

MONTSERAT

**INCOME AND CORPORATION TAX (AMENDMENT) ACT
2015**

No. 10 of 2015

ARRANGEMENT OF SECTIONS

1	Short title	2
2	Interpretation	2
3	Section 2 amended	2
4	Section 6 amended	3
5	Section 13 amended	3
6	Section 17 amended	6
7	Section 53 amended	7
8	Section 62 amended	7
9	Section 78 amended	7

Montserrat
Income and Corporation Tax (Amendment) Act, 2015
No. 10 of 2015

I ASSENT

(Sgd.) Elizabeth Carriere
Governor

DATE: 19.08.15

M O N T S E R R A T

No. 10 of 2015

AN ACT TO AMEND THE INCOME AND CORPORATION TAX ACT (CAP. 17.01).

BE IT ENACTED by The Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Montserrat, and by the authority of the same as follows:—

1 Short title

This Act may be cited as the Income and Corporation Tax (Amendment) Act, 2015.

2 Interpretation

In this Act “**principal Act**” means the Income and Corporation Tax Act (Cap.17.01).

3 Section 2 amended

Section 2 of the principal Act is amended by inserting the following definition in the correct alphabetical sequence:

Montserrat
Income and Corporation Tax (Amendment) Act, 2015
No. 10 of 2015

“**“Tax Information Exchange Act”** means the Tax Information Exchange Act (Cap. 17.24);”.

4 Section 6 amended

Section 6(1)(w) of the principal Act is deleted and the following is substituted:

“(w) the income of a financial institution as defined under section 2 of the International Banking and Trust Companies Act (Cap.11.04), which is licensed to undertake international banking business under section 7 of the International Banking and Trust Companies Act (Cap.11.04);”.

5 Section 13 amended

Section 13 of the principal Act is deleted and the following is substituted—

“13. Deductions allowed

(1) For the purpose of computing a person’s chargeable income there shall be deducted—

(a) all outgoings and expenses wholly and exclusively incurred by the person during the basic year in the production of the income including –

(i) any sum paid as interest on money borrowed by the person, if the Comptroller is satisfied that the interest was paid on capital used to acquire the income;

(ii) any sum the person spends on the repair of premises, plant and machinery used to—

(A) acquire the income; or

(B) renew, repair or alter an implement, utensil or article used to acquire the income;

Montserrat
Income and Corporation Tax (Amendment) Act, 2015
No. 10 of 2015

- (iii) rent paid by a tenant of land or a building occupied for the purpose of acquiring the income;
- (iv) subject to subsection (2)—
 - (A) a bad debt incurred in any trade, business, profession or vocation proved to the satisfaction of the Comptroller to have become bad during the basic year; and
 - (B) a doubtful debt to the extent that it is estimated to the satisfaction of the Comptroller to have become bad during that basic year,
despite the bad debt or doubtful debt being due and payable before the commencement of the basic year;
- (v) any rate and tax on land or a building except income tax;
- (vi) any contribution to an approved pension or superannuation fund which is an ordinary annual contribution; and a contribution which is not an annual contribution shall be spread forward over the number of years that the Comptroller considers reasonable having regard to the circumstances in which the contribution was made;
- (vii) any premium paid under an insurance policy against damage to or loss of property if the property insured is used to produce assessable income;
- (viii) subject to subsection (3), any annuity or other annual payment payable in or outside of Montserrat—

Montserrat
Income and Corporation Tax (Amendment) Act, 2015
No. 10 of 2015

- (A) as a charge on any property of the person paying the annuity or making the payment under a deed, will or otherwise;
 - (B) as a reservation of the annuity or other annual payment; or
 - (C) as a personal debt or obligation under a contract;
- (ix) any annual sum paid by an employer as a contribution on behalf of an employee in respect of a fund or scheme to provide medical care, housing or recreational facilities for employees as approved by the Governor acting on the advice of Cabinet;
- (x) any contribution made by a person for the advancement of sports and cultural development; and
- (xi) in the case of an airline or charter boat company which provides a commercial service to and is registered in Montserrat, the annual sum expended by the airline or charter boat company on the training of a Montserratian pilot or technical personnel, subject to the approval of the Ministry of Finance and Economic Management;
- (b) in the case of an airline or charter boat company which provides a commercial service to and is registered in Montserrat, 20% of the annual sum wholly and exclusively expended by the airline or charter boat company on an investment approved by the Ministry of Finance and Economic Management for three consecutive years after assessment year 2013; and

Montserrat
Income and Corporation Tax (Amendment) Act, 2015
No. 10 of 2015

- (c) any other prescribed deduction except a deduction disallowed under section 16.
- (2) For the purposes of this Act, any sum recovered during the basic year under subsection (1)(a)(iv), on account of an amount previously written off or allowed in respect of a bad debt or doubtful debt shall be treated as a receipt of trade, business, profession or vocation for that basic year.
- (3) For the purposes of computing a person's chargeable income a voluntary allowance or payment shall not be deducted under subsection (1)(a)(viii).
- (4) For the purposes of subsection (1)(a)(xi), "**technical personnel**" means a person who is certified to install, repair and maintain technical equipment associated with the operation of an aircraft or a charter boat.
- (5) The Governor acting on the advice of Cabinet may make rules to provide for the method of calculating or estimating a deduction allowed under this section."

6 Section 17 amended

Section 17(1) of the principal Act is deleted and the following is substituted:

"17. Allowances for loss

- (1) Subject to subsections (1A) and (1B), if a person incurs a loss in the basic year in any trade, business, profession or vocation undertaken solely or as a partnership, the Comptroller shall, as far as possible, set-off the loss against the person's income from other sources for that year.
- (1A) The Comptroller shall not set-off a loss in accordance with section (1)–
 - (a) against a person's chargeable income if the set-off reduces the tax payable by that

Montserrat
Income and Corporation Tax (Amendment) Act, 2015
No. 10 of 2015

person for any year to less than one half of the amount which would be payable if the set-off is not made; or

(b) against a person's employment income.

(1B) The Comptroller may make an allowance under this section only if he is satisfied that the trade, business, profession or vocation was, for the whole of the basic year, undertaken—

(i) commercially; and

(ii) with the intention of making a profit.”.

7 Section 53 amended

Section 53 of the principal Act is amended by deleting “this Act and” and substituting the following:

“this Act and the Tax Information Exchange Act”.

8 Section 62 amended

Section 62 of the principal Act is amended by inserting “and the Tax Information Exchange Act” after “Act” wherever it appears.

9 Section 78 amended

Section 78(2) of the principal Act is deleted and the following is substituted:

“(2) The Comptroller or bailiff —

(a) shall publish a notice of intended sale in at least three consecutive issues of—

(i) the *Gazette*; or

(ii) a newspaper circulating in Montserrat; and

(b) may hold a public auction only after the expiration of ninety days after the first notice is published in accordance with paragraph (a).”.

Montserrat
Income and Corporation Tax (Amendment) Act, 2015
No. 10 of 2015

(Sgd.) Shirley Osborne
SPEAKER

Passed by the Legislative Assembly this 4th day of August, 2015.

(Sgd.) Shivonne R White
CLERK OF THE LEGISLATIVE ASSEMBLY (Ag.)