

INCOME TAX (AMENDMENT) ACT, 2009 – 6

Arrangement of Sections

Section

1. Short title.
2. Amendment of section 9 of Cap. 73.
3. Amendment of section 13 of Cap. 73.
4. Amendment of Cap. 73.
5. Insertion of Division OD into Cap. 73.
6. Amendment of section 43A of Cap. 73.
7. Amendment of section 44 of Cap. 73.
8. Amendment of section 52 of Cap. 73.
9. Amendment of Cap. 73.
10. Amendment of section 65 of Cap. 73.
11. Amendment of section 65D of Cap. 73.
12. Amendment of section 67 of Cap. 73.
13. Amendment of section 75 of Cap. 73.
14. Amendment of section 78 of Cap. 73.
15. Commencement of certain provisions.

BARBADOS

I assent
C. STRAUGHN HUSBANDS
Governor-General
30th March, 2009.

2009 – 6

An Act to amend the Income Tax Act.

(6th April, 2009). Commence-
ment.

ENACTED by the Parliament of Barbados as follows:

1. This Act may be cited as the *Income Tax (Amendment) Act, 2009*. Short title.
2. Section 9 of the principal Act is amended in subsection (1) by deleting sub-paragraph (iv) of paragraph (l). Amendment of section 9 of Cap. 73.

Amend-
ment of
section 13
of Cap. 73.

3. Section 13 of the principal Act is amended

(a) in subsection (1) by,

- (i) deleting the comma appearing at the end of paragraph (e) and inserting the words “;or”;
- (ii) inserting immediately after paragraph (e) the following as paragraph (f):

“(f) an energy audit and the retrofitting of a building or the installing of a system to produce electricity from sources other than fossil fuels;”;

- (iii) inserting immediately after sub-paragraph (v) the following as sub-paragraph (vi):

“(vi) in the case of an energy audit and retrofitting of a building, or the installing of a system to provide electricity from sources other than fossil fuels, 20 per cent of the amount expended to be deducted over a period of 5 years;”;

(b) inserting as subsection (2) the following:

“(2) A person who claims a deduction under section 37H is not entitled to claim an allowance by virtue of sub-paragraph (vi) of subsection (1).”;

(c) by deleting subsection (3A) and substituting the following:

“(3A) Subsection (3) shall not apply in the case of sub-paragraphs (iv) and (vi) of subsection (1) where the total depreciable amount is equal to 150 per cent of the capital expenditure.”.

4. The principal Act is amended by inserting immediately after section 36B the following new section as section 36B.1. Amendment of Cap. 73.

“Savings in Co-operative Societies. **36B.1.** (1) With effect from income year 2008, in calculating the taxable income for an income year of an individual there shall be deducted from the assessable income of that individual an amount not exceeding \$3 000 of savings deposited during the income year in a co-operative society registered under the *Co-operative Societies Act*, if there has been no withdrawal from the amount deposited as savings, on the certificate to that effect of an officer within the meaning of section 2 of the *Co-operative Societies Act*.
Cap. 378A.

(2) Where an individual withdraws an amount in respect of which a deduction was made, within 3 years from the end of the income year from a co-operative society, the amount withdrawn shall be brought back into charge to tax in the year in which the withdrawal was made.”.

5. The principal Act is amended by inserting immediately after Division OC the following as Division OD: Insertion of Division OD into Cap. 73.

“DIVISION OD

Calculation of Taxable Income:

Energy conservation and renewable energy deduction.

“**37H.** (1) With effect from income year 2008, in calculating the taxable income of a person, there shall be deducted from the assessable income of that person amounts expended equal to 150 per cent of

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the actual expenditure and not exceeding \$5 000 for each year for 5 years in respect of the conducting of

(a) energy audits; and

(b) 50 per cent of the cost of retrofitting premises or installing systems to produce electricity, from sources other than fossil fuels.

(2) A person who claims a deduction under section 37(1B) is not entitled to claim the deduction allowed by virtue of this section.

(3) Notwithstanding subsection (2), a person who has not claimed a deduction under section 37(1B) may also claim a deduction under subsection (1) in respect of residential property which that person owns, but does not occupy.

(4) In this section,

“authorized energy auditor” means a person who is recognized by the Minister responsible for Energy as being suitably qualified in the field of energy with regard to residential and non-residential properties by reason of his having the appropriate certification or technical skills and experience to provide an energy audit for residential and non-residential properties;

“energy audit” means an evaluation by an authorized energy auditor of the energy consumption in a residential or non-residential property to determine ways in which energy can be conserved.”.

6. Section 43A of the principal Act is amended

Amend-
ment of
section 43A
of Cap. 73.

(a) in subsection (1), by deleting the words “in respect of income year 1978” and substituting the words “with effect from 1st January, 2009”;

(b) in subsection (2),

(i) by deleting paragraph (a) and substituting the following:

“(a) in respect of a company carrying on property insurance business 4.75 per cent of the gross direct premium in respect of resident and non-resident insurers;”;

(ii) by deleting the words “3 per cent” appearing in paragraph (b) and substituting the words “4 per cent”.

7. Section 44 of the principal Act is amended by deleting the opening words and paragraph (a) of subsection (2) and substituting the following:

Amend-
ment of
section 44
of Cap. 73.

“(2) With effect from the 1st January, 2009 the additional tax payable by a company deemed to be a separate person carrying on the life insurance business of an insurance company shall be,

(a) in the case of a resident or foreign company, at the rate of 6 per cent of the gross direct premium income on new business written by the company for the income year;”.

8. Section 52 of the principal Act is amended in subsection (2) by deleting paragraph (f) and substituting the following:

Amend-
ment of
section 52
of Cap. 73.

