



BERMUDA

U.S.A. - BERMUDA TAX CONVENTION AMENDMENT ACT 2014

2014 : 32

WHEREAS it is expedient to amend the U.S.A. - Bermuda Tax Convention Act 1986:

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

Citation

1 This Act, which amends the U.S.A. - Bermuda Tax Convention Act 1986 (the "principal Act"), may be cited as the U.S.A. - Bermuda Tax Convention Amendment Act 2014.

Amends section 5

2 Section 5 of the principal Act is amended by inserting next after subsection (7) the following—

"(7A) A person served with a production order under subsection (1) who seeks information from the Minister pertaining to the production order, must first file an application with the court to review the production order.

(7B) Upon the application under subsection (7A) having been filed with the court, the court shall decide whether to grant the person a right of review.

(7C) The costs in relation to an application under subsection (7A) shall be awarded as provided in section 9B(a)."

Amends section 5A

3 The principal Act is amended by repealing section 5A(3) and substituting the following—

“(3) Nothing in subsection (1) or (2) makes it an offence for a professional legal adviser to disclose any information or other matter to, or to a representative of, a person who has received a production order who is a client of his, in connection with the giving by the adviser of legal advice to the client, but this subsection (3) does not apply—

- (a) in relation to a person outside Bermuda who is a representative of a person who has received a production order, unless the court has under the circumstances given permission, except that permission shall not be given by the court for a copy of the request from a requesting party, or any of its contents that are not reproduced in the production order, to be provided to such person outside Bermuda; or
- (b) in relation to any information or other matter which is disclosed with a view to furthering the contravention of the provisions of this Act. ”.

Inserts section 9A and 9B

4 The principal Act is amended by inserting next after section 9 the following—

“Exceptionally large volume of information requests

9A (1) Where a request for information under section 5(1) is made with respect to an exceptionally large volume of information, the Minister shall consult with the requesting party on the possibility of that party bearing the costs of providing such information in the place of the person required to provide the information, but such consultation shall not be accepted as reason for the person from whom the information is requested to delay providing, or to fail to provide, the information requested.

(2) Where the requesting party declines to bear the costs of providing the exceptionally large volume of information requested, the costs shall be borne by the person from whom the information is requested.

(3) In this section “exceptionally large volume of information” means a volume that exceeds 10,000 pages of information.

Costs arising from a person’s compliance with this Act

9B For the avoidance of doubt, the Minister shall not bear the costs arising—

- (a) in the case of an application which is made under section 5(7A), except where the court—
 - (i) decides to hear the application for review of the production order; and
 - (ii) the outcome of the review of the production order is not in the Minister’s favour;

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- (b) from proceedings resulting in the court determining whether to give permission under section 5A(3)(a); or
- (c) from a person's general compliance with the provisions of this Act. ”.

[Assent Date: 08 December 2014]

[Operative Date: 08 December 2014]