as prescribed —
 - (i) in the presence of an Excise officer;
 - (ii) by an overseas manufacturer;and, upon leaving the tobacco manufactory or being entered for home consumption, all applicable excise taxes have in fact been paid on the products;
 - (b) were cancelled and returned by the registrant as directed by the Minister;
 - (c) remain in his possession and are in the process of being affixed to the relevant tobacco products; or
 - (d) were damaged, lost or destroyed.
- (3) The Minister may by order impose a penalty upon an excise registrant who contravenes or fails to comply with any provision of subsections (1) and (2).

- (4) The penalty imposed by the Minister on an excise registrant in respect of an excise stamp for which he is under subsection (2) unable to account shall be equal to triple the value of the excise tax paid or payable by the registrant on the tobacco products in respect of which the stamp was issued.
- (5) The penalty imposed by the Minister on an excise registrant who contravenes paragraphs (a) or (b) of subsection (1) shall be as prescribed by the regulations.
- (6) The Minister, in making an order under subsection (3), shall —
 - (a) put the order in writing;
 - (b) specify the contravention in respect of which the penalty is imposed;
 - (c) specify the nature and amount of the penalty; and
 - (d) give a copy of the order to the excise registrant.
- (7) An order made under this section may be enforced by the Minister in the same manner as an order of the court.

17. Disposal of excise stamps.

An excise registrant shall not dispose of an excise stamp except in accordance with this Act and the regulations.

18. Cancellation of excise stamps.

The Minister may, at any time where the Minister determines there is cause to do so —

- (a) cancel an excise stamp or stamps that have been issued to an excise registrant; and
- (b) direct the excise registrant to return such excise stamp or stamps in such manner as the Minister may specify in his direction.

19. Absence of stamp constitutes notice.

Subject to this Act, the absence of an excise stamp on a tobacco product found anywhere within the Customs territory shall constitute notice to all persons that excise tax has not been paid on such product.

PART III – STAMPING OF TOBACCO PRODUCTS

20. Requirement of stamping.

- (1) Subject to subsection (2) and regulations made under this Act, all manufactured tobacco products —
 - (a) where domestically produced by an excise registrant in a tobacco manufactory, shall be packaged and stamped in the presence of an Excise officer with excise stamps as prescribed before leaving the premises of the manufactory;
 - (b) imported by an excise registrant into The Bahamas from outside the Customs territory shall —
 - (i) be packaged and stamped by the overseas manufacturer as prescribed before entering the Customs territory;
 - (ii) if imported unstamped, be stamped prior to being released from Customs control;
 - (iii) not be entered for home consumption pursuant to the Customs Management Act unless and until the importer has paid all applicable excise taxes in respect of such products;
 - (c) imported from outside the Customs territory by a visitor or returning resident to The Bahamas shall —
 - (i) constitute and be orally declared by such visitor as accompanied baggage or unaccompanied baggage and, if in excess of the duty free allowance, be declared on the prescribed 'Accompanied Baggage Declaration' form or 'Unaccompanied Baggage Declaration' form;
 - (ii) constitute and be declared in writing by such returning resident on the prescribed 'Accompanied Baggage Declaration' form or 'Unaccompanied Baggage Declaration' form;
 - (iii) be exigible to excise tax and require the affixing of excise stamps as prescribed;
 - (iv) upon payment of the excise tax assessed, be appropriately stamped in the presence of an Excise officer and thereafter released to such visitor or returning resident;
 - (d) imported by a small importer into The Bahamas from outside the Customs territory shall be stamped and not entered for home consumption or released from Customs control until the importer has paid all applicable excise taxes in respect of such products.

