

CERTIFICATE

In accordance with section 56(2) of the Jamaica (Constitution) Order in Council 1962, I hereby certify that this Bill shortly entitled The Income Tax (Amendment) Act, 2013 is a Money Bill.

ANDRE M. HYLTON
Acting Speaker.

JAMAICA

No. 21 – 2013

I assent,

[L.S.]

/sgd/ P.D. Allen
Governor-General.

31st Day of August 2013

AN ACT to Amend the Income Tax Act and to make certain related amendments to the Revenue Administration Act.

[31st Day of August 2013]

BE IT ENACTED by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same, as follows:—

1.—(1) This Act may be cited as the Income Tax (Amendment) Act, 2013, and shall be read and construed as one with the Income Tax Act (hereinafter referred to as the “principal Act”) and all amendments thereto. Short title and commencement.

(2) Subject to subsection (3), the provisions of this Act shall be deemed to have come into effect in respect of—

- (a) the amendments to section 5 of the principal Act, on the 21st January, 2010;
- (b) the amendments to section 12 of the principal Act, at the commencement of each period stated in the amended section;
- (c) in respect of the amendments to section 40A of the principal Act, on the 21st January, 2010; and
- (d) in respect of every other amendment, respectively at the commencement of each period specified in the amendment.

(3) The provisions of this Act which are expressed as relating to any year of assessment commencing after the 31st December, 2012 shall be deemed to have come into effect on the 1st January, 2013.

Amendment
of section 2
of principal
Act.

2. Section 2 of the principal Act is amended in subsection (1) by inserting the following definition in the appropriate alphabetical sequence—

“Commissioner General” means the Commissioner General for Tax Administration Jamaica appointed under the *Revenue Administration Act*;”.

Amendment
of section 5
of principal
Act.

3. Section 5 of the principal Act is amended in subsection (1)(c) by—

- (a) deleting the words “arising or accruing to any person (or any member of his family or household) by reason of his office or employment of profit” and substituting therefor the following—

“, whether in the form of cash, benefit or kind, arising or accruing to any person or any member of his family or household by reason of his office or employment of profit, including the full cost of providing the benefit or kind (such as a rent, uniform or laundry allowance)”;

and

- (b) deleting clauses (A) and (B) of sub-paragraph (iii) and substituting therefor the following—

- “(A) where the accommodation provided is rented premises and the rent is paid directly to the landlord, a third party or the employee, the full amount of rent paid is taxable;
- (B) where the accommodation provided is rented premises and the employer is the landlord for the accommodation, the value of that accommodation shall be deemed to be the market value thereof;
- (C) where an employee is required to live in accommodation provided by the employer and it can be established that it is necessary for the employee to have that accommodation in order to exercise his employment, the value of the benefit on which he is liable to be taxed shall not exceed the amount equal to 30 per cent of his emoluments (excluding the value of the accommodation);
- (D) where the employee lives in accommodation owned or operated by an approved charitable organization, the value of the benefit on which he is liable to be taxed shall not exceed the amount equal to 30 per cent of his emoluments (excluding the value of the accommodation).”.

4. Section 12 of the principal Act is amended by—

- (a) renumbering section 12 as subsection (1) of section 12;
- (b) deleting from subsection (1) as renumbered, the word “There” and substituting therefor the words “ Subject to subsections (2) and (3), there”;

Amendment
of section 12
of principal
Act.

- (c) deleting paragraph (z) of subsection (1) as renumbered, and substituting therefor the following—

“(z) as regards—

- (i) the period 1st January, 2009 to 30th June, 2009, \$22,500.00 of the income of any individual derived from a superannuation allowance or pension under either a statutory pension scheme or a scheme for payment from a superannuation fund approved by the Commissioner pursuant to subsection (2) of section 44 or an approved retirement scheme approved by the Commissioner pursuant to section 44A;
- (ii) the period 1st July, 2009 to 31st December, 2009, \$40,000.00 of the income of any individual derived from any of the sources referred to in sub-paragraph (i);
- (iii) any year of assessment subsequent to 2009, \$80,000.00 of the income of any individual derived from any of the sources referred to in sub-paragraph (i);
- (iv) an individual referred to in sub-paragraph (i) who has attained the age of fifty-five years or is found to be permanently incapacitated as described in paragraph (y), for the period 1st January, 2009 to 30th June, 2009, \$22,500.00 of his income derived from any of the sources referred to in sub-paragraph (i) and from any other source;
- (v) the individual referred to in sub-paragraph (iv), for the period 1st July, 2009 to 31st

December, 2009, \$40,000.00 of his income derived from any of the sources referred to in sub-paragraph (i) and from any other source; or

