

THE INTERNATIONAL FINANCE COMPANIES  
(INCOME TAX RELIEF) ACT

Acts  
1 of 1971,  
22 of 1975.

[1st January, 1971.]

1. This Act may be cited as the *International Finance Companies (Income Tax Relief) Act*. Short title

2.—(1) In this Act—

Interpreta-  
tion.

“approved company” means an international finance company in relation to which a certificate of approval has been granted under section 3 and remains in force;

“domestic operations” in relation to a company means—

- (a) the acquisition or rental of accommodation to be occupied and used by the company for the purposes of its business or to be used for the purpose of providing living accommodation for employees or officers of the company;
- (b) the maintenance or disposal of such accommodation as aforesaid;
- (c) the provision of staff for the company;
- (d) the provision of equipment and services for use in such accommodation or by such staff as aforesaid for the purposes of the business of the company;
- (e) the provision of technical and professional advice and services (including advice and services as a director of the company) for the purposes of the business of the company;

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(f) such other operations as may be prescribed by the Minister by order;

“existing company” means a company which at the 1st January, 1971, was entitled to any relief from income tax pursuant to the International Business Companies (Exemption from Income Tax) Law, 1956 (now repealed) and which, pursuant to the provisions of any law, continues to be entitled to such relief;

“financial transactions” means buying, selling, holding or managing securities, accepting deposits, borrowing money, lending money, placing deposits, issuing guarantees, letters of credit and acceptances, underwriting, collecting and transmitting funds, discounting, foreign exchange dealings whether for immediate or future delivery, buying of receivables and other obligations with or without recourse, leasing of property, conducting trust business and providing management consultant services, buying, selling and dealing in bullion and specie, and other like transactions normally carried on by an international financial institution in the ordinary course of its business;

“international finance company” means a body corporate, whether incorporated under the law of Jamaica or not, which is primarily engaged in financial transactions and in the case of which all of the following conditions are fulfilled—

- (a) not less than 95% of the issued share capital is held by persons not resident in Jamaica, and no voting power in relation to that percentage of such capital is exercisable by a person resident in Jamaica otherwise than as a nominee of persons not so resident;

- (b) not more than 5% of the sums which, on a liquidation thereof, would be receivable by holders of share or loan capital would be receivable by persons resident in Jamaica;
- (c) not more than 5% of the assets which, on a liquidation thereof, would be available for distribution after the payment of creditors would be receivable by persons resident in Jamaica; and
- (d) not more than 5% of—
  - (i) the interest payable on its loans and loan capital, if any; or
  - (ii) of the dividends payable on its preference share capital, if any; or
  - (iii) of the dividends payable on its share capital, if any, not being preference share capital,

is receivable by persons resident in Jamaica;

“prescribed financial operations” has the meaning attributed to it in subsection (1) of section 3;

“principal Act” means the Income Tax Act;

“securities” means shares, stock, bonds, notes, debentures, debenture stock, units under a unit trust scheme and any other securities prescribed by the Minister for the purposes of this Act.

(2) Except as provided by subsection (1), any expression appearing in this Act which is defined in the principal Act shall have the meaning assigned to that expression by the principal Act, unless the context otherwise requires.

(3) No person having any financial interest in an approved company shall be deemed for the purposes of this Act to be a person resident in Jamaica by reason only

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of the fact that he visits Jamaica from time to time for the purpose of supervising the operations of the approved company or of attending meetings of shareholders or directors of the approved company; nor shall the period of any such visit be taken into account in determining whether or not a person not ordinarily resident in Jamaica has become resident in Jamaica.

(4) In relation to transactions between two or more approved companies or an approved company and an existing company, each such transaction shall be deemed not to be a transaction with a person resident in Jamaica.

(5) For the purposes of this Act where one company (hereinafter referred to as the "subsidiary company") is a subsidiary of another company (hereinafter referred to as the "parent company") the subsidiary company shall not be regarded as having not less than 95% of its share capital held by persons not resident in Jamaica unless all of the following conditions are fulfilled—

- (a) not less than 95% of the share capital of the subsidiary company is registered in the name of, and is beneficially owned by, the parent company;
- (b) the parent company (not being an approved company under this Act) is not itself resident in Jamaica; and
- (c) if the parent company—
  - (i) is itself the subsidiary of another company, that other company (not being an approved company under this Act) is not resident in Jamaica; or
  - (ii) is itself one of a series of companies standing in the relationship to each other of parent and subsidiary company, none of the other companies in the series, other than an approved company under this Act, is resident in Jamaica.

3.—(1) Subject to subsection (2), the Minister may, on the application of an international finance company, grant, in his discretion and subject to such terms and conditions as he thinks fit, a certificate to the company designating it an approved company for the purposes of this Act in relation to such financial operations as may be described in the certificate, in this Act referred to as “prescribed financial operations”.

Power of Minister to grant certificate of approval to international financial companies.