“(f) an individual referred to in paragraph (b) of subsection (1) of section 38B whose assessable income exceeds \$40 000 with effect from income year 2007;”.

Amendment of
Cap. 73.

9. The principal Act is amended by inserting immediately after section 64H the following as sections 64I and 64J:

“Withhold-
ing tax from
savings
deposited
in co-
operative
societies.
Cap. 378A.

64I. (1) The manager of a co-operative society registered under the *Co-operatives Societies Act* shall, unless the Commissioner otherwise directs, withhold tax at the rate of 20 per cent from amounts deposited as savings in the society by a resident individual, and in respect of which a deduction was made under section 36B.1. where the withdrawal is made within 3 years of the end of the income year during which it was deposited.

(2) The tax withheld under subsection (1) shall be paid to the Commissioner within 7 days of being withheld, and shall be accompanied by a return in such form as is approved by the Commissioner.”.

“Withhold-
ing tax
investments
invested
and disposed
of within
5 years.

64J. (1) Where any investments

(a) described in

(i) section 8 (1)(g)(iii); or

(ii) section 9(1)(p), (p.1), (p.2) or (s); or

(b) the benefit of which is described in section 9(1)(ss)

are disposed of within 5 years of the date of purchase then the person making or liable to make the payment, disbursement or redemption in respect of such disposal shall, unless the Commissioner otherwise directs, withhold tax at the rate of 20 per cent from such amounts.

(2) The tax withheld under section (1) shall be paid to the Commissioner within 7 days of being withheld and shall be accompanied by a return in such form as is approved by the Commissioner.”.

10. Section 65 of the principal Act is amended by inserting immediately after subsection (4D) the following as subsection (4E):

Amendment of section 65 of Cap. 73.

“(4E) With effect from income year 2007, subsection (4) shall not apply to dividends other than preference dividends paid to a non-resident shareholder when the amount paid as dividends is derived from income earned from sources outside of Barbados.”.

11. Section 65D of the principal Act is amended in subsection 2 by,
(a) deleting paragraph (b) and substituting the following:

Amendment of section 65D of Cap. 73.

“(b) for income year 2008, and subsequent income years the amount of \$1 300.”; and

(b) deleting paragraph (c).

12. Section 67 of the principal Act is amended

Amendment of section 67 of Cap. 73.

(a) by deleting subsections (2) and (3) and substituting the following:

“(2) A person who fails to deduct, withhold or pay an amount that he is required by sections 19(12), 64, 64B, 64C, 64D, 64E, 64F, 64G, 64H, 64I, 64J, 65(2), (4), (4A) or (5) to deduct, withhold or pay within the time prescribed shall pay to the Commissioner a penalty equal to 10 percent of the amount that was not deducted, withheld or paid, or \$10, whichever is the greater.

(3) A person who fails to pay an amount that he is required by sections 19(12), 64, 64B, 64C, 64D, 64E, 64F, 64G, 64H, 64I, 64J, 65(2), (4), (4A), (5) or 66(IA) to pay at or within the time prescribed shall, in addition to the penalty imposed by subsection (2), pay to the Commissioner an amount as interest at the rate of 0.5 per cent per month calculated for each month during which any part of that amount was not paid on the largest amount that had not been paid at any time in that month.”.

- (b) by inserting immediately after subsection (3) the following as subsection (3A);

“(3A) A person who knowingly fails to deduct or withhold an amount that he is required by section 19(12), 64, 64B, 64C, 64D, 64E, 64F, 64G, 64H, 64I, 64J, 65(2), (4), (4A) or (5) to deduct or withhold, within the time prescribed shall, unless the Commissioner otherwise directs, in addition to the penalty imposed by subsection (2), pay to the Commissioner an amount equal to the amount of tax which was required to be deducted or withheld, as a penalty.”;

- (c) by deleting subsection (8) and substituting the following:

“(8) A person who knowingly evades or attempts to evade payment of tax under this Act shall, in addition to the tax, and penalty imposed by subsection (5), and the interest imposed by subsection (3) and subsection (6), pay to the Commissioner an amount not exceeding 100 per cent of the amount of tax evaded, or sought to be evaded, as a penalty.”;

- (d) by inserting immediately after subsection (10) the following as subsections (11) and (12):

“(11) A person who fails to submit information to be supplied in a return of income or an information return as required by the Act and *Income Tax Regulations, 1969*

S.I. 1969/
109.

- (a) in the prescribed form;
- (b) within the time required; or
- (c) within such further period as the Commissioner may in writing allow and unless the Commissioner otherwise directs

shall, in addition to any other penalties imposed by this Act or regulations, pay

- (a) a penalty of \$100; and
- (b) \$10 for every day the failure continued.”.

13. Section 75 of the principal Act is amended by inserting immediately after subsection (4) the following as subsection (5):

Amendment of section 75 of Cap. 73.

“(5) Every person required to deliver a return of his assessable income for an income year as set out in section 52(2)(e) and (f) shall

- (a) keep adequate records for the purposes of this Act; and
- (b) retain every such record, voucher or other record necessary to verify such record

for a period of up to 5 years after the end of the relevant income year, unless the Commissioner otherwise directs, before the disposal of the records.”.

14. Section 78 of the principal Act is amended by inserting immediately after subsection (3) the following as subsection (4):

Amendment of section 78 of Cap. 73.

“(4) Where a person has been appointed to act in a representative capacity under subsection (1) as a liquidator or receiver, the Commissioner shall be informed of the appointment not later than 14 days after the date of the appointment.”.

15. The amendments directed to be made to

- (a) sections 13(1)(f), 13(1)(vi), 13(3A) of the principal Act shall be deemed to have taken effect from income year 2008; and
- (b) section 64I of the principal Act shall take effect from income year 2009.

Commencement of certain provisions.