- (2) Manufactured tobacco products imported from outside the Customs territory —
 - (a) where exempt from excise tax in accordance with the Diplomatic Privileges and Immunities Act (*Ch. 19*), shall not require to be stamped with excise stamps;
 - (b) when in transshipment through the Customs territory to a destination outside the Customs territory —
 - (i) shall not require to be stamped with excise stamps;
 - (ii) shall be allowed to remain in transshipment within the Customs territory for a maximum period of twenty-one days; and
 - (iii) subject to payment of a bond as prescribed by the regulations, shall be cleared by Customs and released for continued shipment outside the Customs territory in accordance with paragraphs (a) and (b) of subsection (1) of section 132 of the Customs Management Act.
- (3) No person shall —
 - (a) package a domestically manufactured tobacco product unless such person is an excise registrant;
 - (b) affix an excise stamp to a domestically manufactured tobacco product except in the presence of an Excise officer; or
 - (c) affix an excise stamp to an imported manufactured tobacco product unless such person is an overseas manufacturer or is in the presence of an Excise officer.
- (4) Paragraph (b) of subsection (1) does not apply to —
 - (a) partially manufactured tobacco that is imported by an excise registrant for further manufacturing by the excise registrant;
 - (b) tobacco products imported by an individual for his personal use in quantities not in excess of limits for duty-free entry prescribed in —
 - (i) Part B of the Fourth Schedule to the Tariff Act;
 - (ii) Part B of the Second Schedule to the Excise Act; or
 - (c) raw leaf tobacco that is imported by an excise registrant.

21. Stamping of tobacco products in specified premises.

- (1) An excise registrant of domestically manufactured tobacco products shall affix excise stamps to the tobacco products for which the stamps were issued —
 - (a) in or from the premises of the tobacco manufactory specified in his excise registration certificate;

- (b) before such products leave the premises of the tobacco manufactory; and
 - (c) in the presence of an Excise officer.
- (2) An excise registrant importing tobacco products into The Bahamas from outside the Customs territory shall ensure that the overseas manufacturer supplying the products has, prior to such products leaving his premises, affixed as prescribed the requisite excise stamps to such products.
- (3) An excise registrant who imports unstamped tobacco products from an overseas manufacturer shall ensure that the requisite excise stamps are affixed to such products in the presence of an Excise officer.
- (4) An excise registrant shall post a copy of his excise registration certificate —
 - (a) in the premises specified in the excise registration certificate; and
 - (b) in a location in the premises such that the certificate is clearly visible to and accessible by the general public.
- (5) An excise registrant shall give an Excise officer upon request access, at all reasonable times, to the original copy of his excise registration certificate to enable the electronic scanning and validation of such certificate.

22. Excise registrant only may deal in tobacco products.

- (1) No person shall purchase or receive manufactured tobacco products —
 - (a) from an importer or manufacturer whom such person knows, or ought to know, is not an excise registrant or a small importer;
 - (b) that are required under this Act to be packaged and stamped unless such products are so packaged and stamped; or
 - (c) that such person knows, or ought to know, are fraudulently stamped.
- (2) No person shall remove raw leaf tobacco from the premises of an excise registrant.
- (3) Subsection (2) does not apply to an excise registrant who removes from his premises tobacco products for —
 - (a) return to a tobacco grower;
 - (b) delivery to another excise registrant; or
 - (c) export.

23. Possession of unstamped tobacco products prohibited.

- (1) No person shall, unless such products are stamped in accordance with this Part, have manufactured tobacco products intended for sale in his possession.
- (2) This section does not apply to the possession of manufactured tobacco products by —
 - (a) an excise registrant at the place of manufacture of the products and before their removal, sale or other disposition;
 - (b) a person who has imported or manufactured such products for his personal use in a quantity not in excess of the quantity permitted duty-free entry under —
 - (i) Part B of the Fourth Schedule to the Tariff Act;
 - (ii) Part B of the Second Schedule to the Excise Act; or
 - (c) a diplomatic agent, embassy or consulate under the Diplomatic Privileges and Immunities Act (*Ch. 19*).

24. Tobacco sales must be from original package.

- (1) Subject to subsections (2) and (3), manufactured tobacco products shall be sold or offered for sale only in their original packages.
- (2) Manufactured tobacco products, such as cigars and cigarillos, shall be individually sleeved in their own packaging such that each item is accessible to stamping in the prescribed manner.
- (3) A tobacco product, once sleeved and stamped in accordance with the provisions of this section, may be sold or offered for sale as an individual item from an original package.
- (4) No person shall distribute free of charge for advertising purposes, without the approval in writing of the Minister, a manufactured tobacco product otherwise than in or from its original package.
- (5) A person who contravenes or fails to comply with any provision of this section commits an offence.

