
LAWS OF SAINT VINCENT AND THE GRENADINES
REVISED EDITION

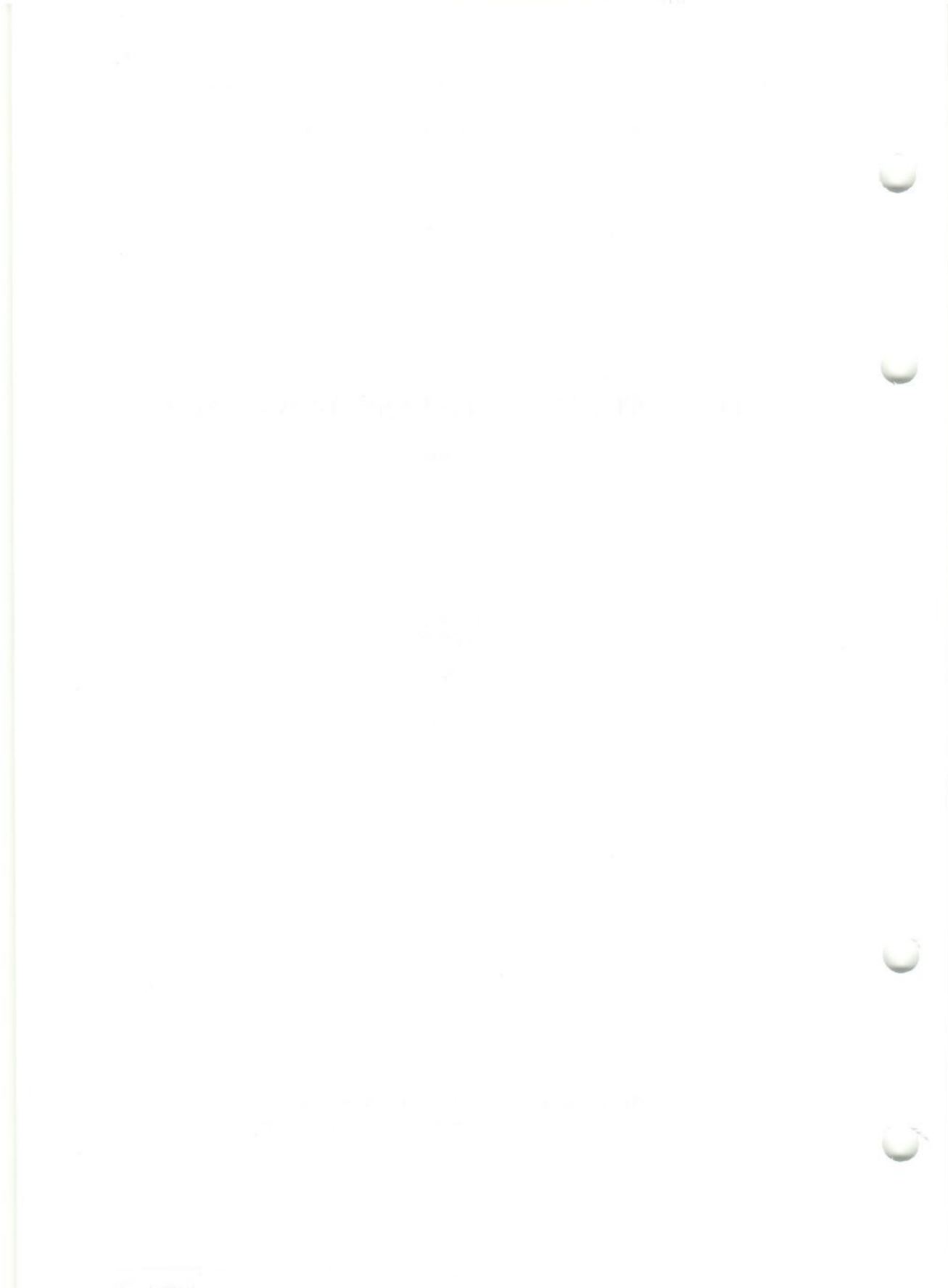
TOURIST (DUTY FREE) SHOPPING ACT

CHAPTER 442

**Act No.
16 of 1999**

Amended by
Act No. 21 of 2005
SRO 2 of 2006
Act No. 6 of 2006

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CHAPTER 442**TOURIST (DUTY FREE) SHOPPING ACT**

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CHAPTER 442

TOURIST (DUTY FREE) SHOPPING ACT

An Act to establish a duty free shopping system for tourists and visitors to Saint Vincent and the Grenadines, and matters connected therewith and related thereto.

Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the House of Assembly of Saint Vincent and the Grenadines and by the authority of the same, as follows.

[Act No. 16 of 1999 amended by Act No. 21 of 2005, SRO 2 of 2006, Act No. 6 of 2006.]

[Date of commencement: 28th December, 1999.]

1. Short title

This Act may be cited as the Tourist (Duty Free) Shopping Act, 1999.

2. Interpretation

In this Act—

“approved goods” means the goods set out in the Schedule;

[Schedule.]

“Community” means the Caribbean Community including the CARICOM Single Market and Economy established by the Treaty;

[Definition of “Community” inserted by SRO 2 of 2006 and Act No. 6 of 2006.]

“Comptroller” means the Comptroller of Customs and Excise;

“consumables” means—

- (a) spirits, wine or fermented, distilled or spirituous liquor;
- (b) cigars, cigarettes or tobacco;
- (c) any other items,

specified in the Schedule as consumables;

[Definition of “consumables” amended by Act No. 21 of 2005.]

“diplomat” means a person entitled to the diplomatic privileges accorded under the Diplomatic Privileges and Immunities Act;

“licence” means a licence issued under section 5;

“Member State” means a Member State of the Community excluding an Associate Member State within the meaning of Article 231 of the Treaty;

[Definition of “Member State” inserted by SRO 2 of 2006 and Act No. 6 of 2006.]

“Minister” means the Minister responsible for finance;

“national of a Member State” means a person who—

- (a) is a citizen of a Member State;

- (b) though not a citizen of a Member State, has a connection with a Member State of a kind which entitles that person to be regarded as belonging to or, if it be so expressed, as being a native or resident of such State for the purposes of the laws of that State thereof relating to immigration; or
- (c) is a company or other legal entity constituted in a Member State in accordance with the laws of that State and which that State regards as belonging to it, provided that such company or other legal entity has been formed for gainful purposes and has its registered office and central administration, and carries on substantial activity within the Community and is substantially owned and effectively controlled by persons referred to in paragraphs (a) and (b).

For the purposes of this definition, a company or other legal entity is—

- (i) substantially owner if more than fifty per cent of the equity interest of the company or legal entity is beneficially owned by persons referred to in paragraphs (a) and (b),
- (ii) effectively controlled if the persons referred to in paragraphs (a) and (b) have the power to name a majority of the directors for the company or legal entity or to legally direct the actions of the company or legal entity;

[Definition of “national of a Member State” inserted by SRO 2 of 2006 and Act No. 6 of 2006.]

“**tourist (duty free) shop**” means any premises licensed under sections 5;

“**tourist (duty free) shopping system**” means the system established by this Act for the sale of goods for export free of customs or excise duty, consumption duty or of retail sales tax;

“**Treaty**” means the Revised Treaty of Chaguaramas establishing the Caribbean Community including the CARICOM Single Market and Economy signed at Nassau, The Bahamas, on 5th July, 2001;

[Definition of “Treaty” inserted by SRO 2 of 2006 and Act No. 6 of 2006.]

“**visitor**” means a person who is in Saint Vincent and the Grenadines—

- (a) on a visitor’s visa or intransit on a cruise ship provided that his stay does not exceed six months;
- (b) intransit for a period not exceeding twenty-four hours from a place outside of Saint Vincent to some other place outside of Saint Vincent and the Grenadines:

Provided that—

- (i) his stay does not exceed six months, or
- (ii) during his stay, he does not work or perform any functions in Saint Vincent and the Grenadines for payment or reward.

- (2) The Minister may from time to time by Order amend the Schedule.

3. Tourist (duty free) shop operator's licence

(1) The Comptroller may on receipt of an application in the prescribed form and the prescribed fee grant to an applicant for a licence to operate a duty free shop, a tourist duty free shop operator's licence.

(2) A licence granted under this section may be granted on such terms and be subject to such conditions as may be prescribed or as the Comptroller may in any case stipulate.

(3) A licence granted under this section shall unless previously cancelled under this Act continue from the date of issue until the next succeeding 31st day of December and may be subsequently renewed annually so that a licence issued during the month of December shall continue in force until the 31st day of December of the next succeeding year.

4. Tourist (duty free) shop operator's agency permit

(1) The Comptroller may on receipt of an application in the prescribed form together with the prescribed fee grant a permit for a person to operate a tourist (duty free) shop as agent provided that such an applicant shall not himself be the holder of, or an applicant for, a licence under section 3 and shall be accredited in writing by the person for whom he acts as agent.

