

2013/12/03

**OBJECTS AND REASONS**

This Bill would provide for the imposition of a tax on the domestic assets of a bank and for related matters.

*Arrangement of Sections*

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## **BARBADOS**

A Bill entitled

An Act to provide for the imposition of a tax on the domestic assets of a bank and for related matters.

ENACTED by the Parliament of Barbados as follows:

### **Short title**

1. This Act may be cited as the *Banks (Tax on Assets) Act, 2013*.

### Interpretation

2. In this Act,

“assets” means the assets of a bank as determined by the Central Bank from the returns of that bank;

“average domestic assets” means the assets of a bank held in national currency, irrespective of the residency and computed in the manner set out in section 5;

“bank” means a bank licensed under Part II of the *Financial Institutions Act*, Cap. 324A;

“Central Bank” means the Central Bank of Barbados;

“Commissioner” means the Commissioner of Inland Revenue; and

“returns” means

(a) the certified returns of financial information that banks are required by law to submit periodically to the Minister of Finance or the Central Bank;

(b) any other information available to the Central Bank and which the Central Bank certifies, in writing, is relevant in determining the financial condition of a bank in respect of a given period.

### Administration

3.(1) The Commissioner is responsible for the administration of this Act.

(2) A function conferred by this Act on the Commissioner is exercisable by any public officer authorised by the Commissioner for the purpose and reference in this Act, to the Commissioner is a reference to any such officer.

**Imposition of tax**

4. Subject to this Act, there shall be charged, levied and collected on the average domestic assets of a bank, a tax

(a) described in the manner; and

(b) at the rate

set out in section 5.

**Computation of assets and rate of tax**

5.(1) The formula for computing the average domestic assets of a bank is, one divided by the number of months for which the tax is being paid, multiplied by the sum of the domestic assets for the said months, which is set out as follows:

$1/\# \text{ of months} * \Sigma (\text{domestic assets for the number of identified months}).$

(2) The rate of tax payable on the average domestic assets of a bank in relation to those assets is 0.20% per annum provided that the said tax shall be pro-rated and paid every 3 months commencing 1<sup>st</sup> September, 2013.

**Payment of tax**

6.(1) The tax levied by virtue of this Act shall be paid, in every year, to the Commissioner in the manner specified:

(a) for the period 1<sup>st</sup> September to 30<sup>th</sup> November, on or before 15<sup>th</sup> February;

(b) for the period 1<sup>st</sup> December to 28<sup>th</sup> February, on or before 15<sup>th</sup> May;

(c) for the period 1<sup>st</sup> March to 31<sup>st</sup> May, on or before 15<sup>th</sup> August; and

(d) for the period 1<sup>st</sup> June to 31<sup>st</sup> August, on or before 15<sup>th</sup> November.

(2) Nothing in this Act shall preclude a bank from *pro rating* and paying the tax on a more frequent basis.

**Penalty**

7. A bank that fails to pay the tax by the dates specified in section 6(1), shall pay to the Commissioner

- (a) the tax payable; and
- (b) a penalty, equal to 10 per cent of the amount of tax that was due and unpaid at that date, or \$20,000 whichever is greater.

**Accounts and records**

8.(1) A bank shall keep, in Barbados, records and books of account in such form and containing such information as will allow the tax payable under this Act to be determined.

(2) The Commissioner may require a bank that fails to comply with subsection (1) to keep such records and books of account as the Commissioner specifies, and the bank shall keep the records and books of account so specified.

(3) A bank required by this section to keep records and books of account shall retain all records and books of account and every document or record necessary to verify the records and books of account until the Commissioner gives permission, in writing, for the disposal of that document or record.

**Audit and ancillary powers**

9. For the purpose of enforcing this Act, the powers conferred by section 76 of the *Income Tax Act*, Cap. 73 on the Commissioner are exercisable by the Commissioner in relation to the premises occupied by a bank and accordingly, section 76 of the *Income Tax Act*, shall be construed *mutatis mutandis* for the purpose of giving the necessary effect to this Act.

**Procedure on default**

10. Where a bank fails to make payment as required by this Act, the Commissioner shall assess the tax payable by the bank on the basis of the contents of the certified statement, submitted to him by the Central Bank.

**Unpaid tax certificates**

11.(1) Where tax payable under this Act remains unpaid for a period of 30 days from the date on which payment should have been made, the amount of the tax may be certified, in relation to the bank, by the Commissioner in a certificate called an unpaid tax certificate.

(2) An unpaid tax certificate may be filed by the Commissioner in the High Court or in a magistrates' court for District "A" and shall be registered in the court in which it is filed.

(3) A certificate referred to in subsection (2) has, after the expiry of a period of 7 days from the date on which it is filed and registered, the same force and effect as a judgement of the court in which it is registered in favour of the Crown against the bank named in the certificate, for the amount specified in the certificate and also for

- (a) interest on that amount at the rate of 1.5 per cent per month calculated for each month on the unpaid balance of the tax; and
- (b) the reasonable costs and charges attendant upon the registration of the certificate.

(4) All proceedings may be taken on an unpaid tax certificate and the certificate may be enforced as if it were a judgement of the court in which it is registered.

(5) Where an unpaid certificate is filed by the Commissioner in the High Court or in a magistrates' court for District "A", the Commissioner shall immediately deliver a copy of the certificate to the bank to which the certificate relates and if the copy of the certificate is not delivered within 7 days from the date of filing subsections (3) and (4) shall cease to have effect in respect of the certificate.

**Refunds**

12.(1) Subject to subsection (2), where

- (a) an amount paid, by a bank, as tax or interest is in excess of the amount that ought to have been paid; and
- (b) the bank applies to the Commissioner, in writing, for a refund of the excess,

the Commissioner shall apply the amount of the excess for meeting any outstanding liability of that bank under this Act and then pay over to the bank the balance, if any.

(2) An application for a refund shall not be considered unless the application is made before the expiration of a period of one year from the date on which the payment was made.

(3) A refund under this section shall be made by the Commissioner and shall be charge on the Consolidated Fund.

**Commencement**

13.(1) This Act shall be deemed to have come into operation on the 1<sup>st</sup> day of September, 2013 and shall end on the 31<sup>st</sup> day of August, 2015.

(2) No tax shall be levied under this Act for any period after 31<sup>st</sup> March, 2015.