



MONTSERRAT

## CHAPTER 17.09

# EMBARKATION TAX ACT and Subsidiary Legislation

### Revised Edition

showing the law as at 1 January 2013

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Act.

This edition contains a consolidation of the following laws—

### EMBARKATION TAX ACT

Act 2 of 1999 .. in force 9 April 1999

Amended by S.R.O.s: 32/1999 .. in force 28 May 1999

34/1999 .. in force 14 June 1999

31/2000 .. in force 1 April 2000

Amended by Act 9 of 2011 .. in force 27 September 2011 (S.R.O. 40/2011)

### EMBARKATION TAX EXEMPTION REGULATIONS – Section 9

S.R.O. 32/1999 .. in force 28 May 1999

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**CHAPTER 17.09**

**EMBARKATION TAX ACT**

**ARRANGEMENT OF SECTIONS**

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## CHAPTER 17.09

### EMBARKATION TAX ACT

*(Acts 2 of 1999 and 9 of 2011, S.R.O.s 32/1999, 34/1999 and 31/2000)*

AN ACT TO PROVIDE FOR THE IMPOSITION OF AN EMBARKATION TAX ON PERSONS TRAVELLING OUT OF MONTSERRAT, FOR THE COLLECTION OF THE TAX SO IMPOSED, AND FOR MATTERS INCIDENTAL THERETO OR CONNECTED THEREWITH.

#### Commencement

*[9 April 1999]*

#### Short title

1. This Act may be cited as the Embarkation Tax Act.

#### Interpretation

2. For the purposes of this Act—

“**aircraft**” means any machine for flying, whether propelled by mechanical means or not, and includes any description of balloon adopted for the transport of persons or goods;

“**airport**” means any area of land or water designed, equipped, set apart or commonly used for affording facilities for the landing and departure of aircraft and designated as such by the Governor acting on the advice of Cabinet; *(Amended by Act 9 of 2011)*

“**carrier**” means—

- (a) any person (whether incorporated or not) transporting passengers by air, or over water on any aircraft or boat to any place outside Montserrat;
- (b) the pilot or other persons in command or control of the transporting aircraft or boat;
- (c) the agent in Montserrat of any person referred to in paragraph (a) hereof; and
- (d) if the person referred to in paragraph (a) hereof is a corporation, every director and manager of that corporation;

“**embarkation tax**” means the tax imposed by section 3;

“**persons in transit**” shall be understood to include any persons proceeding to any destination outside Montserrat including the country from which they came to Montserrat;

“**port of departure**” means an airport or seaport;

“resident” shall mean—

- (a) any person born in Montserrat; or
- (b) any person who holds a Montserrat passport; or
- (c) any person who holds a permanent residence permit;

“sea port” means any area designated as a customs port under section 12 of the Customs (Control and Management) Act.

*(Amended by S.R.O 32/1999)*

### **Embarkation tax**

3. (1) Subject to the provisions of this Act there shall be levied and collected and each traveller shall pay on each occasion on which such traveller leaves any port of departure for a place outside Montserrat a tax (to be called “the Embarkation tax”) as specified in the First Schedule to this Act.

(2) The Embarkation tax shall not be payable by—

- (a) in transit passengers remaining in Montserrat for a period not exceeding twenty four hours;
- (b) members of the crew of any aircraft, helicopter or boat transporting passengers;
- (c) officials of airline companies travelling on the business of the airline company;
- (d) a traveller in relation to whom the Minister of Finance is satisfied that by reason of such special circumstances as may be prescribed, the Embarkation tax shall be remitted;
- (e) official guests of the Government of Montserrat;
- (f) children under the age of twelve years;
- (g) Governor, Speaker and Members of the Legislative Assembly when travelling on Government business; *(Amended by Act 9 of 2011)*
- (h) Public officers when travelling on Government business as certified by the Ministry of Finance; *(Amended by Act 9 of 2011)*
- (i) such other travellers or classes of travellers as may be prescribed.

### **Duty of carrier to collect tax**

4. (1) Every carrier transporting from Montserrat to any place outside Montserrat any traveller by whom the Embarkation tax is payable shall collect the tax from such traveller and pay it over to the Customs Officer prior to the departure of the aircraft or boat.

(2) Any carrier failing to collect any Embarkation tax which it is required by subsection (1) to collect shall, notwithstanding such failure, pay to



the Customs Officer the amount of such tax required to be paid in accordance with subsection (1).

(3) Any amount which a carrier is required to pay to the Customs Officer pursuant to this section shall be due and payable without further demand immediately prior to the departure from Montserrat of the aircraft or boat transporting the travellers in respect of whom that amount is payable or within such period subject to such conditions as may be prescribed either generally or in any particular case.

(4) Every carrier shall, in relation to the Embarkation tax, keep such records and furnish such returns in such form to a Customs Officer and to such persons as may be prescribed.

(5) Any claim to entitlement to exemption from the Embarkation tax pursuant to section 3(2) which cannot be resolved by the carrier shall be referred to a Customs Officer and the decision of the Customs Officer thereon shall be final.

(6) For the purpose of deciding any claim pursuant to subsection (5) a Customs Officer may make such inquiries (either of the traveller or of any other person) as he thinks fit.

### **Offences**

5. (1) Any person who, for the purpose of evading payment by himself or by any other person of the Embarkation tax, knowingly makes any false statement or false representation shall be liable on summary conviction to a fine of \$300 or imprisonment for a term of three months.

(2) Any carrier who fails or neglects to make a return in accordance with the requirements of this Act or any regulations made thereunder or knowingly makes in any such return any false statement or false representation shall be liable on summary conviction to a fine of \$2,000.