(2) Every person accrediting an agent for the purposes of subsection (1) shall keep a register in the prescribed form listing every person who is for the time being accredited for this purpose and shall not grant any such accreditation without making an appropriate entry in this register.

(3) The provisions of section 3(2) and (3) shall apply *mutatis mutandis* to this section.

(4) A person who contravenes the requirements of subsection (2) commits an offence and shall be liable on conviction to a penalty not exceeding one thousand dollars.

5. Tourist (duty free) shop licence

(1) The Comptroller may on receipt of an application in the prescribed form together with the prescribed fee grant to a person who is—

- (a) the holder of or an applicant for a tourist (duty free) shop operator's licence;
- (b) the holder of or an applicant for a tourist (duty free) shop operator's agency permit,

a tourist duty free shop licence in relation to any premises specified in the application, authorising the use of such premises or any area in such premises as a licensed (duty free) shop where approved goods or consumables may be sold under the tourist (duty free) shopping system.

(2) The provisions of section 3(2) and (3) shall apply *mutatis mutandis* to this section.

6. Time limit for renewal

An application for the renewal of a licence or permit under this Act, shall unless the Comptroller otherwise allows be submitted to the Comptroller by the applicant not later than twenty-one days before the expiry date.

7. Refusal to renew licence or permit

(1) Subject to section 9, the Comptroller may refuse to grant or renew a licence or permit under this Act, and shall so refuse if he is not satisfied that the applicant is a fit and proper person to be the holder of a licence or permit or satisfactory evidence is produced which substantiates this fact, or where the applicant—

- (a) is under the age of eighteen years;
- (b) is not a national of a Member State;
- (c) being a body corporate is not—
 - (i) incorporated under the laws of Saint Vincent and the Grenadines, or
 - (ii) a national of a Member State;
- (d) has been refused within the immediate preceding twelve months, a grant or renewal of a tourist (duty free) shop operator's licence or a tourist (duty free) agency permit;
- (e) has been the holder of a tourist (duty free) shop operator's licence or agency permit which has been cancelled within the immediate preceding twelve months;
- (f) has been found to be knowingly evading or attempting to evade the provisions of this Act or the Customs (Control and Management) Act regarding the importation or exportation of goods;
- (g) has failed to pay the operational charge under section 11(3).

[Subsection (1) amended by SRO 2 of 2006 and Act No. 6 of 2006.]

(2) Where the Comptroller refuses an application for the grant or renewal of a licence or permit, he shall refund the applicant three-fourths of the fee paid in respect of the application.

8. Cancellation of licence or permit

The Comptroller shall cancel a licence or permit under this Act where the holder of the licence or permit is—

- (a) convicted of an offence involving fraud or dishonesty; or
- (b) found to be knowingly concerned with evading or attempting to evade the provisions of this Act or of the Customs (Control and Management) Act, relating to the importation or exportation of any goods in connection with the tourist (duty free) shopping system.

9. Right of Appeal

(1) A right of appeal shall lie to the Cabinet where the Comptroller—

- (a) refuses to grant or renew a licence or permit under section 7;
- (b) cancels a licence or permit under section 8.

(2) An appeal shall be lodged within sixty days after receipt of the Comptroller's decision and on payment by the applicant of the prescribed fee.

(3) On any such appeal, the Cabinet may—

- (a) confirm the cancellation or refusal;
- (b) restore, grant or renew the licence or permit.

(4) The decision of the Cabinet on any such appeal shall be final.

10. Bond

The Comptroller may require an applicant, as a condition precedent to the grant of a licence, to furnish a bond in such sum and with such number of sureties approved by the Comptroller as the Comptroller may specify on the condition that all duties are paid and the provisions of this Act and regulations made thereunder are observed.

11. Operational charge

(1) The Minister may from time to time, by notice published in the *Gazette*, declare an operational charge to be paid in respect of every tourist (duty free) shop.

(2) The operational charge shall be a percentage of the sum received as selling price of approved goods sold in a licensed tourist (duty free) shop.

(3) The holder of a tourist (duty free) shop licence shall pay the operational charge for every month during which he operates a tourist (duty free) shop not later than fourteen days after the end of each month.

(4) A notice under subsection (1) shall be subject to affirmative resolution of the House of Assembly.