- (vi) the individual referred to in sub-paragraph (iv), in any year of assessment subsequent to 2009, \$80,000.00 of his income derived from any of the sources referred to in sub-paragraph (i) and from any other source;”;

- (d) deleting paragraph (ab) of subsection (1) as renumbered and substituting therefor the following—

“(ab) as regards—

- (i) the period 1st January, 2009 to 30th June, 2009, \$22,500.00 of the income of any individual who has attained the age of sixty-five years or attains that age at any time during the year of assessment 2009;
- (ii) the period 1st July, 2009 to 31st December, 2009, \$40,000.00 of the income of the individual referred to in sub-paragraph (i); or
- (iii) any year of assessment after 2009, \$80,000.00 of the income of any individual who has attained the age of sixty-five years or attains that age at any time during the year of assessment 2009;”;

- (e) deleting paragraph (af) of subsection (1) as renumbered, and substituting therefor the following—

“(af) as regards an employee earning emoluments (excluding payments made pursuant to a gratuity scheme as described herein) of a sum

not exceeding \$500,000.00 in the year of assessment, income as specified in the following sub-paragraphs received by the employee pursuant to a gratuity scheme which is established in relation to such categories of employment as may be specified by the Minister, by order, for the purposes of this paragraph; and which is approved for the purposes of this paragraph by the Minister by order, subject to such terms and conditions as may be specified in that order, namely income—

- (i) for the period 1st January, 2009 to 31st June, 2009, of an amount not exceeding \$125,000.00;
 - (ii) for the period 1st July, 2009 to 31st December, 2009, of an amount not exceeding \$74,768.00;
 - (iii) for the three-year period 1st January, 2010 to 31st December, 2012, of an amount not exceeding \$29,104.00 in any year of assessment; and
 - (iv) for any year of assessment commencing after December 31, 2012, the amount of \$0.00 ;”;
- (f) inserting next after subsection (1) as renumbered the following as subsections (2) and (3)—
- “ (2) Except for dividend income earned by any fund or scheme specified in subsection (1) (j), income exempted from tax by virtue of subsection (1), from the payment of income tax, does not include dividend income.
- (3) Notwithstanding subsection (2), any person whose income is specified in subsection (1) (h), (z) or

(ab) or whose income falls within an incentive scheme for relief from income tax under any enactment, is entitled to recover any tax suffered on dividend income derived from a company resident in Jamaica.”

5. Section 13 of the principal Act is amended by inserting next after subsection (8) the following as subsections (9) and (10)—

Amendment of section 13 of principal Act.

“ (9) Subsection (1) shall not apply in respect of dividend income received by any person, other than specified dividend income.

(10) The reference in subsection (9) to specified dividend income is a reference to dividend income (other than income to which section 30 (4) applies) of any body corporate subject to income tax which is duly regulated by the Bank of Jamaica or the Financial Services Commission, and whose dominant trade or business is comprised of making investments in loans, securities and other financial assets.”

6. Subsection (1) of section 15 of the principal Act is amended—

Amendment of section 15 of principal Act.

(a) in paragraph (i), by deleting the full stop and substituting therefor a semicolon; and

(b) by inserting next after paragraph (i) the following as paragraph (j)—

“ (j) expenses incurred in earning dividend income, other than specified dividend income described in to section 13(10).”

7. Section 30 of the principal Act is amended—

Amendment of section 30 of principal Act.

(a) by deleting paragraph (a) of subsection (1) and substituting therefor the following as paragraphs (a) and (aa)—

“ (a) upon the statutory income of every individual, tax at the following rates in respect of income arising—

(i) between the 1st January, 2005 and the 30th June, 2005—

For the first

\$60,216.00 ... Nil; and

- For every dollar
of the income
exceeding
\$60,216.00 25 cents;
- (ii) between the 1st July, 2005 and the
31st December, 2005—

For the first
\$84,552.00 Nil; and

- For every dollar
of the income
exceeding
\$84,552.00 25 cents;
- (iii) for each year of assessment between
the 1st January, 2006 and the 31st
December, 2007—

For the first
\$193,440.00 Nil; and

- For every dollar
of the income
exceeding
\$193,440.00 25 cents;
- (iv) between the 1st January, 2008 and the
30th June, 2008—

For the first
\$96,720.00 Nil; and

For every dollar
of the income
exceeding
\$96,720.00 25 cents;

- (v) between the 1st July, 2008 and the 31st December, 2008

For the first

\$100,152.00 ... Nil; and

For every dollar
of the income
exceeding

\$100,152.00 ... 25 cents;

