

INCOME TAX (AMENDMENT) (NO. 2) ACT, 2011 - 26

Arrangement of Sections

Section

1. Short title.
2. Amendment of section 8 of Cap. 73.
3. Amendment of section 9 of Cap. 73.
4. Amendment of section 12I of Cap. 73.
5. Amendment of section 23 of Cap. 73.
6. Insertion of section 36D in Cap. 73.
7. Amendment of section 37H of Cap. 73.
8. Amendment of section 40 of Cap. 73.
9. Insertion of section 64K in Cap. 73.
10. Amendment of section 65 of Cap. 73.
11. Insertion of section 65E in Cap. 73.
12. Insertion of section 65F in Cap. 73.
13. Amendment of section 67 of Cap. 73.
14. Commencement.

BARBADOS

I assent
ELLIOTT F. BELGRAVE
Governor-General (Ag.)
23rd December, 2011.

2011 - 26

An Act to amend the Income Tax Act.

(1st January, 2011). Commence-
ment.

ENACTED by the Parliament of Barbados as follows:

1. This Act may be cited as the *Income Tax (Amendment) (No. 2) Act, 2011*. Short title.

2. Section 8(1) of the *Income Tax Act*, in this Act referred to as the principal Act, is amended Amendment
of section 8
of Cap. 73.

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(a) in paragraph (a), by inserting in sub-paragraph (v) of that paragraph immediately after the words "benefits" the following:

2003-17. "other than benefits paid in accordance with section 33A of the *Occupational Pension Benefits Act, 2003*, in respect of a defined contribution pension plan.";

(b) in paragraph (g), by

(i) deleting the words ", within 4 months of the date on which the amounts were received" appearing in sub-paragraph (iii) of that paragraph; and

(ii) inserting immediately after sub-paragraph (iii) the following as sub-paragraph (iv):

2003-17. "(iv) received as a 25 per cent lump sum payment under section 29(5) of the *Occupational Pension Benefits Act*."

Amendment
of section 9
of Cap. 73.

3. Section 9(1) of the principal Act is amended by

(a) inserting immediately after paragraph (h) the following as paragraph (i):

"(i) with effect from January 1, 2012, amounts paid to non-resident insurers who provide global insurance coverage;" and

(b) deleting paragraph (p.1).

Amend-
ment of
section 12I
of Cap. 73.

4. Section 12I of the principal Act is amended by deleting the words "but not domiciled" appearing in that section.

5. Section 23 of the principal Act is amended by deleting subsection (4) and substituting the following:

Amendment of section 23 of Cap. 73.

“(4) With effect from income year 2012 and notwithstanding subsections (1) and (2), in calculating the assessable income of a person for an income year, a loss sustained by that person in respect of sources of income from a business or property referred to under section 5(a) and (b), other than sources of income from residential property, shall be deducted from those sources; and no part of that loss shall be deducted from the assessable income in respect of residential property or income from offices or employment of that person referred to under section 5(c) and (d) for an income year.”

6. The principal Act is amended by inserting the following section immediately after section 36C:

Insertion of section 36D in Cap. 73.

36D. Sections 36B, 36B.1, 37B and 37E shall cease to apply after income year 2010.”

*Non-application after 2010.

7. Section 37H of the principal Act is amended by (a) deleting subsection (1) and substituting the following:

Amendment of section 37H of Cap. 73.

“(1) With effect from income year 2011, in calculating the taxable income of a person, there shall be deducted from the assessable income of that person amounts expended equal to 150 per cent of the actual expenditure, not exceeding \$10,000 where the person is an individual, and \$25,000 where the person is carrying on a registered business, for each year for five years in respect of the conducting of

(a) energy audits; and

(b) 50% of the cost of retro-fitting premises or installing systems to produce electricity from sources other than fossil fuels.”; and

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(b) inserting as subsections (1A), (1B) and (1C) the following:

“(1A) Notwithstanding subsection (1), in calculating the taxable income for an income year of a person carrying on a registered business, there shall be deducted from the assessable income of that person 150 per cent of the amount actually expended as referred to in subsection (1) over a five year period.

(1B) The benefit described in subsection (1A) may only be granted where the following requirements are satisfied in respect of a business:

- (a) the business is current in the delivery to the Commissioner of the return of its assessable income in accordance with section 52;
- (b) the business is current in the payment of its tax, value added tax, land tax and national insurance contributions; or
- (c) the business, though not current, in respect of the payment of its tax, value added tax, land tax and national insurance contributions has entered into an agreement with the Commissioner, the Comptroller of Customs, the Commissioner of Land Tax and the Board of the National Insurance respectively to settle outstanding arrears in respect thereof.

