

JAMAICA

No. 8 - 2014

I assent,

[L.S.]

(sgd.) P. L. Allen

Governor-General.

30th September, 2014

AN ACT to Increase and harmonize penalties in
the Education Tax Act and the Income Tax
Act; and for connected matters.

[1st October, 2014]

BE IT ENACTED by The Queen's Most Excellent Majesty, by
and with the advice and consent of the Senate and House of
Representatives of Jamaica, and by the Authority of the same, as
follows:—

1. This Act may be cited as the Tax Penalties (Harmonization)
Act, 2014, and shall come into operation on the 1st day of October,
2014.

Short title and
commence-
ment.

2.—(1) The enactments specified in the first column of the
Schedule are amended in the manner specified in relation to them
in the second column of the Schedule.

Amendment
of enactments
in Schedule.

(2) Each amendment shall be construed as one with the enactment to which it relates.

Saving.

3. Nothing contained in this Act shall be construed to affect the validity of anything done before the coming into operation of this Act under any enactment that is amended by section 2.

SCHEDULE

(Section 2)

Amendment of Enactments

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Education Tax Act.

1. In section 6(3), insert next after the word “offence” the following words—

“, and shall be liable—

(a) on summary conviction in a Resident Magistrate’s Court—

(i) in the case of a first offence, to a fine not exceeding two million dollars and, in default of payment thereof, to imprisonment for a term not exceeding one year; and

(ii) in the case of a second or subsequent offence, to a fine not exceeding five million dollars or to imprisonment for a term not exceeding five years or to both such fine and imprisonment; and

(b) on conviction on indictment in a Circuit Court, to a fine and, in default of payment thereof, to imprisonment for a term not exceeding ten years.”.

2. In section 11(4), delete the words “under this Act” and substitute therefor the following words—

“, and shall be liable—

(a) on summary conviction in a Resident Magistrate’s Court—

(i) in the case of a first offence, to a fine not exceeding two million

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—

dollars and, in default of payment thereof, to imprisonment for a term not exceeding one year; and

- (ii) in the case of a second or subsequent offence, to a fine not exceeding five million dollars or to imprisonment for a term not exceeding five years or to both such fine and imprisonment; and

- (b) on conviction on indictment in a Circuit Court, to a fine and, in default of payment thereof, to imprisonment for a term not exceeding ten years.”.

3. In section 12—

- (a) in subsection (1), delete all the words from and including the words “five thousand dollars” to the end of the subsection, and substitute therefor the following—

“two million dollars, or to a fine of treble the amount of education tax that is unpaid (whichever is greater), and, in default of payment thereof, to imprisonment for a term not exceeding one year.”;

- (b) in subsection (2), delete all the words from and including the words “he shall be liable” to the end of the

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subsection, and substitute therefor the following-

“that person shall be liable-

- (a) on summary conviction in a Resident Magistrate’s Court-
 - (i) in the case of a first offence, to a fine not exceeding two million dollars, or to a fine of treble the amount of education tax that is unpaid (whichever is greater), and, in default of payment thereof, to imprisonment for a term not exceeding one year; and
 - (ii) in the case of a second or subsequent offence, to a fine not exceeding five million dollars, or to a fine of treble the amount of education tax that is unpaid (whichever is greater), or to imprisonment for a term not exceeding five years or to both such fine and imprisonment; and
- (b) on conviction on indictment in a Circuit Court, to a fine and, in default of payment thereof, to imprisonment for a term not exceeding ten years.”;
- (c) in subsection (5), delete all the words from and including the words “five thousand dollars” to the end of the

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subsection, and substitute therefor the following—

“one million dollars and, in default of payment thereof, to imprisonment for a term not exceeding one year.”; and

- (d) in subsection (6), delete all the words from and including the words “one thousand dollars” to the end of the subsection, and substitute therefor the following—

“one million dollars and, in default of payment thereof, to imprisonment for a term not exceeding six months.”.

4. Insert the following next after section 12 as sections 12A and 12B—

“ Late filing penalty.

12A.—(1) Notwithstanding any other provision of this Act, every person who fails to file a return under this Act within the time required shall be liable to pay a penalty of five thousand dollars for each month, or part of a month, during which the failure to file the return continues, up to a maximum of one million dollars, in addition to any other penalty that may be imposed on the person in respect of failure to file a return.

(2) A penalty that is incurred under subsection (1) shall be considered to be tax payable by the person who has incurred the penalty, in addition to any other tax that is payable by that person.

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(3) The Commissioner General may waive or reduce a penalty that is incurred under subsection (1) if the Commissioner General is satisfied that there are circumstances that justify doing so.

Power of Minister to amend or vary monetary penalties.

12B. The Minister may, by order subject to affirmative resolution, amend or vary any monetary penalty imposed by or under this Act.”

Income Tax Act.

1. In section 4(2), delete the words “against this Act.” and substitute therefor the following words-

“, and shall be liable on summary conviction in a Resident Magistrate’s Court to a fine not exceeding one million dollars and, in default of payment thereof, to imprisonment for a term not exceeding one year.”.

