

INCOME TAX (AMENDMENT) (NO. 3) ACT, 2018-54

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BARBADOS

I assent
S. MASON
Governor-General
24th December, 2018.

2018-54

An Act to amend the *Income Tax Act*, Cap. 73.

[Commencement: 1st January, 2019]

ENACTED by the Parliament of Barbados as follows:

Short title

1. This Act may be cited as the *Income Tax (Amendment) (No. 3) Act, 2018*.

Interpretation

2. *In this Act,*

“foreign currency earning permit” means a permit that is issued to an entity by the Director of International Business under the Foreign Currency Permits Act, 2018 (Act 2018-44);

“specified foreign currency earning entity” means

(a) a company incorporated under the Companies Act, Cap. 308;

(b) a society with restricted liability organized under the Societies with Restricted Liability Act, Cap. 318B;

(c) a trust formed under the Trusts (Miscellaneous Provisions) Act, 2018 (Act 2018-49);

(d) a foreign currency earning bank licensed under the Financial Institutions Act, Cap. 324A; or

(e) an insurance company licensed under the Insurance Act, Cap. 310,

in respect of which a foreign currency earning permit is granted.

Amendment to section 9 of Cap. 73

3. *Section 9 of the Income Tax Act, in this Act referred to as the principal Act amended*

(a) in subsection (1) by adding the following paragraph immediately after paragraph (m) as paragraph (m.1):

“(m.1) a prescribed percentage of the salary, fees and any other emoluments that are earned by an employee or a contractor of a specified foreign currency earning entity;”; and

(b) by adding the following subsections as subsection (4), subsection (5) and subsection (6):

“(4) Notwithstanding the *Exchange Control Act*, Cap. 71, the prescribed percentage of the salary, fees or other emoluments referred to in subsection (1) (m.1) may be

(a) paid in foreign currency into a trust account without being liable to income tax in Barbados as to the amount paid or any interest earned thereon; and

(b) paid in some other prescribed manner in foreign currency without being liable to income tax in Barbados.

(5) Where the Minister responsible for Finance is satisfied that

(a) a company or a society requires the services of specially qualified persons in order to carry out its business effectively from within Barbados; and

(b) the company or society is unable to acquire those services in Barbados,

the Minister may grant a tax concession in respect of the income tax payable for those specially qualified persons who are resident outside of Barbados.

(6) The benefits referred to in subsections (4) and (5) shall be for a period of 3 years and this period may be extended as the Minister of Finance deems fit.”.

Amendment to Cap. 73

4. *The principal Act is amended by deleting section 12, 12A, 12B, 12B.1, 12C, 12C.1, 12E, 12E.1, 12E.2, 12E.3, 12E.4, 12E.5, 12E.6, 12E.7, 12E.8, 12F, 12G, 12 H, 13A, 13B, 13B.1, 13C, 14A, 14A.1, 14B.*

Amendment to section 23 of Cap. 73.

5. *Section 23 of the principal Act is amended by deleting subsection (2) (a)(ii) and substituting the following:*

“(ii) 50 per cent of the assessable income of that person for that next succeeding income year with effect from income year 2019.”.

Amendment to section 43 of Cap. 73

6.*Section 43 of the principal Act is amended by inserting the following new subsection immediately after subsection (5):*

“(6) With effect from income year 2019, the tax payable by a company upon its taxable income is as follows:

- (a) 5.5 per cent on all taxable income up to \$1 000 000;
- (b) 3 per cent on all taxable income exceeding \$1 000 000 but not exceeding \$20 000 000 ;
- (c) 2.5 per cent on all taxable income exceeding \$20 000 000 but not exceeding \$30 000 000;
- (d) 1 per cent on all taxable income exceeding \$30 000 000.

(7) Notwithstanding subsection (6), the tax payable by insurance companies

- (a) that were classified as qualifying insurance companies licensed under the *Insurance Act*, Cap. 310, and carrying on general insurance business before the 17th day of October, 2017; and
- (b) that were entitled to apply for the foreign currency allowance, shall be 2 per cent of taxable income for every income year commencing from income year 2019 and ending on the 30th day of June, 2021.”.

Amendment to section 43A of Cap. 73

7. *Section 43A of the principal Act is amended by inserting therein the following new subsection immediately after subsection 3:*

“(3A) Notwithstanding section 43 with effect from income year 2019 and every subsequent income year the rate of tax on the taxable income for general and life insurance business is as follows

- (a) a Class 1 licensee under the *Insurance Act*, Cap. 310 shall be 0 per cent;
- (b) a Class 2 licensee under the *Insurance Act*, Cap. 310 shall be 2 per cent;
- (c) a Class 3 licensee under the *Insurance Act*, Cap. 310 shall be 2 per cent.”.

Amendment to section 44 of Cap. 73

8. *Section 44 of the principal Act is amended by inserting the following new subsection immediately after subsection (1):*

“(1A) Notwithstanding subsection (1), the tax payable by insurance companies as defined in section 19, that were

- (a) classified as qualifying insurance companies licensed under the *Insurance Act*, Cap. 310 and carrying on life insurance business before the 17th day of October, 2017; and
- (b) entitled to apply for the foreign currency allowance,

shall be 0.35 per cent of every complete dollar of taxable income for every income year commencing from income year 2019 and ending on the 30th day of June, 2021.”.

Amendment of Cap. 73

9. *The principal Act is amended by deleting section 46D.*

Amendment of section 46E of Cap. 73

10. *Section 46E of the principal Act is amended by deleting the words "person" and "persons" appearing in the second line and substituting the words "individual" and "individuals".*

Amendment of Cap. 73

11. *The principal Act is amended by deleting section 46F.*

Amendment to section 65 of Cap. 73

12. *Section 65 of the principal Act is amended*

- (a) by deleting subsections (2) and (3);
- (b) in subsection (4) by deleting the words "15 per cent" appearing in the second line thereof and substituting the words "5 per cent"; and
- (c) in subsection (5) by deleting the words "10 per cent" and substitute the words "5 percent".

Amendment of Cap. 73

13. *Section 65B is deleted.*

Amendment to section 83A of Cap. 73

14. *Section 83A of the principal Act is amended*

- (a) by deleting subsection (3);
- (b) by adding the following new subsection immediately after subsection (3):

“(4) The total credit for foreign tax to be allowed to a person in respect of any income year under any agreement to which this Part applies shall not reduce the total tax payable by the person on his own behalf for that income year to less than 1 per cent.”.

Amendment to section 85 of Cap. 73

15.*Section 85 of the principal Act is amended by inserting the following new subsection immediately after subsection (7):*

“(1) For the purposes of this Act a trust, shall be deemed to be domiciled in Barbados if it satisfies any three of the following four criteria

- (a) the settlor is resident in Barbados;
- (b) the beneficiaries are resident in Barbados;
- (c) the proper law of the trust is located in Barbados;
- (d) the assets of the trust consist of property situated in Barbados.”.

Amendment of Cap. 73

16.*The principal Act is amended by deleting the First Schedule, Parts II, III, IV and V of the Second Schedule, the Third Schedule, the Fourth Schedule and the Fifth Schedule.*

Commencement

17.*This Act shall come into operation on the 1st day of January, 2019.*