(1C) This section shall also apply to a lessee who provides evidence that approval was obtained from the owner of the property to claim the deduction under subsections (1) and (1A).”.

Amend-
ment of
section 40
of Cap. 73.

8. Section 40 of the principal Act is amended in subsection (4), by deleting the words “36B, 36C or 38B” and substituting the following: “36B, 36B.1, 36C, 37B, 37E or 38B.”.

9. The principal Act is amended by inserting immediately after section 64J the following section as section 64K:

Insertion of section 64K in Cap. 73.

"Withholding tax in respect of new shares.

64K. (1) Where shares to which section 37B refers are sold or otherwise disposed of within 5 years of the end of the income year in which they were purchased, the public company redeeming, encashing or transferring those shares shall, unless the Commissioner otherwise directs, withhold tax at the rate of 20 per cent from the amounts redeemed or sold and in respect of which a deduction was made.

(2) The tax withheld under subsection (1) shall be paid to the Commissioner within 7 days of being withheld, and shall be accompanied by a return in such form as is approved by the Commissioner."

10. Section 65 of the principal Act is amended in subsection (4E), by deleting the words "other than preference dividends" appearing in that subsection.

Amendment of section 65 of Cap. 73.

11. The principal Act is amended by inserting immediately after section 65D the following section as section 65E:

Insertion of section 65E in Cap. 73.

"Tax credit in respect of profitability and increased employment.

65E. (1) With effect from income year 2011, where a person carries on business in an income year and during that income year or any of the following two consecutive income years

(a) there is an increase in the profits derived from and directly attributable to the operation of that business;

(b) there is an increase in the number of employees who are employed directly in the operations of the business by an amount of at least 10 per cent of the total workforce employed during the previous income year; and

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- (c) the increase in the number of employees referred to in paragraph (b) is maintained for a period of 3 years,

that person shall be entitled to a tax credit equal to 10 per cent of the actual amount of the expenditure incurred in respect of wages for the increase of employees mentioned in paragraph (b) in the year in which the credit is earned pursuant to this section.

(2) The tax credit referred to in subsection (1) shall be applied against the tax payable in the year in which the person meets the conditions specified in subsection (1).

(3) The amount of any unused credit shall be carried forward for a period of 3 years from the end of the income year in which the credit was obtained; but no cash refund shall be allowed.”

12. The principal Act is amended by inserting immediately after section 65E the following section as section 65F:

Insertion of section 65F in Cap. 73.

“Productivity and innovation credit.

65F. (1) Where a person carrying on a business in income year 2011 and subsequent income years has incurred expenditure in that year for any of the purposes described in subsection (2), then that person shall be entitled to a tax credit at the rate of 25 per cent of the amount expended in that income year.

(2) The expenditure to which subsection (1) refers must be innovative in nature and successfully introduced in the market for any of the following purposes:

- (a) process innovation that leads to the development of a new manufacturing process;
- (b) product innovation that leads to the development of improved products and services;

(c) organizational innovation that leads to the establishment of a new venture for improved productivity such as a new internal communication system, or a new accounting system; or

(d) service innovation that leads to the development of new services for local or international markets.

(3) The amount of any unused tax credit shall be carried forward for a period of 3 years from the end of the income year in which the credit was obtained but no cash refund shall be allowed.

(4) The benefit described in subsection (1) may only be granted

(a) on the certificate of the Executive Director of the National Productivity Council to the effect that the amount expended was used for any of the purposes specified in subsection (2); and

(b) where the innovation was successfully introduced in the market.

(5) For the purposes of this section an innovation shall be regarded as being successfully introduced into the market if the business realizes the creation of commercial value as evidenced in sales, increased productivity or organizational efficiency."

13. Section 67 of the principal Act is amended

(a) in subsection (1), by deleting the words "\$100" appearing in that subsection and substituting the words "\$500";

(b) in subsection (2), by inserting immediately after the words "64J" the words "64K";

Amend-
ment of
section 67
of Cap. 73.

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- (c) in subsection (3), by inserting immediately after the words "64J" the words "64K";
- (d) in subsection (3A), by inserting immediately after the words "64J" the words "64K"; and
- (e) by deleting subsection (8) and substituting the following:

"(8) Any person who knowingly

(a) omits any assessable income; or

(b) makes a false claim

in order to qualify for

(i) a refund of tax;

(ii) a reverse tax credit; or

(iii) a reduction in tax payable under the Act

shall be liable to pay to the Commissioner as a penalty, an amount not exceeding 100 per cent of the amount of the benefit received as a result of the omission or the false claim."

Commence-
ment. 14. This Act shall come into operation with effect from income
year 2011.

