

BELIZE:

INCOME AND BUSINESS TAX (AMENDMENT) ACT, 2019

ARRANGEMENT OF SECTIONS

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No. 25 of 2019

I assent,

(SIR COLVILLE N. YOUNG)

Governor-General

23rd December, 2019

AN ACT to amend the Income and Business Tax Act, Chapter 55 of the Laws of Belize, Revised Edition 2011, to provide for taxation of foreign-source receipts under the business tax; and to provide for matters connected therewith or incidental thereto.

(Gazetted 28th December, 2019).

BE IT ENACTED, by and with the advice and consent of the House of Representatives and the Senate of Belize and by the authority of the same, as follows:—

1. This Act may be cited as the

Short title.

INCOME AND BUSINESS TAX (AMENDMENT)
ACT, 2019,

CAP. 55.
Act No. 5 of
2012.
7 of 2017.
26 of 2018.

and shall be read and construed as one with the Income and Business Tax Act, which as amended, is hereinafter referred to as the principal Act.

Amendment of
section 5.

2. The principal Act is amended in section 5 by inserting after subsection (5) the following new subsection—

“(6) Commencing from the first day of the basis year 2020, and for each subsequent year, no income tax shall be payable upon the chargeable income of a company, other than a company engaged in petroleum operations.”.

Amendment of
section 8.

3. The principal Act is amended in section 8—

(a) in subsection (1) by deleting paragraph (x); and

(b) in subsection (2) by deleting the phrase “(x) and”.

Repeal of
section 14.

4. The principal Act is amended by repealing section 14.

Amendment of
section 50.

5. The principal Act is amended in section 50 (1) by deleting the words “the arrangements shall have effect in relation to income tax” and substituting the words “the arrangements shall have effect”.

Amendment of
section 104.

6. The principal Act is amended in section 104—

(a) by deleting subsection (2) and substituting the following—

“(2) This Part shall not apply to—

(a) a person engaged in petroleum operations, and where a person is partly engaged in petroleum operations and partly in other activities, the provisions of this Part shall not apply to that part of the activities as is materially related to petroleum operations;
or

(b) an approved company under the Designated Processing Area Act.”; and

Act No. 27 of 2018.

(b) by deleting subsection (4).

7. The principal Act is amended in section 106 by–

Amendment of section 106.

(a) deleting subsection (1) and substituting the following–

“(1) Subject to this Part, there shall be levied upon and paid by–

(a) every individual, self-employed person, professional, firm, or partnership (other than a company) a tax to be known as “business tax” at the rates specified in section 107, on all receipts, whether received in Belize or elsewhere; and

(b) every company a tax to be known as “business tax” at the rates specified in section 107, on all receipts, whether received in Belize or elsewhere, including–

(i) receipts that are not related to a trade, business, profession, or vocation carried on in Belize; and

(ii) gains, including gains of a capital nature, described in section 108A(2) (j).”;

(b) inserting after subsection (4) the following new subsections–

“(5) Subsection 1(b) shall not apply in respect of a period, as well as all following periods within the same calendar year, to a company that–

(a) is a resident of a foreign country, other than a country on the European Union list

of non-cooperative jurisdictions for tax purposes, for purposes of the income or profit tax imposed by such country;

(b) has no permanent establishment in Belize; and

(c) files a form claiming the benefits of this subsection by the due date for filing a return in respect of such period under section 109(1).

(6) The form described in subsection (5)(c) shall list the jurisdiction of which the company is a tax resident, and shall list all beneficial owners of the company owning or controlling 5% or more of the company's shares, as well as all direct or indirect legal owners, including information on the tax residency of such legal or beneficial owners.

(7) The Director General shall send a copy of the form described in subsection (5)(c) to the competent authorities of the country or countries listed as the tax residence of the company and of its legal or beneficial owners, in accordance with articles 4 and 7 of the Convention on Mutual Administrative Assistance in Tax Matters.

CAP. 104.

(8) In this section, "beneficial owner" has the meaning assigned to it in the Money Laundering And Terrorism (Prevention) Act.

(9) The amount of gains described in section 108A(2)(j) taken into account for purposes of this Part in respect of the realization of an asset shall be the net gain, computed as the net proceeds from the realization less the asset's cost, and the total

such gains shall be reduced by any deductible capital losses realized during the year.

