

12/08/2015

### OBJECTS AND REASONS

This Bill would amend the *Income Tax Act, Cap. 73* to

- (a) make it an offence for a public officer or any other person employed to administer and enforce the Act to breach the duty of confidentiality imposed by section 51;
- (b) increase the penalty for offences under section 79 of the Act;
- (c) provide for higher fines for Regulations made under section 83 of the Act;
- (d) provide for the use of administrative pecuniary penalties for certain breaches of Regulations made under section 83 of the Act; and
- (e) provide for related matters.

*Arrangement of Sections*

1. Short title
2. Amendment of section 51 of Cap. 73
3. Amendment of section 79 of Cap. 73
4. Amendment of section 83 of Cap. 73

## **BARBADOS**

A Bill entitled

An Act to amend the *Income Tax Act*.

ENACTED by the Parliament of Barbados as follows:

### **Short title**

- 1.** This Act may be cited as the *Income Tax (Amendment) (No. ) Act, 2015*.

**Amendment of section 51 of Cap. 73**

**2.** *Section 51 of the Income Tax Act, in this Act referred to as the principal Act, is deleted and the following is substituted:*

**“Breach of Confidentiality**

**51.(1)** The Commissioner, the members of the Income Tax Appeal Board, officers and other persons employed to administer and enforce this Act and other laws relating to income tax shall

- (a) maintain and aid in maintaining the secrecy of all matters relating to this Act and other laws relating to income tax which come to their knowledge, and shall not communicate any such matters to any person except for the purpose of administering or enforcing this Act or any other law of Barbados; and
- (b) before they begin to perform any duty in relation to their office or employment, take and subscribe the prescribed oath of fidelity and secrecy.

(2) The Commissioner or any person authorised by him may communicate confidential information to

- (a) the relevant authorities solely for the purpose of the administration or enforcement of this Act or any other laws relating to income tax, or for the purpose of legal proceedings under those enactments;
- (b) the Director of Finance and Economic Affairs or the Permanent Secretary in the Ministry of Finance solely for the purpose of the formation, evaluation or implementation of fiscal policy;

(c) any person who is otherwise legally entitled to that information under this Act or any other enactment unless that information was collected in compliance with obligations imposed under a Treaty which imposes confidentiality requirements and limits the manner in which that information can be shared or used; or

(d) any person with the consent of the person to whom the confidential information relates

(3) A person who uses or communicates confidential information contrary to the manner permitted by subsection (2) is guilty of an offence and is liable on summary conviction to a fine of \$10 000 or to imprisonment for a term of 2 years or to both such imprisonment and such fine.

(4) The Commissioner, the members of the Income Tax Appeal Board, and the officers and other persons employed to administer and enforce this Act shall not be compelled to give or produce evidence relating to any confidential information in connection with any legal proceedings other than legal proceedings arising under this Act or any other enactment that provides for the imposition or collection of a tax or duty.”.

### **Amendment of section 79 of Cap. 73**

**3.***Section 79 of the principal Act is amended by deleting subsection (3) and substituting the following:*

“(3) Every person, other than a person to whom section 51 applies, who has

(a) communicated or allowed to be communicated to a person not legally entitled thereto any information obtained under this Act or under any Regulations made under this Act; or

- (b) allowed any person not legally entitled to do so to inspect or have access to any written statement furnished under this Act or under any Regulations made under this Act

is guilty of an offence and is liable on summary conviction to imprisonment for a term not exceeding 2 years, or to a fine of not less than \$2 500 and not greater than \$10 000 or to both such imprisonment and such fine. ”.

**Amendment of section 83 of Cap. 73**

**4. Section 83 of the principal Act is amended by**

**(a) deleting subsection (4) and substituting the following:**

“(4) In the event of any inconsistency between an agreement and any regulation made under subsection (2), and

- (a) the provisions of this Act, the terms of the agreement and the regulations made under subsection (2) shall prevail to the extent of the inconsistency; or

- (b) the provisions of any other enactment, the terms of the agreement and the regulations made under subsection (2) shall prevail to the extent of the inconsistency.”; and

**(b) inserting the following new subsections immediately after subsection (6):**

“(7) Where regulations are made under subsection (2) and offences are created thereunder a person guilty of an offence under those Regulations may be liable

- (a) on summary conviction to a fine of \$10 000 or to imprisonment for a term of 2 years or to both such fine and imprisonment; or

(b) on conviction on indictment to a fine of \$50 000 or to imprisonment for a term of 10 years or to both such fine and such imprisonment.

(8) Where the circumstances so require, regulations made under subsection (2) may require the Commissioner to impose a penalty of up to \$10 000 for a breach of the regulations and where the breach continues, the Commissioner maybe required to impose a further penalty of up to \$5 000 for each day for which the breach continues or the imposition remains unpaid.”.

Read three times and passed the House of Assembly this  
day of \_\_\_\_\_, 2015.

**Speaker**

Read three times and passed the Senate this \_\_\_\_\_ day of  
, 2015.

**President**