2. In section 17(4), delete all the words from and including the words “to a fine” to the end of the subsection, and substitute therefor the following words-

“in a Resident Magistrate’s Court to a fine not exceeding two million dollars and, in default of payment thereof, to imprisonment for a term not exceeding one year.”.

3. In section 20(5), delete all the words from and including the words “on conviction on indictment” to the end of the subsection, and substitute the following words-

“on summary conviction in a Resident Magistrate’s Court to a fine not exceeding one million dollars and, in default of payment thereof, to imprisonment for a term not exceeding one year.”.

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4. In section 41(3), delete the words “one million” and substitute therefor the words “two million”.

5. In section 49(5), delete the words “against this Act.” and substitute therefor the following words—

“, and is liable on summary conviction in a Resident Magistrate’s Court to a fine not exceeding one million dollars and, in default of payment thereof, to imprisonment for a term not exceeding one year.”.

6. In section 58(2), delete all the words from and including the words “one million” to the end of the subsection, and substitute the following words—

“one million dollars and, in default of payment thereof, to imprisonment for a term not exceeding one year.”.

7. In section 66(3)(c), delete the words “ten thousand” and “one thousand” and substitute therefor the words “one million” and “two thousand” respectively.

8. In section 67—

(a) in subsection (8), delete all the words from and including the words “against this Act”, where they first occur, to the end of the subsection; and

(b) insert next after subsection (8) the following as subsection (9)—

“ (9) Any person who commits an offence under subsection (8) shall be liable—

(a) on summary conviction in a Resident Magistrate’s Court—

(i) in the case of a first offence, to a

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fine not exceeding two million dollars and, in default of payment thereof, to imprisonment for a term not exceeding one year; and

(ii) in the case of a second or subsequent offence, to a fine not exceeding five million dollars or to imprisonment for a term not exceeding five years or to both such fine and imprisonment; and

(b) on conviction on indictment in a Circuit Court, to a fine and, in default of payment thereof, to imprisonment for a term not exceeding ten years.”.

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9. In section 69(3), delete the words “against this Act.” and substitute the following words—

“, and shall be liable—

(a) on summary conviction in a Resident Magistrate’s Court—

(i) in the case of a first offence, to a fine not exceeding two million dollars and, in default of payment thereof, to imprisonment for a term not exceeding one year; and

(ii) in the case of a second or subsequent offence, to a fine not exceeding five million dollars or to imprisonment for a term not exceeding five years or to both such fine and imprisonment; and

(b) on conviction on indictment in a Circuit Court, to a fine and, in default of payment thereof, to imprisonment for a term not exceeding ten years.”.

10. In section 70(4), delete the words “against this Act.” and substitute the following words—

“, and shall be liable—

(a) on summary conviction in a Resident Magistrate’s Court—

(i) in the case of a first offence, to a fine not exceeding two million

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dollars and, in default of payment thereof, to imprisonment for a term not exceeding one year; and

- (ii) in the case of a second or subsequent offence, to a fine not exceeding five million dollars or to imprisonment for a term not exceeding five years or to both such fine and imprisonment; and

- (b) on conviction on indictment in a Circuit Court, to a fine and, in default of payment thereof, to imprisonment for a term not exceeding ten years.”.

11. In section 72(5)(b), delete all the words from and including “shall be liable” to the end of the paragraph and substitute the following words—

“commits an offence, and shall be liable—

- (a) on summary conviction in a Resident Magistrate’s Court—

- (i) in the case of a first offence, to a fine not exceeding two million dollars and, in default of payment thereof, to imprisonment for a term not exceeding one year; and

- (ii) in the case of a second or subsequent offence, to a fine not exceeding five million dollars or to imprisonment for a term not exceeding five years or to both such fine and imprisonment; and

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- (b) on conviction on indictment in a Circuit Court, to a fine and, in default of payment thereof, to imprisonment for a term not exceeding ten years.”.

12. In section 75(5)(b), delete the words “against this Act.” and substitute the following words—

“, and shall be liable—

- (a) on summary conviction in a Resident Magistrate’s Court—

- (i) in the case of a first offence, to a fine not exceeding two million dollars and, in default of payment thereof, to imprisonment for a term not exceeding one year; and

- (ii) in the case of a second or subsequent offence, to a fine not exceeding five million dollars or to imprisonment for a term not exceeding five years or to both such fine and imprisonment; and

- (b) on conviction on indictment in a Circuit Court, to a fine and, in default of payment thereof, to imprisonment for a term not exceeding ten years.”.

13. In section 78A(4), delete the words “under this Act.” and substitute the following words—

“, and shall be liable on summary conviction in a Resident Magistrate’s Court to a fine not exceeding one million dollars and, in default of payment thereof, to imprisonment for a term not exceeding one year.”.

