

2017-01-06

OBJECTS AND REASONS

This Bill would provide for the imposition of tax on the assets of

- (a) a deposit taking licensee under Part III of the *Financial Institutions Act*, Cap. 324A; or
- (b) an insurance company.

Arrangement of Sections

1. Short title
2. Interpretation
3. Administration
4. Imposition of tax
5. Computation of assets and rate of tax in relation to a deposit taking licensee
6. Computation of assets and rate of tax in relation to an insurance company
7. Payment of tax
8. Penalty
9. Accounts of records
10. Audit and ancillary powers
11. Procedure on default
12. Unpaid tax certificates
13. Refunds
14. Commencement

BARBADOS

A Bill entitled

An Act to provide for the imposition of tax on the assets of

- (a) a deposit taking licensee under Part III of the *Financial Institutions Act*, Cap. 324A; or
- (b) an insurance company.

ENACTED by the Parliament of Barbados as follows:

Short title

1. This Act may be cited as the *Tax on Assets Act, 2017*.

Interpretation

2. In this Act,

“assets” means,

- (a) as it relates to a deposit taking licensee, assets as determined by the Central Bank from the returns of the deposit taking licensee; or
- (b) as it relates to an insurance company, assets as determined by the Financial Services Commission from the returns of the insurance company;

“average domestic assets” means,

- (a) the assets of a deposit taking licensee held in national currency, irrespective of the residency and computed in the manner set out in section 5;
- (b) the assets of an insurance company held in national currency, irrespective of the residency and computed in the manner set out in section 6;

“Central Bank” means the Central Bank of Barbados;

“Commissioner” means the Revenue Commissioner appointed under the *Barbados Revenue Authority Act (Act 2014-1)*;

“deposit taking licensee” means a company licensed under section 22 of the *Financial Institutions Act, Cap. 324A*

- (a) the total gross assets of which is \$40 million or more; and
- (b) that accepts deposits from third parties;

“Financial Services Commission” means the Commission established by section 3 of the *Financial Services Commission (Act 2010-21)*;

“insurance business” has the meaning assigned to it under the *Insurance Act*, Cap. 310;

“insurance company” means a body corporate registered to carry on insurance business under the *Insurance Act*, Cap. 310 and which has total gross assets of \$40 million or more;

“returns”,

- (a) as it relates to a deposit taking licensee, means
 - (i) the financial information that is required by law to be submitted periodically to the Minister responsible for Finance or the Central Bank;
 - (ii) 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 deposit taking licensee in respect of a given period; or
- (b) as it relates to an insurance company, means any other information available to the Financial Services Commission and which the Financial Services Commission certifies, in writing, is relevant in determining the financial condition of an insurance company.

Administration

3.(1) The Commissioner is responsible for 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.(1) Subject to this Act, there shall be charged, levied and collected on the average domestic assets of a deposit taking licensee, a tax

(a) described in the manner; and

(b) at the rate

set out in section 5.

(2) Subject to this Act, there shall be charged, levied and collected on the assets of an insurance company, a tax described in the manner set out in section 6.

Computation of assets and rate of tax in relation to a deposit taking licensee

5.(1) The formula for computing the average domestic assets of a deposit taking licensee 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 deposit taking licensee in relation to those assets is 0.35 % per annum and shall be paid to the Commissioner in the manner specified in section 7(1).

Computation of assets and rate of tax in relation to an insurance company

6.(1) The formula for computing the taxable assets of an insurance company is the total assets net of segregated assets.

(2) The formula for computing the segregated assets referred to in subsection (1) is the regulatory capital plus the reinsurance recoverable.

(3) The rate of tax payable on the average domestic assets of an insurance company in relation to those assets is 0.35 % per annum and shall be paid to the Commissioner in the manner specified in section 7(2).

Payment of tax

7.(1) The tax levied by virtue of this Act, in respect of a deposit taking licensee, shall be paid in every year to the Commissioner

- (a) for the period 1st June to 31st August, on or before 15th November;
- (b) for the period 1st September to 30th November, on or before 15th February;
- (c) for the period 1st December to 28th February, on or before 15th May;
- (d) for the period 1st March to 31st May, on or before 15th August.

(2) The tax levied by virtue of this Act, in respect of an insurance company, shall be paid in every year to the Commissioner

- (a) for the period 1st January to 31st March, on or before 15th June;
- (b) for the period 1st April to 30th June, on or before 15th September;
- (c) for the period 1st July to 30th September, on or before 15th December;
- (d) for the period 1st October to 31st December, on or before 15th March in the following year.

(3) Nothing in this Act shall preclude

- (a) a deposit taking licensee; or
- (b) an insurance company,

from *pro rating* and paying the tax on a more frequent basis.

Penalty

8. A deposit taking licensee or an insurance company that fails to pay the tax by the dates specified in section 7, 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 of records

9.(1) A deposit taking licensee or an insurance company 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 deposit taking licensee or an insurance company that fails to comply with subsection (1) to keep such records and books of account as the Commissioner specifies, and the deposit taking licensee or insurance company shall keep the records and books of account so specified.

(3) A deposit taking licensee or an insurance company, 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

10. 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 deposit taking licensee or an insurance company 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

11.(1) Where a deposit taking licensee fails to make payment as required by this Act, the Commissioner shall assess the tax payable by the deposit taking licensee on the basis of the contents of a certified statement, submitted to him by the Central Bank.

(2) Where an insurance company fails to make payment as required by this Act, the Commissioner shall assess the tax payable by the insurance company on the basis of the contents of a certified statement, submitted to him by the Financial Services Commission.

Unpaid tax certificates

12.(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 deposit taking licensee or insurance company, 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 deposit taking licensee or insurance company, 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 deposit taking licensee or insurance company 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

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

- (a) an amount paid, by a deposit taking licensee or an insurance company, as tax or interest is in excess of the amount that ought to have been paid; and
- (b) the deposit taking licensee or insurance company 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 deposit taking licensee or insurance company under this Act and then pay over to the deposit taking licensee or insurance company 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 a charge on the Consolidated Fund.

Commencement

14. This Act shall be deemed to have come into operation on the 1st day of April, 2016.

Read three times and passed the House of Assembly this
day of _____, 2017.

Speaker

Read three times and passed the Senate this _____ day of
, 2017.

President