(5) In this section, “**selling price**” includes the value as assessed by the Comptroller of things exchanged or other consideration accepted by the operator of a licensed tourist (duty free) shop or his agent as the price or on account of the price of approved goods or consumables purchased or delivered from a tourist (duty free) shop.

12. Display centres

(1) A holder of a tourist (duty free) shop licence may apply to the Comptroller to register centres where approved goods and consumables may be displayed, subject to prescribed conditions, for purposes other than sale.

(2) A person who sells approved goods or consumables from a display centre or fails to comply with any prescribed conditions applicable to display centres commits an offence and on conviction is liable to a penalty not exceeding one thousand dollars.

13. Returns and records

(1) A person who holds a tourist (duty free) shop licence shall make such returns and keep such records in such form as may be prescribed.

(2) The Comptroller may vary the time for making any return, if he thinks fit.

*Warehousing***14. Tourist (duty free) shops as private warehouses**

(1) For the purposes of the Customs (Control and Management) Act and the Excise Act every licensed (duty free) shop shall be deemed to be a private warehouse.

(2) The Comptroller may permit any approved goods or consumables listed in the Schedule which, but for the provisions of this Act, would be liable to customs duty, excise duty, consumption duty or retail sales tax to be removed from any warehouse or customs area or private warehouse or distillery licensed under the Excise Act without payment of such duties or tax and deposited in a licensed tourist (duty free) shop, subject to the prescribed conditions, for purposes of export under the tourist (duty free) shopping system.

(3) No approved goods or consumables shall be exempt from customs examinations either prior to deposit in or after delivery from a licensed tourist (duty free) shop by virtue of the provisions of this section.

15. Directions by Comptroller

(1) The Comptroller may issue directions necessary for the better regulation and control of the operation of a tourist (duty free) shop.

(2) The Comptroller may enquire into any matter affecting the administration and control of a tourist (duty free) shop and may require an explanation in writing from the person in charge, his employee or agent.

16. Application of Customs (Control and Management) Act

The provisions of the Customs (Control and Management) Act, shall apply *mutatis mutandis* to the warehousing of goods under this Act.

*Tourist Duty Free Shopping System***17. Sale of approved goods and consumables**

Subject to the provisions of this Act and regulations made thereunder, approved goods and consumables listed in the Schedule and warehoused in a tourist (duty free) shop may be sold free of any customs, excise or consumption duties or retail sales tax to which such goods would, but for the provisions of this Act, be liable.

18. Conditions for sale

The sale of approved goods and consumables warehoused in a duty free shop shall be subject to the following conditions—

- (a) approved goods and consumables shall be sold only for export;
- (b) subject to any prescribed requirements in respect of packaging or otherwise, approved goods may be delivered to a purchaser—
 - (i) who is a visitor, at the time of purchase,
 - (ii) who is not a visitor at the time he is about to depart from Saint Vincent and the Grenadines;

- (c) consumables shall not be delivered to the purchaser, except a cruise ship passenger, until satisfactory proof is furnished to the vendors that the purchaser is at that time about to depart from Saint Vincent and the Grenadines.

Offences and Penalties

19. False advertisement

A person who, not being the holder of a tourist (duty free) shop operator's licence or agency permit who with intent to deceive, displays any advertisement which indicates in any manner that—

- (a) any premises used by him is a licensed tourist (duty free) shop;
- (b) approved goods or consumables may be obtained from him or through him under the tourist (duty free) shopping system; or
- (c) he is authorised to sell goods free of customs duty, excise duty, consumption duty or retail sales tax,

commits an offence and on conviction is liable to a fine not exceeding four thousand dollars.

20. Failure to carry out directions

A person who without reasonable excuse, fails to carry out any direction given in writing by the Comptroller relating to the operation of a tourist (duty free) shop commits an offence and on conviction is liable to a fine not exceeding one thousand dollars.

21. Infringement of conditions

A person who without reasonable excuse, infringes any term or condition subject to which his licence or permit was granted, commits an offence and is liable on conviction to a fine not exceeding one thousand dollars.

22. Refusal to give explanation

A person who without reasonable cause refuses or fails to give an explanation when required by the Comptroller to give a written explanation of any matter relating to a place used as a private warehouse under this Act commits an offence and on conviction is liable to a fine not exceeding one thousand dollars.

23. False declaration, etc.

A person who, in any matter relating to the tourist (duty free) shopping system or to the operation of any tourist (duty free) shop with intent to deceive—

- (a) makes or causes to be made, any false declaration;
- (b) makes or cause to be made, any alteration or falsification in any document after the document has been officially issued,

commits an offence and on conviction is liable to a fine not exceeding two thousand dollars.