- (vi) between the 1st January, 2009 and the 30th June, 2009—

For the first

\$110,136.00 ... Nil; and

For every dollar
of the income
exceeding

\$110,136.00 ... 25 cents;

- (vii) between the 1st July, 2009 and the 31st December, 2009—

For the first

\$160,368.00 ... Nil; and

For every dollar
of the income
exceeding

\$160,368.00 ... 25 cents;

- (viii) subject to paragraph (aa), for each year of assessment between the 1st January, 2010 and the 31st December, 2012—

For the first

\$441,168.00 ... Nil; and

For every dollar

of the income
exceeding

\$441,168.0025 cents;

- (ix) for any year of assessment commencing after the 31st December, 2012—

For the first

\$507,312.00Nil; and

For every dollar

of the income
exceeding

\$507,312.00 25 cents;

- (aa) notwithstanding paragraph (a) (viii), between the 1st January, 2010 and the 31st December, 2010, in addition to the tax referred to in paragraph (a)(viii) that would be payable on income not exceeding \$5,000,000.00—

For every dollar

of the income
exceeding

\$5,000,000.00 but not
exceeding

\$10,000,000.00...27.5 cents;

For every dollar

of the income
exceeding

\$10,000,000.00... 35 cents;”;

(b) by deleting paragraph (b) of subsection (1) and substituting therefor the following as paragraphs (b) and (c)—

“ (b) upon the chargeable income of the categories of the bodies corporate subject to income tax specified in sub-paragraphs (i), (ii) and (iii), other than building societies or life assurance companies, tax at the following rates—

(i) with effect from the 1st January, 2013, 33 1/3 cents in every dollar of the income of a regulated company;

(ii) with effect from the 1st January, 2013, 25 cents in every dollar of the income of an unregulated company (other than a large unregulated company); and

(iii) with effect from the 1st April, 2013, 30 cents in every dollar of the income of a large unregulated company;

(c) with effect from the 1st January, 2013; upon the chargeable income of all persons other than those specified in paragraph (a) or (b), tax at the rate of 25 cents in the dollar.”;

(c) by inserting next after subsection (1) the following as subsection (1A)—

“ (1A) For the purpose of paragraph (b) of subsection (1), and subject to the provisions thereof—

“large unregulated company” means any unregulated company which has gross annual income of not less than \$500,000,000.00 in any year of assessment or, as the case

may be, in the period of twelve months referred to in section 6 (2);

“regulated company” includes a company that is regulated by any of the following entities—

- (a) the Financial Services Commission;
- (b) the Office of Utilities Regulation;
- (c) the Bank of Jamaica;
- (d) the Ministry with responsibility for finance;

“unregulated company” means any company that is not a regulated company.”;

(d) by deleting subsection (3) and substituting therefor the following as subsections (3) and (4)—

“ (3) Notwithstanding the provisions of subsections (1) and (2)—

(a) in relation to a company listed on the Jamaica Stock Exchange—

- (i) with effect from the 1st June, 2000 until the 31st March, 2001, in *lieu* of the rate of tax prescribed under subsections (1) and (2), income tax payable on dividend income derived from such a company shall be levied and paid at the rate of 20 cents in the dollar;
- (ii) with effect from the 1st April, 2001 until the 31st March, 2002, in *lieu* of the rate of tax prescribed under subsections (1) and (2), income tax payable on such dividend

income shall be levied and paid at the rate of 10 cents in the dollar;

- (ii) with effect from the 1st April, 2002 until the 31st December, 2008, in *lieu* of the rate of tax prescribed under subsections (1) and (2), the rate of income tax payable on such dividend income shall be nil;
- (b) in relation to every company (whether or not listed on the Jamaica Stock Exchange)—
- (i) with effect from the 1st January, 2009 until the 31st May, 2012, in *lieu* of the rates of tax prescribed under subsections (1) and (2), income tax payable on dividend income derived from such a company shall be nil;
 - (ii) with effect from the 1st June, 2012 until 31st March, 2012, in *lieu* of the rates of tax prescribed under subsections (1) and (2), income tax payable on dividend income derived from such a company shall be levied and paid at the rate of five cents in the dollar;
 - (iii) with effect from the 1st April, 2013, in *lieu* of the rates of tax prescribed under subsections (1) and (2), income tax payable on dividend income derived from

such a company shall be levied and paid at the rate of 15 cents in the dollar;

- (iv) with effect from the 1st January, 2009, income tax payable on any preference dividend income as is deductible under subsection (3) of section 13, shall be levied and paid at the rate of tax applicable to the recipient preference shareholder as at the date of receipt of the income.