(3) Any person who fails, without reasonable cause to furnish to a Customs Officer any information required by the Customs Officer for the purpose of section 4(6) shall be liable on summary conviction to a fine of \$300.

### **Enforcing payment of tax**

6. Where any Embarkation tax, being due and payable pursuant to section 4, remains unpaid—

- (a) the full amount of such tax may be recovered as a debt due to the Crown in Civil Proceedings before the court of summary jurisdiction;
- (b) the Customs Officer may withhold clearance of the aircraft or boat transporting the travellers in respect of whom the tax is payable if he is not satisfied that adequate arrangements for the payment thereof have been made.

### Power of court to order payment of tax

7. A court of summary jurisdiction shall, in addition to any penalty it may impose on any person under the provisions of this Act, order the payment to the Accountant General of any Embarkation tax due and payable by that person and may order, in default of such payment, imprisonment of that person for a period of three months.

### Refunds

8. (1) Any person who proves to the satisfaction of the Accountant General that he has paid, on account of the Embarkation tax, an amount in excess of the amount which he is properly required to pay pursuant to this Act shall be entitled to have the amount so paid in excess refunded, and the Accountant General is hereby authorised to make the refund accordingly.

(2) No claim for a refund, under this section shall be entertained after the expiration of six months from the date on which payment of the amount in dispute was made.

### Regulations

9. (1) The Governor acting on the advice of Cabinet may make regulations to provide for—

- (a) the production to and inspection by such persons as may be prescribed of documents used and records kept by any person for the purpose of determining that the embarkation tax has been collected and accounted for in accordance with this Act or any regulations made thereunder;
- (b) the furnishing to the Accountant General or to persons authorised by him of such information and such returns, certificates and other documents as may be prescribed by this Act;
- (c) anything required to be prescribed by this Act;
- (d) any other matter or thing whether similar or not to those above mentioned in respect of which it may be expedient to make regulations to give effect to the purpose of this Act.

*(Amended by Act 9 of 2011)*

(2) Until varied or revoked by Regulations made under the provisions of subsection (1), the Regulations contained in the First Schedule to this Act shall be in force.

## Receipt

10. The person paying the Embarkation tax shall be given a receipt in the form set out in the Second Schedule as evidence of the payment made by him.

## Amendment of Schedules

11. The Governor acting on the advice of Cabinet may by Order amend the Schedules. (*Amended by Act 9 of 2011*)

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### FIRST SCHEDULE

(*Section 3*)

(*Amended by S.R.O. 31/2000*)

1. The embarkation tax payable shall be—

(a)	Residents/Caricom National	EC\$ 25
(b)	Other nationals	EC\$ 45

2. Where any carrier fails to pay over to the Customs Officer any tax collected, the carrier shall be liable to pay an additional sum equivalent to 10% per annum as interest thereon for every month during which it remains unpaid.

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**SECOND SCHEDULE***(Substituted by S.R.O. 34/1999 and amended by S.R.O. 31/2000)*

<p>No. 001</p> <p><b>MONTSEERRAT EMBARKATION TAX</b></p> <p>Residents Caricom Nationals</p> <p>EC\$25 or US\$ 10</p> <p><b>ACCOUNTING TICKET</b></p> <p>Receipt of the above sum is hereby certified Valid for one departure from Montserrat</p>
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<p>No. 001</p> <p><b>MONTSEERRAT EMBARKATION TAX</b></p> <p>Non-Residents Non-Caricom Nationals</p> <p>EC\$ 45 or US\$ 17</p> <p><b>ACCOUNTING TICKET</b></p> <p>Receipt of the above sum is hereby certified Valid for one departure from Montserrat</p>
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<p>No. 001</p> <p><b>MONTSEERRAT EMBARKATION TAX</b></p> <p>Residents Caricom Nationals</p> <p>EC\$25 or US\$ 10</p> <p><b>EMIGRATION TICKET</b></p> <p>Receipt of the above sum is hereby certified Valid for one departure from Montserrat</p>
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<p>No. 001</p> <p><b>MONTSEERRAT EMBARKATION TAX</b></p> <p>Non-Residents Non-Caricom Nationals</p> <p>EC\$45 or US\$ 17</p> <p><b>EMIGRATION TICKET</b></p> <p>Receipt of the above sum is hereby certified Valid for one departure from Montserrat</p>
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<p>No. 001</p> <p><b>MONTSEERRAT EMBARKATION TAX</b></p> <p>Residents Caricom Nationals</p> <p>EC\$25 or US\$ 10</p> <p><b>TRAVELLER TICKET</b></p> <p>Receipt of the above sum is hereby certified Valid for one departure from Montserrat</p>
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<p>No. 001</p> <p><b>MONTSEERRAT EMBARKATION TAX</b></p> <p>Non-Residents Non-Caricom Nationals</p> <p>EC\$45 or US\$ 17</p> <p><b>TRAVELLER TICKET</b></p> <p>Receipt of the above sum is hereby certified Valid for one departure from Montserrat</p>
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**EMBARKATION TAX EXEMPTION REGULATIONS – SECTION 9**

*(S.R.O. 32/1999 and Act 9 of 2011)*

**Commencement**

*[28 May 1999]*

**Short title**

**1.** These Regulations may be cited as the Embarkation Tax Exemption Regulations.

**Exemption**

**2.** The following persons are exempt from Embarkation Tax—

- (a)* holders of a diplomatic passport;
- (b)* holders of a United Nation “**laissez passer**”;
- (c)* holders of passes issued by the Organization of Eastern Caribbean States;
- (d)* holders of passes issued by the Caricom Secretariat; and
- (e)* members of the Legislative Assembly.

*(Amended by Act 9 of 2011)*

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