(2) Notwithstanding anything to the contrary—

- (a) an approved company which is either incorporated under the law of Jamaica or resident in Jamaica shall, if it effect any business transactions (other than transactions relating to its domestic operations) with persons resident in Jamaica be deemed to be acting in contravention of its certificate of approval;
- (b) an approved company which is not so incorporated or resident may effect transactions relating to its domestic operations with persons resident in Jamaica and may also effect other business transactions with persons resident in Jamaica but, unless such other business transactions are prescribed financial operations, nothing in this Act shall relieve such other transactions of any liability to income tax.

(3) An application for a certificate under subsection (1) shall be made in writing to the Minister in such form and containing such particulars as may be prescribed.

(4) The Minister may, in relation to any application under this section, require the applicant to furnish such additional information as the Minister may consider necessary or desirable to enable him to decide whether or not to grant a certificate under this section.

Cancellation  
of  
certificates.

4.—(1) Subject to subsection (2) and without prejudice to the provisions of subsections (3) and (4) of section 5, a certificate granted to an approved company under section 3 may—

- (a) by instrument in writing issued by the Minister and addressed to the company, be cancelled with effect from such date (not being a date earlier than six months after the date of the instrument) as the Minister thinks fit;
- (b) in accordance with an application made by the company, be amended if the Minister thinks fit.

(2) The cancellation of a certificate pursuant to subsection (1) as respects any company shall not affect any entitlement to relief from income tax which may have accrued, in relation to that company, prior to the cancellation.

Relief  
from  
income  
tax.

5.—(1) Subject to subsection (3), an approved company in Jamaica shall, so long as it remains an approved company, be relieved, in respect of its profits and gains arising from its prescribed financial operations from the payment of income tax, (including company profits tax, additional company profits tax and investment company profits tax) at the rates prescribed in the principal Act, and shall be liable instead to pay income tax in relation to those operations at the rate of  $2\frac{1}{2}$  per centum of the portion of its chargeable income related to those operations for each year of assessment.

(2) Tax payable in accordance with subsection (1) shall be due and payable on or before the 15th day of March in the year immediately following the year of assessment for which the profits and gains are assessable.

(3) If the Minister, after consultation with the Commissioner of Taxpayer Audit and Assessment, is satisfied

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that an approved company has committed a breach of subsection (2) of section 3 or has knowingly contravened, or failed to comply with, any term or condition applicable to that company under a certificate of approval he shall, subject to subsection (4), forthwith revoke the certificate of approval.

(4) Before taking action under subsection (3) the Minister shall give to the approved company an opportunity to explain the circumstances of the breach, contravention or failure aforesaid and, if he is satisfied that the company had taken reasonable precautions to ensure that no such breach, contravention or failure occurs, he may, instead of revoking the certificate, direct that the profit (if any) resulting from the offending transaction or transactions shall be subjected to income tax in Jamaica as if the company were not an approved company.

6. The grant and any amendment or cancellation of a certificate of approval under this Act shall forthwith be notified in the *Gazette*.

Publication of grant, amendment and cancellation of certificate of approval. Dividends and payments to persons abroad.

7.—(1) In lieu of tax at the rate specified in the principal Act, income tax at the rate of  $2\frac{1}{2}$  per centum shall, subject to the provisions of that Act, be levied and paid upon any dividend paid by an approved company resident in Jamaica to a person not resident in Jamaica out of profits or gains which are liable to income tax at a reduced rate in accordance with subsection (1) of section 5, and—

- (a) unless, pursuant to the first proviso to section 37 of that Act, the Commissioner of Taxpayer Audit and Assessment otherwise authorizes, the company paying the dividend shall be entitled to deduct out of the dividend and to retain the income tax payable thereon in accordance with this subsection;
- (b) where pursuant to the said proviso, the Commissioner of Taxpayer Audit and Assessment

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authorizes the payment of the dividend without deduction of tax the company may make a claim to the Commissioner of Inland Revenue for the repayment to the company of the tax which would, but for such authorization, have been deducted from the dividend and retained by the company.

(2) Notwithstanding anything to the contrary contained in section 40 of the principal Act, or any other provision of that Act, where, in relation to prescribed financial operations, payment is made by an approved company to a person who is not resident in Jamaica in respect of any interest of money, royalty, annuity or other payment to which section 40 of the principal Act applies the company shall not be obliged to deduct thereout any sum on account of income tax.

(3) Save as otherwise directed in this Act, the provisions of the principal Act shall apply to dividends paid by an approved company.

Regulations.

**8.** The Minister may make regulations for the following purposes—

- (a) providing for returns to be submitted and information to be furnished for the purpose of an application for a certificate of approval or for claiming relief from income tax under this Act;
- (b) prescribing the records to be kept and the returns to be furnished by branches in Jamaica of approved companies;
- (c) prescribing other matters required by this Act to be prescribed; and
- (d) generally for giving effect to the provisions of this Act.

Saving.

**9.** Except so far as this Act may operate to relieve an approved company from liability to income tax (including

company profits tax, additional company profits tax and investment company profits tax) under the principal Act, all the provisions of that Act which are applicable to a company shall apply to an approved company.