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14. In section 89(1), delete all the words from and including “against this Act” to the end of the subsection, and substitute the following words-

“, and shall be liable-

(a) on summary conviction in a Resident Magistrate’s Court—

(i) in the case of a first offence, to a fine not exceeding two million dollars and, in default of payment thereof, to imprisonment for a term not exceeding one year; and

(ii) in the case of a second or subsequent offence, to a fine not exceeding five million dollars or to imprisonment for a term not exceeding five years or to both such fine and imprisonment; and

(b) on conviction on indictment in a Circuit Court, to a fine and, in default of payment thereof, to imprisonment for a term not exceeding ten years.”.

15. In section 92(2), delete the words “ten thousand” and “one thousand” and substitute therefor the words “one million” and “two thousand” respectively.

16. In section 99—

(a) in subsection (1), delete all the words from and including the words “shall, notwithstanding” to the end

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of the subsection, and substitute the following words-

“commits an offence, and shall be liabl-

(a) on summary conviction in a Resident Magistrate’s Court—

(i) in the case of a first offence, to a fine not exceeding two million dollars or to a fine of treble the amount of tax that the person ought to be charged with under this Act (whichever is greater), and, in default

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of pay-
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thereof,
to im-
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ment for a
term not
~~exceeding~~
one year;
and

- (ii) in the
case of a
second
or sub-
sequent
offence,
to a fine
not ex-
ceeding
f i v e
million
dollars
or to a
fine of
treble
t h e
amount
of tax
that the
person
ought to
be char-
ged with
u n d e r
this Act
(which-
ever is
greater),
or to

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imprisonment for a term not exceeding five years, or to both such fine and imprisonment;

- and
- (b) on conviction on indictment in a Circuit Court, to a fine or to imprisonment for a term not exceeding ten years or to both such fine and imprisonment.”;

- (b) in subsection (2), delete all the words from and including the words “shall be liable” to the end of the subsection, and substitute therefor the following w-

“commits an offence, and shall be liable—

- (a) on summary conviction in a Resident Magistrate’s Court—

- (i) in the case of a first offence, to a fine not exceeding two million dollars or to imprisonment for a term not exceeding one year

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or to both such fine and imprisonment; and

(ii) in the case of a second or subsequent offence, to a fine not exceeding five million dollars or to imprisonment for a term not exceeding five years or to both such fine and imprisonment; and

(b) on conviction on indictment in a Circuit Court, to a fine or to imprisonment for a term not exceeding ten years or to both such fine and imprisonment.”;

(c) in subsection (3), delete all the words from and including the words “he shall be guilty of an offence” to the end of the subsection, and substitute the following words-

“that person commits an offence, and shall be liable-

(a) on summary conviction in a Resident Magistrate’s Court-

(i) in the case of a first offence, to a fine not exceeding one million dollars and, in default of payment thereof, to imprisonment for a term not exceeding one year; and

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- (ii) in the case of a second or subsequent offence, to a fine not exceeding five million dollars or to imprisonment for a term not exceeding five years or to both such fine and imprisonment; and
 - (b) on conviction on indictment in a Circuit Court, to a fine and, in default of payment thereof, to imprisonment for a term not exceeding ten years.”;
 - (d) delete subsection (4); and
 - (e) in subsection (5), delete all the words from and including the words “and shall be liable” and substitute therefor the following words—
 - “, and shall be liable—
 - (a) on summary conviction in a Resident Magistrate’s Court to a fine not exceeding two million dollars and, in default of payment thereof, to imprisonment for a term not exceeding one year; and
 - (b) on conviction on indictment in a Circuit Court, to a fine and, in default of payment thereof, to imprisonment for a term not exceeding five years.”.
17. In section 100, delete the words “ten thousand” and substitute the words “one million”.
18. In section 101(1), delete all the words from and including the words “shall forfeit” to the end of

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the subsection, and substitute therefor the following words—

“commits an offence, and shall be liable—

- (a) on summary conviction in a Resident Magistrate’s Court—
 - (i) in the case of a first offence, to a fine not exceeding two million dollars and, in default of payment thereof, to imprisonment for a term not exceeding one year; and
 - (ii) in the case of a second or subsequent offence, to a fine not exceeding five million dollars or to imprisonment for a term not exceeding five years or to both such fine and imprisonment; and
- (b) on conviction on indictment in a Circuit Court, to a fine and, in default of payment thereof, to imprisonment for a term not exceeding ten years.”.

Passed in the House of Representatives this 23rd day of July 2014.

LLOYD B. SMITH
Deputy Speaker.

Passed in the Senate this 30th day of July 2014 with one (1) amendment.

FLOYD E. MORRIS
President.

On the 9th day of September, 2014 the House of Representatives agreed to the amendments made by the Senate.

MICHAEL A. PEART

Speaker.

This printed impression has been carefully compared by me with the authenticated impression of the foregoing Act, and has been found by me to be a true and correct printed copy of the said Act.

(sgd.) *H. E. Cooke (Mrs.)*
Clerk to the Houses of Parliament.