

# REMOVAL OF PREFERENTIAL EXEMPTIONS BILL, 2018

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## **REMOVAL OF PREFERENTIAL EXEMPTIONS BILL, 2018**

### **A BILL FOR AN ACT TO REMOVE EXEMPTIONS FOR A CERTAIN CATEGORY OF COMPANIES OR ENTITIES INCORPORATED IN THE BAHAMAS**

**Enacted by the Parliament of The Bahamas**

**1. Short title and commencement.**

- (1) This Act may be cited as the Removal of Preferential Exemptions Act, 2018.
- (2) This Act shall come into force on a date to be appointed by the Minister to be published by notice in the *Gazette*.

**2. Application of Act.**

This Act applies to a company or entity, the operations of which are or are intended to be exclusively carried on outside of The Bahamas, and which is entitled to preferential exemptions and —

- (a) such exemptions are not afforded to a company or entity, the operation of which is carried out in The Bahamas; or
- (b) that company or entity is not authorized to operate within The Bahamas.

**3. Removal of certain preferential exemptions.**

- (1) From the date of commencement of this Act, every company or entity to which this Act applies, shall be subject to the payment of any tax which is non-nominal meaning that it is not equal to zero or almost zero.
- (2) Any provision of any of the Acts specified in the first column of the *First Schedule* which grants exemption from any tax to a company or entity which is preferential to those accorded to any other company or entity the

operations of which are carried out in The Bahamas, shall have no force or effect from the date of commencement of this Act.

- (3) Without prejudice to the generality of subsection (2), the Acts specified in the first column of the *First Schedule* shall be amended to the extent specified in the second column of the *First Schedule*.
- (4) For the purposes of this section, a “**company or entity**” means a body incorporated, registered or continued in accordance with —
  - (a) the International Business Companies Act (*Ch. 309*);
  - (b) the Exempted Limited Partnership Act (*Ch. 312*);
  - (c) the Investment Condominium Act, 2014 (*No. 38 of 2014*); and
  - (d) the Executive Entities Act, 2011 (*No. 52 of 2011*).

#### **4. Conflict with Act.**

Nothing in this Act shall be deemed to derogate from the —

- (a) International Business Companies Act (*Ch. 309*);
- (b) Exempted Limited Partnership Act (*Ch. 312*);
- (c) Investment Condominium Act, 2014 (*No. 38 of 2014*);
- (d) Executive Entities Act, 2011 (*No. 52 of 2011*); or
- (e) Exchange Control Regulations Act (*Ch. 360*),

or any regulations made thereunder, and in the event of any conflict between the provisions of this Act and any of the aforementioned Acts or regulations, the provisions of this Act shall prevail.

#### **5. Savings.**

- (1) Notwithstanding section 3, the period of exemption for a company or entity incorporated, registered or continued and in existence prior to the commencement of this Act specified —
  - (a) in subsection (8) of section 187 and section 187A of the International Business Companies Act (*Ch. 309*);
  - (b) in subsection (6) of section 17 of the Exempted Limited Partnership Act (*Ch. 312*); and
  - (c) in subsection (7) of section 25 of the Investment Condominium Act, 2014 (*No. 38 of 2014*),

is hereby saved and shall have force and effect until the expiration of the relevant period specified in the *Second Schedule*.

- (2) Notwithstanding the repeal of Part X of the International Business Companies Act (*Ch. 309*), a limited duration company incorporated, registered or continued thereunder shall continue to exist until the

expiration of the relevant period of duration stipulated in its Memorandum of Association as if the Part had not been repealed.

### FIRST SCHEDULE

(section 4 (3))

<b>Act</b>	<b>Amendment</b>
International Business Companies Act (Ch. 309)	(a) Repeal Part X  (b) Repeal Part XII
Exempted Limited Partnership Act (Ch. 312)	Delete section 17
Investment Condominium Act, 2014 (No. 38 of 2014)	Delete section 25
Executive Entities Act, 2011 (No. 52 of 2011)	Delete section 64

### SECOND SCHEDULE

(section 5(1))

<b>Act</b>	<b>Specified Period</b>
International Business Companies Act (Ch. 309)	A period of three years from the date of commencement of this Act.
Exempted Limited Partnership Act (Ch. 312)	
Investment Condominium Act, 2014 (No. 38 of 2014)	



## OBJECTS AND REASONS

This Bill seeks to provide for the removal of practices that in essence, establishes in law, preferential tax regimes for certain categories of companies or entities. By the enactment of this Bill, The Bahamas is demonstrating its international and global commitment to aiding in the fight against harmful tax practices.

In that regard, clause 3 of the Bill seeks to provide for the application of the Act to a company or entity the operations of which are or are intended to be exclusively carried on outside of The Bahamas and which is entitled to preferential exemptions and —

- (a) such exemptions are not afforded to a company or entity, the operation of which is carried out in The Bahamas; or
- (b) that company or entity is not authorized to operate within The Bahamas.

Clause 4 also seeks to —

- (a) expressly state that a company or entity operating exclusively outside of The Bahamas would be subject to any non-nominal tax.
- (b) expressly state that any other provision within those Acts which grants any exemption resulting in a preferential exemption to a company or entity operating exclusively outside of The Bahamas has no force or effect from the date of commencement of this Act;
- (c) provide for amendments to the various Acts specified in the Schedule by providing for the deletion of those sections which specifically provide for an exemption for companies or entities incorporated, registered or continued under those Acts; and
- (d) repeal Part X of the International Business Companies Act (*Ch. 309*) which made provision for the incorporation of a limited duration company.

Clause 5 of the Bill seeks to provide that in the event of a conflict with the provisions of this Act and any of the Acts specified in the First Schedule, the provisions of the Act shall prevail. Clause 5 also seeks to provide that nothing in this Bill shall derogate from the provisions of the Exchange Control Regulations Act (*Ch. 360*).

Clause 6 of the Bill seeks to clearly provide that the specified period for an exemption as referenced in the various Acts, with respect to existing companies or entities, shall continue to have force and effect until the expiration thereof. Clause 6 also seeks to provide for the continuance of limited duration companies until the expiration of its duration as stipulated in its Memorandum of Association.