(4) Notwithstanding subsection (3), with effect from the 1st June 2012, where a company resident in Jamaica receives a dividend (other than so much of any preference dividend as is deductible under subsection (3) of section 13) from another company resident in Jamaica, in which the first mentioned company holds no less than 25 per cent of the voting rights, the rate of income tax payable on such dividend shall be nil.”.

**Amendment
of section 38
of principal
Act.**

8. Section 38 of the principal Act is amended—

- (a) in subsection (1), by deleting—
- (i) the word “Where” and substituting therefor the words “Subject to subsections (2) and (3), where”;
 - (ii) the words “Commissioner of Inland Revenue” and substituting therefor the words “Commissioner General”; and

(iii) the proviso and substituting therefor the following—

“ Provided that where the distribution is made to a person resident in Jamaica, tax shall be deducted—

(a) with effect from the 1st June, 2012 until the 31st March, 2013, at the rate of five per cent;

(b) with effect from the 1st April, 2013, at the rate of fifteen per cent.”;

(b) by renumbering subsections (1A), (2), (3) and (4), respectively, as subsections (4), (5), (6) and (7);

(c) by inserting next after subsection (1) the following as subsections (2) and (3)—

“ (2) The Commissioner General may authorize payment of the money distribution without deduction of tax where he is satisfied that the recipients are not liable to tax.

(3) In the case of a distribution made by a company (hereinafter referred to as the “distributing company”) to a company resident in Jamaica (hereinafter referred to as the “receiving company”) that holds no less than twenty-five per cent of the voting rights in the distributing company, the distributing company may make a distribution of the gross amount to the receiving company without deducting from that gross amount the income tax payable.”;

(d) in subsection (7) as renumbered, by—

(i) inserting in paragraph (a), immediately after the word “corporate” the words “resident in Jamaica”;

(ii) inserting in paragraph (b), immediately after the word “corporate” where it first appears, the words “resident in Jamaica”;

- (iii) deleting from paragraph (c) the words “ body corporate to which the body corporate referred” and substituting therefor the words “body corporate resident in Jamaica to which the body corporate first referred”; and
- (iv) in paragraph (d), immediately after the word “individual,” the words “resident in Jamaica”; and
- (e) by inserting next after subsection (7), as renumbered, the following as subsections (8) and (9)—

“ (8) If a body corporate referred to in subsection (1) does not make a deduction from a distribution made by it, as required under this section, the person beneficially entitled to receive the gross amount of that distribution shall deduct the applicable income tax and pay it over to the Commissioner General or to such other person as the Commissioner General may direct.

(9) For the purposes of subsection (1), the payment of any preference dividend as is deductible under subsection (3) of section 13 to a person not resident in the Island shall be deemed to be a distribution and tax shall be deducted therefrom accordingly.”.

**Amendment
of section
40A
of principal
Act.**

9. Section 40A of the principal Act is amended by deleting all the words appearing after the words “connected person then” and substituting therefor the words “, unless the Commissioner General is satisfied that tax has been paid in accordance with section 5 (1) (c) (iii) in respect of the value of the accommodation, the employer is not entitled to any deduction in respect of the cost of providing the accommodation.”.

**Amendment
of section 42
of principal
Act.**

10. Section 42 of the principal Act is amended by inserting next after subsection (2) the following as subsection (3)—

“ (3) The tax deducted in accordance with paragraph (a) or (b) of section 38 (1) shall be a final tax and shall not be set off against or applied to any tax paid or payable in relation to any

other income and shall not be the subject of a claim for a refund or tax credit in that or any other year of assessment (whether or not the tax liability of the payee of the distribution in the year of assessment is less than the amount of tax deducted).”.

11. Section 67 of the principal Act is amended in subsection (7) by deleting from paragraph (a) all of the words appearing after the words “31st day of December preceding” and substituting therefor the words “exceeds the sum of \$120,432.00 in respect of the years of assessment 2001, 2002, 2003 and 2004; in respect of the year of assessment 2005, \$60,216.00 for the period 1st January to 30th June, 2005 and \$84,552.00 for the period 1st July to 31st December, 2005; \$193,440.00 in respect of the years of assessment 2006 and 2007 and in respect of the year of assessment 2008, \$96,720.00 for the period 1st January to 30th June, 2008 and \$100,152.00 for the period 1st July to 31st December, 2008; in respect of the year of assessment 2009, \$110,136.00 for the period 1st January to 30th June, 2009 and \$160,368.00 for the period 1st July, 2009 to 31st December, 2009, \$441,168.00 in respect of the years of assessment 2010, 2011 and 2012, and \$507,312.00 for each year of assessment after 31st December, 2012, and to such other persons as the Commissioner General requires.”.

