

No. 5 of 2010.

Unincorporated Business Tax Act, 2010.

Saint Christopher
and Nevis

I assent,



CUTHBERT M SEBASTIAN
Governor-General

28th October 2010.

SAINT CHRISTOPHER AND NEVIS

No. 5 of 2010

AN ACT to provide for the imposition and collection of an unincorporated business tax, and to provide for related or incidental matters.

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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 MATTERS

1. Short title.

This Act may be cited as the Unincorporated Business Tax Act, 2010.

2. Application of Act.

The provisions of this Act shall not apply to

- (a) a company registered under the Companies Act.
- (b) a partnership which is treated as a company for purposes of the Income Tax Act, Cap. 20. 22, and is liable to tax under that Act.

3. Interpretation.

In this Act, unless the context otherwise requires,

“business” includes any business, profession, trade, venture or undertaking, provision of personal services or technical and managerial skills, and any adventure or concern in the nature of trade, but does not include employment;

“Commissioner” means a Commissioner appointed under subsection (2) of section 41 of the Tax Administration and Procedures Act, No. 12/2003;

“Comptroller” means the Comptroller of Inland Revenue;

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“goods” means real or tangible personal property, thermal or electrical energy, heat, gas, refrigeration, air conditioning, and water, but does not include money;

“gross takings” includes all receipts, whether cash or accrued, of a person carrying on business in Saint Christopher and Nevis, without any deduction:

provided that this definition shall not include

- (i) any receipts received by the person on behalf of a client of that person where such receipts are received in a representative capacity, or
- (ii) value added tax properly accounted for by the person:

except that where the person receives a commission, fee or mark-up for acting as representative of, or on behalf of, the client then such commission, fee, or mark-up shall be included in the definition of gross takings;

“person” includes a partnership and a firm;

“services” means anything that is not goods or money;

“tax” means the tax levied under the provisions of section 4 of this Act.

PART II – IMPOSITION OF TAX ETC.

4. Imposition of tax.

Subject to the provisions of this Act, a tax to be known as the unincorporated business tax shall be levied upon and paid by every person carrying on business in Saint Christopher and Nevis at the rate of:

- (a) four per centum of the tax base relating to the supply of goods; and
- (b) four per centum of the tax base relating to the supply of services.

5. Calculation of tax .

(1) In calculating the tax imposed by section 4 of this Act, the Comptroller shall, as the basis for calculating the tax, use the tax base as provided in subsections (2) to (4).

(2) The tax base,

- (a) in relation to the supply of goods for a calendar month, shall be the gross takings derived from the supply of goods for the month, reduced (but not below zero) by twelve thousand five hundred dollars;
- (b) in relation to the supply of services for a calendar month, shall be the gross takings derived from the supply of services for the month, reduced (but not below zero) by two thousand dollars.

(3) For the purposes of subsection (2), gross takings shall be taken into account for the month in which the goods or services are considered to be supplied for purposes of

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the value-added tax (or would be considered to be supplied for purposes of the value-added tax if the person making the supply were registered for VAT).

(4) For the purposes of this section, the amount of gross takings to be taken into account shall be the value of the supply of the goods or services described in subsection (2), within the meaning of the Value-added Tax Act, No.3/2010.

(5) A business that is liable to pay tax under this Act may, on a one-time basis only, elect to have its tax calculated in accordance with the provisions of the Income Tax Act, Cap. 20.22, and not in accordance with the provisions of this section.

(6) Where a business elects to have its tax calculated in the manner provided for in subsection (5), then the tax payable by such business shall not thereafter be calculated in accordance with the provisions of subsections (1), (2), (3), and (4) of this section, but will instead continue to be calculated in accordance with the provisions of the Income Tax Act.

(7) Any tax paid by a business pursuant to the provisions of subsections (5) and (6) shall be deemed to be corporate tax paid under the provisions of the Income Tax Act.

(8) Where any change occurs in the date to which accounts are made up by the business referred to in subsection (5), the Comptroller may make such adjustments for any basic year as in his or her opinion is just and reasonable.

PART III – MISCELLANEOUS PROVISIONS**6. Liability of partnerships.**

(1) In the case of a business carried on by a partnership, the gross takings referred to in section 5.(2) of this Act shall be the gross takings of the partnership, and the partners shall be jointly and severally liable for the tax levied in respect of the gross takings of the partnership.

(2) The partnership may designate one partner to file the returns and pay the tax on behalf of the partners.

7. Returns.

Every person carrying on business in Saint Christopher and Nevis who is liable to pay tax under the provisions of section 4 of this Act shall, within fifteen days after the end of each calendar month, file a return monthly with the Comptroller in a form to be approved by the Comptroller accompanied by payment of the tax due for that month.

8. Application of the Tax Administration and Procedures Act.

The provisions of the Tax Administration and Procedures Act, No. 12/2003, relating to the collection and payment of taxes, fees in nature of taxes, and fines or penalties, and such other related matters shall apply to this Act.

9. Regulations.

(1) The Minister may make regulations for the proper carrying out of the provisions of this Act.

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(2) Any regulations made under the provisions of subsection (1) shall be laid before the National Assembly.

10. Transitional provisions.

(1) Any person who is currently paying tax under any of the repealed legislation shall, on the coming into force of this Act, be a taxpayer under this Act.

(2) A person who fails or refuses to file a return pursuant to the provisions of this Act shall be liable to a civil penalty of fifty dollars per day or a portion thereof during which the failure or refusal continues.

(3) For the purposes of this Act, “repealed legislation” means the “Traders Act”, Cap. 20.46 and the “Consumption Act”, Cap. 20.02 repealed by the Value Added Tax Act, No. 3/2010.

CURTIS A MARTIN
Speaker

Passed by the National Assembly this 26th day of October 2010.

JOSÉ LLOYD
Clerk of the National Assembly