PART IV – MANUFACTURE OF TOBACCO PRODUCTS

25. Producers to be excise registrants.

Subject to this Act, no person shall, unless such person is an excise registrant, produce manufactured tobacco products.

26. Removal of waste tobacco.

- (1) No person, other than an excise registrant, shall remove raw leaf tobacco or waste tobacco from the premises of an excise registrant.
- (2) An excise registrant shall deal with raw leaf tobacco or waste tobacco removed from his premises, or from the premises of another excise registrant, in the manner prescribed by this Act and the regulations.

27. Reworking or destruction of tobacco products.

- (1) An excise registrant shall re-work or destroy a tobacco product only in the manner prescribed by this Act and the regulations.
- (2) The Minister may authorize an excise registrant to reimport, for reworking or destruction by the excise registrant, a tobacco product that was originally manufactured in The Bahamas by the excise registrant.

28. Tobacco manufacturing equipment.

- (1) No person shall possess tobacco manufacturing equipment for the purpose of manufacturing a tobacco product unless such person is —
 - (a) an excise registrant; or
 - (b) manufacturing tobacco products for personal use as permitted by this Act.
- (2) No person shall import tobacco manufacturing equipment unless such person —
 - (a) is an excise registrant;
 - (b) provides evidence satisfactory to the Minister that the equipment is imported —
 - (i) on behalf of an excise registrant;
 - (ii) by or on behalf of a person who carries on a business of supplying such equipment,
 - (iii) for in-transit movement through The Bahamas; or
 - (c) not being an excise agent, imports such equipment in such circumstances and under such terms and conditions as may be prescribed by this Act and the regulations.

PART V – ENFORCEMENT AND INSPECTION

29. Designation of Excise officers.

- (1) The Minister shall allocate responsibility for enforcement of this Act and the inspection of the premises of excise registrants to designated —
 - (a) officers of the Customs authority;
 - (b) peace officers;
 - (c) members of The Bahamas Defence Force;
 - (d) officers of the Ministry of Finance; and
 - (e) persons as the Minister considers appropriate.
- (2) Officers and persons designated by the Minister pursuant to subsection (1) shall —
 - (a) carry the title of Excise officers;
 - (b) upon issuance of excise stamps to a registrant, specify a time period for the completion by the registrant of the process of affixing such stamps to the tobacco products;
 - (c) attend the affixing by excise registrants of excise stamps issued under this Act to all domestically manufactured or imported tobacco products;
 - (d) enjoy for purposes of this Act the same rights, duties and privileges as those enjoyed by Customs officers pursuant to the Customs Management Act.
- (3) An excise registrant dealing in any manner with raw leaf tobacco or tobacco products shall, at all reasonable times, afford Excise officers access to such registrant's —
 - (a) inventories of tobacco or tobacco products; and
 - (b) records and books of account, together with all records and vouchers necessary to verify the information in such records and books.
- (4) An Excise officer's right to access referred to in subsection (3) extends to any purpose relating to the administration or enforcement of this Act, the Excise Act, the Tariff Act, or the Customs Management Act and to any regulations made under such Acts.
- (5) An excise registrant or a small importer shall cooperate fully with Excise officers and shall not —
 - (a) conceal a tobacco product subject to this Act; or
 - (b) hinder or attempt to hinder an Excise officer in the performance of his duties under this Act.

30. Facilities, equipment and personnel for inspections.

An excise registrant shall provide, at the premises specified in his excise registration certificate —

- (a) adequate space for the examination by an Excise officer of goods and records;
- (b) equipment and personnel necessary to allow the goods and records accessed by an Excise officer to be made available to the Minister or a designated official; and
- (c) the personnel necessary to furnish, for audit purposes, information to the Minister with respect to the operations, inventory system and records system of the registrant.

31. Posting of Excise officers at ports of entry.

Excise officers shall, to facilitate the clearance of tobacco products imported into the Customs territory, be stationed at all Customs places designated or appointed by the Minister as ports of entry for the purposes of this Act.