Amendment
of section 67
of principal
Act.

12. Section 68 of the principal Act is amended—

- (a) by deleting from the marginal note the words “eight thousand five hundred and eighty dollars” and substituting therefor the words “twenty-two thousand four hundred and sixty-four dollars;”
- (b) in subsection (1), by deleting the words “2000 and \$120,432.00 in respect of the year of assessment 2001” and substituting therefor the words “2000, \$120,432.00 in respect of the years of assessment 2001, 2002, 2003 and 2004; in respect of the year of assessment 2005, \$60,216.00 for the period 1st January to 30th June, 2005 and \$84,552.00 for the period 1st July to 31st December, 2005; \$193,440.00 in respect of the years of assessment 2006 and 2007; and in

Amendment
of section 68
of principal
Act.

respect of the year of assessment 2008, \$96,720.00 for the period 1st January to 30th June, 2008 and \$100,152.00 for the period 1st July to 31st December, 2008, in respect of the year of assessment 2009, \$110,136.00 for the period 1st January to 30th June, 2009, \$160,368.00 for the period 1st July to 31st December, 2009 and \$441,168.00 in respect of the years of assessment 2010, 2011 and 2012.”.

Amendment
of section 70
of principal
Act.

13. Section 70 of the principal Act is amended by—

- (a) deleting subsection (5); and
- (b) inserting in subsection (6) immediately after the word “section” the words “ or section 70A”.

Insertion of
new section
70A in
principal Act.

14. The principal Act is amended by inserting next after section 70 the following as section 70A—

“Duty of
public
officer to
supply
information.

70A.—(1) Subject to subsection (4), every public officer shall furnish information, or produce documents, required by the Commissioner General for the purposes of this Act, which may be in his possession or which he may be able to lawfully procure.

(2) Information or documents referred to in subsection (1) shall be in such form and shall be supplied at such times or frequency and in such manner, as the Commissioner General may direct or prescribe.

(3) Subject to subsection (4), no obligation as to secrecy or other restriction upon the disclosure of information imposed by any law or otherwise shall prevent a public officer from disclosing information or producing documents to the Commissioner General in accordance with this section.

(4) Nothing in this section requires a public officer to furnish information or produce documents which a person would be entitled to refuse to furnish

or produce on the grounds of legal professional privilege.

(5) In this section—

“Government company” means a company registered under the *Companies Act*, being a company wholly owned by the Government or an agency of Government or in which the Government or an agency of Government holds more than fifty per cent of the shares;

“local authority” means—

- (a) in relation to the parishes of Kingston and St. Andrew, the Council of the Kingston and St. Andrew Corporation as constituted under the *Kingston and St. Andrew Corporation Act*;
- (b) in relation to any other parish, the Parish Council of that parish as constituted under the *Parish Councils Act*; or
- (c) in relation to a municipality, a Municipal Council established under the *Municipalities Act*;

“public body” means—

- (a) a Ministry, Department, Executive Agency or other agency of Government;
- (b) a local authority;

(c) a statutory body or authority;
or

(d) a Government company;

“public officer” means a person employed in the service of a public body.”.

Amendment
of section 83
of principal
Act.

15. Section 83 of the principal Act is amended in subsection (1) by inserting immediately after the words “laws of that territory” the words “or for the exchange of information for tax purposes”.

Related
amendments
to the
Revenue
Administration
Act.

16. *The Revenue Administration Act* is amended—

(a) in section 2, by deleting the definition of “international tax agreement” and substituting therefor the following—

“ “international tax agreement” means a treaty, convention or other international agreement that is in force and to which Jamaica is a party, the purpose of which is to provide for the exchange of information for tax purposes or to afford relief from double taxation;”; and

(b) in section 17LA, by deleting subsection (1), and substituting therefor the following—

“ (1) Every person in possession of any book, record or other document (including an underlying document such as an invoice or contract) that is relevant to the tax liability of any person shall—

(a) keep every such document, in order to facilitate ascertainment by a Commissioner of the tax liability of any person; and

(b) retain the document so kept for a period of not less than seven years.”.

Passed in the House of Representatives this 30th day of July, 2013.

ANDRE M. HYLTON
Acting Speaker.

Passed in the Senate this 31st day of July, 2013.

FLOYD E. MORRIS
President.

This printed impression has been carefully compared by me with the authenticated impression of the foregoing Act, and has been found by me to be a true and correct printed copy of the said Act.

Clerk to the Houses of Parliament.

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