



INCOME TAX (AMENDMENT) (NO. 2) ACT, 2020-16

Arrangement of Sections

1. Short title
2. Amendment of section 8 of Cap. 73
3. Amendment of section 10 of Cap. 73
4. Amendment of section 19 of Cap. 73

BARBADOS

I assent
S. MASON
18th June, 2020.

2020-16

An Act to amend the *Income Tax Act*, Cap. 73 to make provision for changes in the taxation of life insurance companies.

[Commencement: 19th June, 2020]

ENACTED by the Parliament of Barbados as follows:

Short title

- 1.** This Act may be cited as the *Income Tax (Amendment) (No. 2) Act, 2020*.

Amendment of section 8 of Cap. 73

2. *Section 8 of the Income Tax Act, Cap. 73, in this Act referred to as the principal Act, is amended in subsection (1) by*

- (a) deleting the full stop appearing at the end of paragraph (p) and substituting a semi-colon; and*
- (b) inserting immediately after paragraph (p) the following:*

“(q) with effect from income year 2020, in the case of a life insurance company, the amount of a decrease in the actuarial reserves stated in the accounts of that life insurance company in the income year.”.

Amendment of section 10 of Cap. 73

3. *Section 10 of the principal Act is amended*

- (a) in subsection (1) by*
 - (i) deleting the full stop appearing at the end of paragraph (q) and substituting a semi-colon; and*
 - (ii) inserting immediately after paragraph (q) the following:*

“(r) with effect from income year 2020, in the case of a life insurance company, the amount of an increase in the actuarial reserves stated in the accounts of that life insurance company in the income year, where that amount does not exceed the appropriate amount;

- (s) with effect from income year 2020, where the amount of an increase in the actuarial reserves claimed by a life insurance company in an income year exceeds the appropriate amount then, in calculating the assessable income of that life*

insurance company no amount shall be taken of the amount of the excess claimed.”; and

(b) by inserting immediately after subsection (3) the following:

“(4) For the purposes of paragraphs (r) and (s) of subsection (1), “appropriate amount” means the amount of an increase in the actuarial reserves in the income year that is not excessive.

(5) In determining the “appropriate amount” referred to in subsection (4), an actuary appointed in accordance with section 45 of the *Insurance Act*, Cap. 310 shall support the determination with a written opinion that

- (a) follows the actuarial standards recognised in Barbados;
- (b) states the circumstances prevailing at the time at which the opinion was adopted; and
- (c) includes no more than a reasonable margin that takes the following into account:
 - (i) the nature or type of risks to which the actuarial reserves of a life insurance company are exposed; and
 - (ii) the uncertainty associated with the risks referred to in sub-paragraph (i).”.

Amendment of section 19 of Cap. 73

4. Section 19 of the principal Act is amended

(a) by deleting subsection (4) and substituting the following:

“(4) With effect from income year 2020, in the case of the life insurance business of a resident insurance company, the assessable

income of that company shall be calculated on the basis of its net income.”;

(b) by deleting subsection (5) and substituting the following:

“(5) With effect from income year 2020, in the case of the life insurance business of a non-resident company carried on through a branch in Barbados, the assessable income of that company shall be calculated on the basis of its net income attributable to the branch.”;

(c) by inserting immediately after subsection (5) the following:

“(5A) With effect from income year 2020, where an insurance company seeks to make a mark-to-market election for securities, equities and long term derivative contracts that company shall notify the Commissioner in writing on or before its filing due date for the taxation year in respect of which such election is applicable.

(5B) Where an insurance company makes a mark-to-market election for securities, equities and long term derivative contracts pursuant to subsection 5(A), that election shall be irrevocable unless otherwise agreed by the Minister.

(5C) A life insurance company may be irrevocably categorised as a Class 1 or a Class 2 licensee as defined by the *Insurance Act*, Cap. 310, subject to the approval of the Financial Services Commission, unless the business undertaken changes significantly.”; and

(d) in subsection (13) by inserting in the appropriate alphabetical order the following:

““derivative contract” means an agreement or an instrument that is

(a) a swap agreement;

(b) a forward purchase or a sale agreement;

(c) a forward rate agreement;

(d) a futures agreement;

(e) an option agreement;

or any other similar agreement and includes an agreement or an instrument which derives its value from derivatives.”.