PART VI – MISCELLANEOUS

32. Counterfeit stamps.

A person shall not —

- (a) have in his possession, or make or use, any counterfeit stamp in imitation of or closely resembling an excise stamp; or
- (b) provide or cause to be provided to the Minister or the Secretary any fraudulent data or other information in connection with the issuance or use of an excise stamp.

33. Unstamped tobacco products.

A person shall not have in his possession —

- (a) unstamped tobacco products in excess of the amounts of duty free imports permitted by Part B of the Fourth Schedule to the Tariff Act or Part B of the Second Schedule to the Excise Act; or
- (b) excise stamps not affixed to a tobacco product.

34. General penalties.

- (1) A person convicted of an offence against this Act or the regulations for which no specific penalty is provided shall be liable on summary conviction —

- (a) to a minimum fine not exceeding of fifty thousand dollars (\$50,000) and a maximum fine of five hundred thousand dollars (\$500,000), or to imprisonment for a term not exceeding five years, or to both such fine and imprisonment; and
 - (b) where the commission of the offence has resulted in a loss of excise tax revenue to the Government, to an additional penalty in the amount of twice the loss of excise tax revenues occasioned by the offence;
- (2) A person convicted of an offence against this Act or the regulations for which no specific penalty is provided shall be liable on conviction on indictment —
 - (a) to a minimum fine of fifty thousand dollars (\$50,000) and a maximum fine of five hundred thousand dollars (\$500,000), or to imprisonment for a term not exceeding five years, or to both such fine and imprisonment; and
 - (b) where the commission of the offence has resulted in a loss of excise tax revenue to the Government, to an additional penalty in the amount of twice the loss of excise tax revenues occasioned by the offence; and
 - (c) to forfeiture and destruction of any tobacco products or equipment in relation to which the offence has been committed.
- (3) A fine referred to in paragraph (a) of subsection (1), or paragraph (a) of subsection (2), when imposed by the court shall —
 - (a) constitute a lien in favour of the Government;
 - (b) be recoverable at law against any assets of the offender; and
 - (c) have priority over any other claims against the offender.

35. Regulations.

The Minister may make regulations prescribing —

- (a) the forms or contents of applications, registers, notices, orders and other documents required for the purposes of this Act;
- (b) the manner in which tobacco products are to be re-worked or destroyed;
- (c) protocols for dealing with waste tobacco;
- (d) the manner in which excise stamps, for the purposes of the definition “stamped” in section 2, are to be affixed to tobacco products;
- (e) the duties and powers of Excise officers;

- (f) the records and accounts to be maintained by an excise registrant under this Act;
- (g) offences and penalties for the contravention of a provision of this Act or of regulations made under this Act, a fine in respect of a single offence not to exceed the sum of sixty thousand dollars (\$60,000);
- (h) anything that, pursuant to any provision of this Act, is to be prescribed; and
- (i) any other matter or thing necessary for carrying into effect the purposes and provisions of this Act.

36. Transitional.

- (1) An excise registrant shall within seven days prior to the date this Act comes into force —
 - (a) disclose in writing to the Customs authority a true and accurate inventory of tobacco products held in stock on which the registrant has paid excise taxes;
 - (b) provide evidence of the payment of the taxes referred to in paragraph (a); and
 - (c) ensure that, on the date this Act comes into force, excise stamps are affixed as prescribed to all such tobacco products.
- (2) The Minister may, in relation to an application for stamps for affixing to inventoried tobacco products referred to in subsection (1), offer the stamps for sale at a discounted cost or free of charge as the Minister may determine.
- (3) An excise registrant who contravenes or fails to comply with any provision of subsection (1) commits an offence and shall be liable on summary conviction to —
 - (a) a minimum fine of fifty thousand dollars (\$50,000) and a maximum fine of five hundred thousand dollars (\$500,000), or imprisonment for a term not exceeding five years, or both such fine and imprisonment;
 - (b) where the commission of the offence has resulted in a loss of excise tax revenue to the Government, an additional penalty in the amount of twice the loss of excise tax revenues occasioned by the offence; and
 - (c) forfeiture and destruction of any tobacco products or equipment in relation to which the offence has been committed.