(10) The deduction for capital losses in respect of a particular kind of property is limited to the amount of gains from property of a like kind realized during the year.

(11) The total gains shall be computed on an annual basis, regardless of the tax period used for other receipts, and the total gains reduced by the deductible capital losses shall be known as annual net gain.”.

8. The principal Act is amended in section 108 by inserting after subsection (2) the following new subsection—

Amendment of section 108.

“(3) Subsection (1)(*h*) and (*l*) shall not apply to any amounts described in section 108A(2).”.

9. The principal Act is amended by inserting after section 108, the following new section—

Insertion of new section 108A.

“Foreign-source income of companies

108A.—(1) In the case of a company, a credit against tax is allowed for any income or withholding tax paid to a foreign country in respect of a receipt described in subsection (2), but not in excess of the amount of business tax payable on such receipt.

(2) The following receipts are eligible for the foreign tax credit under this section—

(*a*) dividends, other than those paid by a company;

(*b*) interest, other than interest paid by a resident person

or relating to a domestic permanent establishment;

(c) natural resource payments made in respect of or calculated by reference to natural resources taken from land or the sea situated outside Belize or its territorial waters;

(d) rent paid for the use of, right to use, or forbearance from using an asset situated outside Belize;

(e) royalties paid for the use of, right to use, or forbearance from using an asset outside Belize;

(f) premiums for general insurance in respect of the insurance of any risk outside Belize;

(g) a payment received by a person who conducts a business of land, sea or air transport operator or charterer in respect of—

(i) the carriage of passengers who embark, or cargo, mail, or other moveable tangible assets that are embarked, outside Belize; or

- (ii) rental of containers and related equipment which are supplementary or incidental to carriage referred to in subparagraph (i);

- (h) payments received by a person who conducts a business of transmitting messages by cable, radio, optical fibre, or satellite or electronic communication in respect of the transmission of messages by apparatus established outside Belize;

- (i) attributable to a business conducted outside Belize having a permanent establishment located in a foreign country;

- (j) a gain from the realization of—
 - (i) real estate located outside Belize;

 - (ii) any asset of a permanent establishment outside Belize; or

 - (iii) any debt, equity, or other financial instrument issued by a person other than a resident person.

(3) For purposes of this Part—

(a) “resident person” means—

(i) an individual domiciled in Belize, or who spends more than 183 days of the year of assessment in Belize;

(ii) a company;

(iii) a trust with a resident trustee; or

(iv) a body of persons formed under the laws of Belize.

(b) “permanent establishment” means a fixed place of business through which the business of a person is wholly or partly carried on, and includes—

(i) a place of management;

(ii) a branch;

(iii) an office;

(iv) a factory;

(v) a workshop;

(vi) a mine, an oil or gas well, a quarry or any

other place of extraction
of natural resources;

(vi) a building site, a construction, assembly or installation project or supervisory activities in connection therewith, if such site, project or activities last more than six months;

(vii) the furnishing of services, including consultancy services, by an enterprise through employees or other personnel engaged by the enterprise for such purpose, if activities of that nature continue within the foreign country concerned for a period or periods aggregating more than 183 days in any 12-month period commencing or ending in the fiscal year concerned.

(4) Where a person is acting in a country on behalf of an enterprise and, in doing so, habitually concludes contracts, or habitually plays the principal role leading to the conclusion of contracts that are routinely concluded without material modification by the enterprise, and these contracts are—

(a) in the name of the enterprise;
or

(b) for the transfer of the ownership of, or for the granting of the right to use, property owned by that enterprise or that the enterprise has the right to use; or

(c) for the provision of services by that enterprise,

that enterprise shall be deemed to have a permanent establishment in that country in respect of any activities which that person undertakes for the enterprise.”.

Repeal of
Seventh
Schedule.

10. The principal Act is amended by repealing the Seventh Schedule.

Amendment
of Ninth
Schedule.

11. The principal Act is amended in the Ninth Schedule by adding the following paragraphs at the end thereof-

“(r) In the case of a company, receipts described in section 108A(2)(a), (b), or (e).....5%

(s) Annual net gain.....5%”.

Commencement.

12. This Act shall come into force on the 1st day of January 2020.