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BUSINESS LICENCE (AMENDMENT) ACT, 2017

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No. 14 of 2017

BUSINESS LICENCE (AMENDMENT) ACT, 2017

AN ACT TO AMEND THE BUSINESS LICENCE ACT TO PROVIDE FOR THE IMPOSITION OF INTEREST ON LATE PAYMENT OF TAX, STREAMLINING OF PAYMENT OF TAX FOR GROUPS REGISTERED UNDER THE VALUE ADDED TAX ACT AND OTHER MATTERS RELATED THERETO

[Date of Assent - 30th June, 2017]

Enacted by the Parliament of The Bahamas

1. Short title and commencement.

- (1) This Act may be cited as the Business Licence (Amendment) Act, 2017.
- (2) This Act shall come into force on the 1st day of July, 2017.

2. Amendment of section 2 of the principal Act.

Section 2 of the principal Act is amended in the definition of “Secretary” by the deletion of the words “Secretary for Revenue” and the substitution thereof of the words, “Financial Secretary”.

3. Amendment of section 3 of the principal Act.

Section 3 of the principal Act is amended—

- (a) in subsection (3)(a)(i), by the deletion of the words “or a notification of inactivation or cessation of the business”; and
- (b) by the insertion immediately after subsection (3) of the following new subsection (3A)—

“(3A) Subsection (3) shall not apply to a licensee who submitted notification of the inactivation or cessation of the business before the commencement of the succeeding year.”.

4. Amendment of section 4 of the principal Act.

Subsection (6) of section 4 of the principal Act is amended—

- (a) in paragraph (c), by the deletion of the full stop appearing at the end thereof and the substitution therefor of a semi-colon; and
- (b) by the insertion immediately after paragraph (c), of the following new paragraph—
 - “(d) the applicant or any other business in which the applicant has an interest, owes any taxes under the Value Added Tax Act¹.”.

5. Amendment of section 7 of the principal Act.

Subsection (1) of section 7 of the principal Act is repealed and replaced as follows—

- “(1) The Secretary may—
- (a) at any time for a breach of a condition or misrepresentation made by an applicant for a grant or renewal of a licence;
 - (b) where an applicant has breached an arrangement to pay an amount outstanding for tax under any other law; or
 - (c) where an applicant or licensee has contravened any tax law or law relating to the conduct of their business,
- suspend, revoke, amend or cancel a licence issued under this Act or impose restrictions and conditions on a licence.”.

6. Amendment of section 8 of the principal Act.

Section 8 of the principal Act is amended—

- (a) in subsection (2) by the deletion of the word “Where” and the substitution therefor of the words “Subject to the provisions of subsection (2A) where”;
- (b) by the deletion of subsection (2A) and the substitution of the new subsections—
 - “(2A) Where an applicant for a business licence is registered as part of a group under section 23(7) of the Value Added Tax Act², the applicant shall pay tax at a rate based on the combined turnover of all the members of the group.
 - (2B) For purposes of clarity, where a tax is outstanding in respect of any year, the tax that a business is liable to pay for that

¹No. 32 of 2014.

²No. 32 of 2014.

year shall be calculated according to the rate that was applicable for the year in which that tax was due.”.

7. Amendment of section 10 of the principal Act.

Section 10 of the principal Act is amended—

- (a) by the repeal and replacement of subsection (3) as follows—
 - “(3) An assessment made pursuant to subsection (1) shall be based on the information available to the Secretary and the Secretary's reasonable estimate of the taxes properly due and payable by the licensee or person.”;
- (b) by the insertion immediately after subsection (3) of the following new subsection—
 - “(3A) The Secretary may, for the purpose of making an assessment or for the exercise of any other power or duty under this Act, audit the accounts of a business.”; and
- (c) in subsection (4)—
 - (i) by the repeal and replacement of paragraph (c) as follows—
 - “(c) no financial results have been submitted for a business pursuant to subsection (3) of section 3;”;
 - (ii) by the insertion immediately after paragraph (c) of the following new paragraph—
 - “(d) the Secretary, in any other case, has reason to believe that a person is liable to pay taxes under this Act.”.

8. Amendment of section 24 of the principal Act.

Subsection (1) of section 24 of the principal Act is amended by the insertion immediately after the words “5,”, the words “7,”.

9. Amendment of section 26 of the principal Act.

Subsection (13) of section 26 of the principal Act is amended by the deletion of the words “subsection (5)” and the substitution of the words “subsection (6)”.

10. Amendment of section 36 of the principal Act.

Section 36 of the principal Act is amended—

- (a) in paragraph (h) by the deletion of the full stop appearing at the end thereof and the substitution therefore of the words “; and”; and
- (b) by the insertion immediately after paragraph (h) of the following new paragraph—

- “(i) by any international business company incorporated or continued under the International Business Companies Act (*Ch. 309*) which is not a resident of The Bahamas within the meaning of the Exchange Control Regulations Act (*Ch. 360*).”.

11. Amendment of First Schedule to the principal Act.

The First Schedule to the principal Act is amended in Part 1—

- (a) in paragraph (3)—
 - (i) in subparagraph (d) by the deletion of the words, “but not exceeding \$50 million per annum, a tax of 1.25% of turnover;” and the substitution therefor of the words, “per annum, a tax of 1.25% of turnover.”; and
 - (ii) by the deletion of subparagraph (e);
- (b) by the insertion immediately after paragraph (5A) of the following new paragraph—
 - “(6) Where the business is part of a group of companies with turnover greater than \$400 million, provided that the group includes a hotel licensed under the Hotels Act (*Ch. 288*) and the hotel accounts for at least 50.1% of the turnover of the group, the following rates shall apply—
 - (a) with effect from July 1 2017 1%
 - (b) with effect from January 1 2018 0.75%”;
- (c) in paragraph 7, by the insertion immediately after the words “Exchange Control Regulations Act,” of the words “other than a company incorporated or continued under the International Business Companies Act (*Ch. 309*)”.

12. Amendment to Fourth Schedule of the principal Act.

The Fourth Schedule to the principal Act is amended by the insertion immediately after paragraph (c), of the following new paragraph—

- “(d) Interest rate per annum on payments made thirty days or more after the due date 5% of the tax liability”.