

CERTIFICATE

In accordance with section 56(2) of the Jamaica (Constitution) Order in Council 1962, I hereby certify that this Bill shortly entitled "The Income Tax (Amendment) Act, 2017 is a Money Bill.

PEARNEL CHARLES, CD, MP, JP
Speaker

ABILL

ENTITLED

AN ACT to Amend the Income Tax Act.

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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 Income Tax (Amendment) Act, 2017, and shall be read and construed as one with the Income Tax Act, (hereinafter referred to as the "principal Act") and all amendments thereto. Short title and construction.
2. Section 34(1) of the principal Act is amended under the heading "*Distributions to shareholders*" in the exceptions to paragraph 1 by— Amendment of section 34 of principal Act.
 - (a) deleting the full-stop at the end of sub-paragraph (b) and substituting therefor a semicolon; and

(b) inserting next after sub-paragraph (b) the following as sub-paragraph (c)—

“(c) so much of the dividend as is proved by the body corporate to have been used to redeem, purchase or otherwise acquire shares issued by the body corporate, if—

- (i) the shares are listed on a recognized stock exchange; and
- (ii) the shares are redeemed, purchased or otherwise acquired pursuant to the rules of the recognized stock exchange on which the shares are listed and, where applicable, in accordance with any terms and conditions upon which the shares were issued by the body corporate.”.

Passed in the House of Representatives this 25th day of July, 2017.

PEARNEL CHARLES, CD, MP, JP
Speaker.

MEMORANDUM OF OBJECTS AND REASONS

In 2004 the Government made significant amendments to the *Companies Act* which included an amendment to section 58 to authorize a company to redeem, purchase or otherwise acquire shares issued by the company, as long as the company's Articles provided for such a transaction.

This amendment did not provide for the necessary consequential amendments to the Income Tax Act, the *Stamp Duty Act* and the *Transfer Tax Act* which has resulted in some anomalies in the law regarding the application of taxation in relation to transactions involving shares. For example, under the current law, a shareholder who sells his shares to a third party is not subject to income tax, however, where a company seeks to repurchase its shares, that company would be required to pay income tax on the transaction.

This anomaly has resulted in a disincentive to many companies from availing themselves of the share buy-back option provided by section 58 of the *Companies Act*.

Therefore, this Bill seeks to make the requisite amendments to the Income Tax Act, in order to exempt from the payment of income tax, a share buy-back transaction.

AUDLEY SHAW
Minister of Finance and the
Public Service.

A BILL

ENTITLED

AN ACT to Amend the Income Tax Act.

As passed in the Honourable House of Representatives.

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