

## ABILL

ENTITLED

AN ACT to Amend the Income Tax Act so as to give more permanent effect to the revenue measures set out in the Provisional Collection of Tax (Income Tax) Order, 2017, and to provide for connected matters.

[ ]

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, 2018, 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.

Amendment  
of section 5  
of principal  
Act.

2. Section 5 of the principal Act is amended in subsection (1) by deleting paragraph (d) and substituting therefor the following—

“(d) the income characterized as insurance premiums paid to a person who is not resident in Jamaica by—

- (i) a person who is resident in Jamaica; or
- (ii) a business organization with a permanent establishment in Jamaica.”.

Amendment  
of section 40  
of principal  
Act.

3. Section 40 of the principal Act is amended by deleting the words “Subject to the provisions of this section, where a person resident in Jamaica” and substituting therefor the words “Subject to the provisions of this section, where a person resident in Jamaica, or a business organization with a permanent establishment in Jamaica,”.

Validation  
and  
indemnity.

4.—(1) Notwithstanding section 4(2) of the Provisional Collection of Tax Act and anything to the contrary in any enactment, the collection of withholding tax on insurance premiums, paid to a person who is not resident in Jamaica by—

- (a) a person who is resident in Jamaica; or
- (b) a business organization with a permanent establishment in Jamaica,

by the Government and persons acting on behalf of the Government, in good faith and inadvertent as to the collection being invalid, improper or unlawful during the period commencing on the 30th December, 2017, and ending on the date of commencement of this Act is hereby declared to have been validly, properly and lawfully done to all intents and purposes and with effect as duly authorised by law and no penalty and interest payable thereon shall accrue during the period commencing on the 30th December, 2017, and ending on the date of commencement of this Act.

(2) Every person liable to be legally proceeded against on the ground that any of the acts referred to in subsection (1), though done in good faith, was invalid, improper or unlawful, is hereby freed, acquitted,

discharged and indemnified as well against the Queen's Most Excellent Majesty, Her Heirs and Successors, as against all other persons, from such liability.

**MEMORANDUM OF OBJECTS AND REASONS**

A decision has been taken to amend the Income Tax Act to give permanent effect to the provisional revenue measures effected by the Provisional Collection of Tax (Income Tax) Order, 2017, other than the provisions which allowed for exemptions.

The amendments relate to the removal of the exemption previously provided for general insurance companies, insurance brokers and agents, from the 15% withholding tax on outgoing insurance premiums in the circumstances specified in the Act. This Bill seeks to give effect to that decision.

Given that the provisions of the Provisional Collection of Tax (Income Tax) Order, 2017, expired on the 30th December, 2017, before legislation could be put into place to make more permanent provision for the amendments effected by the Order, this Bill also seeks to—

- (a) validate and confirm as lawful, the withholding tax on outgoing insurance premiums collected during the period from the 30th December, 2017, to the date of coming into operation of the more permanent provisions; and
- (b) indemnify the Government and persons purporting to act on behalf of the Government in good faith and inadvertent as to the collection being invalid, improper or unlawful during that period.

**NIGEL CLARKE**  
Minister of Finance and the  
Public Service.



# A BILL

## ENTITLED

AN ACT to Amend the Income Tax Act so as to give more permanent effect to the revenue measures set out in the Provisional Collection of Tax (Income Tax) Order, 2017, and to provide for connected matters.

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As introduced by the Honourable Minister of Finance  
and the Public Service.

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SECTION 40 OF THE PRINCIPAL ACT WHICH IT IS  
PROPOSED TO AMEND

40.—(1) Subject to the provisions of this section, where a person resident in Jamaica makes a payment to a person who is not resident in Jamaica in respect of—

- (a) any interest of money, dividends, royalty, annuity, or other annual payment, or in respect of rent accruing from property situated in Jamaica, or in respect of the provision of industrial commercial information or advice or management or technical services or similar services or facilities or hire of plant or equipment (otherwise than under a *bona fide* hire purchase agreement as defined in subsection (1) of section 2 of the *Hire Purchase Act*), the person making the payment shall deduct therefrom a sum on account of income tax thereon at the rate of  $33\frac{1}{3}$  cents in the dollar if the payment is made to a person other than an individual or 25 cents in the dollar if the payment is made to an individual;
- (b) income comprising insurance premiums that are charged to tax under section 5 (1)(d), the person making the payment shall deduct therefrom a sum on account of income tax thereon at the rate of 15 cents in the dollar;
- (c) with effect from the 1st January, 2013, upon the chargeable income of all persons, other than those specified for receiving payments of income under paragraph (a) or (b), the person making the payment shall deduct therefrom a sum on account of income tax thereon at the rate of 25 cents in the dollar,

and the person making the payment shall forthwith deliver to the Commissioner an account of the payment and of such tax deducted from the payment and the Commissioner shall assess and charge the payment for which an account is so delivered on that person.

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