24. Evading provisions relating to approved goods and consumables

A person who, knowingly and with intent to defraud the Government of Saint Vincent and the Grenadines of revenue—

- (a) acquires possession of;
- (b) carries, removes, deposits, conceals or harbours;
- (c) deals in any manner contrary to the provisions of this Act or of regulations made thereunder with,

any approved goods or consumables on which customs, excise or consumption duties or any retail sales tax due has not been paid, commits an offence and is liable on conviction to a fine not exceeding five hundred dollars for each offence or treble the value of such goods at the election of the Comptroller and in addition all such goods shall be forfeited.

25. Failure to make returns

A person who without reasonable excuse fails or refuses to—

- (a) make returns at the specified times; or
- (b) keep the required records in the appropriate form;
- (c) embody in any return the required information,

as may be prescribed or required by the Comptroller commits an offence and on conviction is liable to a fine not exceeding five hundred dollars.

26. Penalty recoverable from bond

Without prejudice to any other manner of recovery, a penalty incurred under the provisions of this Act may be recovered by the Comptroller by the application in whole or in part, of any bond furnished pursuant to section 10.

27. Prosecution for offences

(1) Offences under this Act may be prosecuted, and any penalty incurred under or forfeiture imposed by this Act may be sued for, or prosecuted or recovered summarily in a Magistrates' Court, and any sum of money payable under this Act may be recovered and enforced in a summary manner in a Magistrates' Court on the complaint of the Comptroller or any officer authorised by the Comptroller.

(2) In this section, "officer" has the meaning assigned by section 2 of the Customs (Control and Management) Act.

*General***28. Regulations**

(1) The Minister may make regulations generally for the better carrying out of the purpose and provisions of this Act, and in particular, but without prejudice to the generality of the foregoing, may make regulations—

- (a) prescribing the form and manner in which application shall be made for any licence or permit which may be granted under this Act, and the forms of such permits and licences;

- (b) prescribing any fees to be paid under this Act;
- (c) prescribing the nature of the notices, emblems or other materials displayed in tourist shops;
- (d) prescribing the method of packaging of approved goods and consumables;
- (e) prescribing any other matter or anything which may be, or is required to be, prescribed.

(2) Notwithstanding section 25 of the Interpretation and General Provisions Act, regulations made under this Act may provide in respect of the breach of the provisions of the regulations a penalty of a fine not exceeding five hundred dollars or a term of imprisonment not exceeding two years, or both such fine and imprisonment.

SCHEDULE

[Sections 2 and 14.]

Approved Goods

1. Binoculars;
2. Electric calculators;
3. Photographic cameras with accessories;
4. Chinaware – bone and porcelain;
5. Clocks;
6. Cosmetics;
7. Cutlery – sterling silver and stainless steel;
8. Crystalware;
9. Earthenware;
10. Figurines – bronze, ivory or quartz;
11. Figurines – china or porcelain;
12. Handicrafts;
13. Hi-fi components;
14. Jewellery and articles consisting of or incorporating pearls;
15. Leather and imitation leather goods;
16. Mechanical lighters for cigars, cigarettes and pipes;
17. Perfumery;
18. Pipes, cigar and cigarette holders;
19. Projectors;
20. Portable radios;
21. Record changers or record players;
22. Electric shavers;
23. Sweaters and cardigans, pull-overs or similar knitted outerwear of angora, mohair, cashmere or similar mixtures of wool;

SCHEDULE—*continued*

24. Silverware – sterling silverplate, sheffield plated and antique reproductions, Siamese, Portuguese and Indian sterling silver;
25. Table linen – Madeira, Irish, embroidered, hand-painted, cut-work;
26. Tape recorders;
27. Telescopes;
28. Toilet lotion or toilet waters;
29. Watches.

Consumables

1. Cigarettes – locally manufactured or imported in containers of not less than two hundred units each;
 2. Cigars – in boxes of not less than twenty-five;
 3. Tobacco;
 4. Spirits, liqueurs and wines (except miniatures) imported with minimum contents eleven ounces per bottle;
 5. Spirits or liqueurs (miniatures) – whether assorted or not, locally manufactured or imported, in sealed containers of not less than six bottles; each bottle containing not less than one ounce per bottle;
 6. Spirits, liqueurs or wines – locally manufactured with minimum contents eleven ounces per bottle.
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