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# PROVISIONAL EMPLOYMENT INCENTIVE PROGRAMME ACT, 2021

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No. 21 of 2021

## PROVISIONAL EMPLOYMENT INCENTIVE PROGRAMME ACT, 2021

### AN ACT TO AUTHORISE THE PROVISIONAL CREDIT OF VALUE ADDED TAX AND BUSINESS LICENCE TAX TO ENABLE BUSINESSES TO INCREASE STAFF EMPLOYMENT LEVELS

[Date of Assent - 30<sup>th</sup> June, 2021]

Enacted by the Parliament of The Bahamas

#### 1. Short title and commencement.

- (1) This Act may be cited as the Provisional Employment Incentive Programme Act, 2021.
- (2) This Act shall come into force on the 1<sup>st</sup> day of July, 2021.

#### 2. Interpretation.

“**business licence tax**” means a tax payable in respect of a business licence granted under the Business Licence Act, 2010 (*No. 25 of 2010*);

“**Comptroller**” has the same meaning assigned to it under section 2 of the Value Added Tax Act, 2014 (*No. 32 of 2014*);

“**non-executive staff**” means a member of staff who —

- (a) does not hold the position of, or function in the capacity of, president, vice president, director, manager, or a similar position;
- (b) is not the owner of the business; or
- (c) is not an immediate family member of any person who holds any of the positions referred to in paragraph (a) or (b);

“**payroll obligations**” means the total gross basic pay of all non-executive staff, and excludes any bonus, tip, gratuity, commission and severance pay;

“value added tax” has the same meaning assigned to it under section 2 the Value Added Tax Act, 2014 (*No. 32 of 2014*).

### **3. Employment Programme.**

- (1) There is established an employment incentive programme (hereinafter referred to as “the Employment Programme”) to authorise credit on value added tax and business licence tax payable by a business to enable that business to increase its non-executive staff employment levels above the level as at the 30<sup>th</sup> day of June, 2021.
- (2) Any business desirous of participating in the Programme shall apply in writing to the Comptroller by the 31<sup>st</sup> day of December, 2021.
- (3) The Employment Programme shall remain in effect until the 30<sup>th</sup> day of June, 2022.

### **4. Eligibility of applicants.**

- (1) A business which makes application in accordance with section 3 must —
  - (a) be in good standing in respect of all taxes payable to the Government in accordance with any law in force at the time, including any contributions payable under the National Insurance Act (*Ch. 350*);
  - (b) be a VAT registrant under the Value Added Tax Act, 2014 (*No. 32 of 2014*);
  - (c) have a net increase in the non-executive staff levels on the numbers employed as at the 30<sup>th</sup> day of June, 2021 and stationed during regular operating hours and at the regular place of operation of the business.
- (2) For the purposes of subsection (1), “non-executive staff levels” shall not include such staff as may be prescribed by rules.

### **5. Conditions of Employment Programme.**

- (1) Where approval has been granted under this Act to a business for a credit in respect of taxes payable —
  - (a) the sums approved for credit shall not exceed four hundred dollars per non-executive staff member per week in respect of regular payroll obligations for a maximum of ten non-executive staff members for the period July, 2021 to June, 2022;
  - (b) the net increase in the non-executive staff must be supported by National Insurance records and any other documentation required by the Comptroller;

- (c) an approved applicant must submit a claim for credit by the 30th day of September, 2022.
- (2) Any credit granted pursuant to this Act shall —
  - (a) only be utilized for the purpose of meeting payroll obligations of the increase in non-executive staff of the business;
  - (b) not give rise to a claim for refund under the Value Added Tax Act, 2014.

## **6. Inspection.**

- (1) The Comptroller or any person authorised by him, may carry out an inspection at any business location of an approved applicant to ensure compliance with the provisions of this Act.
- (2) The Comptroller or such person as authorised by him, may in carrying out an inspection under this section —
  - (a) enter onto the premises for the purpose of conducting the inspection;
  - (b) make any enquiry as may be necessary to ensure compliance with the Act;
  - (c) require the production of any records and documents; and
  - (d) make copies of such records and documents.
- (3) The Comptroller or such authorised person in exercising or attempting to exercise his powers under this section, shall produce his identification and authorisation to the person in charge of the business.
- (4) The Comptroller or authorised person, may take with him such other person as may appear to him to be necessary for conducting the inspection and such person shall also produce his identification.

## **7. Rules.**

The Minister may, in consultation with the Comptroller, make rules for carrying out the purposes of this Act.

## **8. Penalties.**

- (1) Any person who knowingly makes a statement in respect of an application under section 5 which is false in any material particular, commits an offence and shall be liable upon summary conviction to a fine not exceeding ten thousand dollars or to a term of imprisonment not exceeding eighteen months or to both such fine and imprisonment.
- (2) Where —
  - (a) an application is approved on the basis of a false statement; or

(b) an applicant fails to comply with any condition imposed at the time of the approval,

the credit shall be reversed and the full tax, penalty and interest that would be chargeable if the credit had not been applied, shall be payable by the applicant.