

# BUSINESS LICENCE (AMENDMENT) BILL, 2017

## Arrangement of Sections

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### Section

1.	Short title and commencement.....	2
2.	Amendment of section 2 of the principal Act. ....	2
3.	Amendment of section 3 of the principal Act. ....	2
4.	Amendment of section 4 of the principal Act. ....	3
5.	Amendment of section 7 of the principal Act. ....	3
6.	Amendment of section 8 of the principal Act.....	3
7.	Amendment of section 10 of the principal Act.....	4
8.	Amendment of section 24 of the principal Act. ....	4
9.	Amendment of section 26 of the principal Act.....	4
10.	Amendment of section 36 of the principal Act. ....	4
11.	Amendment of First Schedule to the principal Act. ....	5
12.	Amendment to Fourth Schedule of the principal Act. ....	5

## OBJECTS AND REASONS

6

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## **BUSINESS LICENCE (AMENDMENT) BILL, 2017**

**A BILL FOR AN ACT TO AMEND THE BUSINESS LICENCE ACT TO  
PROVIDE FOR THE IMPOSITION OF INTEREST ON LATE  
PAYMENT OF TAX, STREAMLINING OF PAYMENT OF TAX FOR  
GROUPS REGISTERED UNDER THE VALUE ADDED TAX ACT AND  
OTHER MATTERS RELATED THERETO**

**Enacted by the Parliament of The Bahamas**

**1. Short title and commencement.**

- (1) This Act may be cited as the Business Licence (Amendment) Act, 2017.
- (2) This Act shall come into force on the 1<sup>st</sup> day of July, 2017.

**2. Amendment of section 2 of the principal Act.**

Section 2 of the principal Act is amended in the definition of “Secretary” by the deletion of the words “Secretary for Revenue” and the substitution thereof of the words, “Financial Secretary”.

**3. Amendment of section 3 of the principal Act.**

Section 3 of the principal Act is amended—

- (a) in subsection (3)(a)(i), by the deletion of the words “or a notification of inactivation or cessation of the business”; and
- (b) by the insertion immediately after subsection (3) of the following new subsection (3A)—

“(3A) Subsection (3) shall not apply to a licensee who submitted notification of the inactivation or cessation of the business before the commencement of the succeeding year.”.

**4. Amendment of section 4 of the principal Act.**

Subsection (6) of section 4 of the principal Act is amended—

- (a) in paragraph (c), by the deletion of the full stop appearing at the end thereof and the substitution therefor of a semi-colon; and
- (b) by the insertion immediately after paragraph (c), of the following new paragraph—
  - “(d) the applicant or any other business in which the applicant has an interest, owes any taxes under the Value Added Tax Act<sup>1</sup>.”.

**5. Amendment of section 7 of the principal Act.**

Subsection (1) of section 7 of the principal Act is repealed and replaced as follows—

“(1) The Secretary may—

- (a) at any time for a breach of a condition or misrepresentation made by an applicant for a grant or renewal of a licence;
- (b) where an applicant has breached an arrangement to pay an amount outstanding for tax under any other law; or
- (c) where an applicant or licensee has contravened any tax law or law relating to the conduct of their business,

suspend, revoke, amend or cancel a licence issued under this Act or impose restrictions and conditions on a licence.”.

**6. Amendment of section 8 of the principal Act.**

Section 8 of the principal Act is amended—

- (a) in subsection (2) by the deletion of the word “Where” and the substitution therefor of the words “Subject to the provisions of subsection (2A) where”; and
- (b) by the deletion of subsection (2A) and the substitution of the new subsections—

“(2A) Where an applicant for a business licence is registered as part of a group under section 23(7) of the Value Added Tax Act<sup>2</sup>, the applicant shall pay tax at a rate based on the combined turnover of all the members of the group.

(2B) For purposes of clarity, where a tax is outstanding in respect of any year, the tax that a business is liable to pay for that

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<sup>1</sup>No. 32 of 2014.

<sup>2</sup>No. 32 of 2014.

year shall be calculated according to the rate that was applicable for the year in which that tax was due.”.

**7. Amendment of section 10 of the principal Act.**

Section 10 of the principal Act is amended—

- (a) by the repeal and replacement of subsection (3) as follows—

“(3) An assessment made pursuant to subsection (1) shall be based on the information available to the Secretary and the Secretary’s reasonable estimate of the taxes properly due and payable by the licensee or person.”;
- (b) by the insertion immediately after subsection (3) of the following new subsection—

“(3A) The Secretary may, for the purpose of making an assessment or for the exercise of any other power or duty under this Act, audit the accounts of a business.”; and
- (c) in subsection (4)—
  - (i) by the repeal and replacement of paragraph (c) as follows—

“(c) no financial results have been submitted for a business pursuant to subsection (3) of section 3;”; and
  - (ii) by the insertion immediately after paragraph (c) of the following new paragraph—

“(d) the Secretary, in any other case, has reason to believe that a person is liable to pay taxes under this Act.”.

**8. Amendment of section 24 of the principal Act.**

Subsection (1) of section 24 of the principal Act is amended by the insertion immediately after the words “5,”, the words “7,”.

**9. Amendment of section 26 of the principal Act.**

Subsection (13) of section 26 of the principal Act is amended by the deletion of the words “subsection (5)” and the substitution of the words “subsection (6)”.

**10. Amendment of section 36 of the principal Act.**

Section 36 of the principal Act is amended—

- (a) in paragraph (h) by the deletion of the full stop appearing at the end thereof and the substitution therefore of the words “; and”; and
- (b) by the insertion immediately after paragraph (h) of the following new paragraph—

- “(i) by any international business company incorporated or continued under the International Business Companies Act (*Ch. 309*) which is not a resident of The Bahamas within the meaning of the Exchange Control Regulations Act (*Ch. 360*).”.

**11. Amendment of First Schedule to the principal Act.**

The First Schedule to the principal Act is amended in Part I—

- (a) in paragraph (3)—
  - (i) in subparagraph (d) by the deletion of the words, “but not exceeding \$50 million per annum, a tax of 1.25% of turnover;” and the substitution therefor of the words, “per annum, a tax of 1.25% of turnover.”; and
  - (ii) by the deletion of subparagraph (e);
- (b) by the insertion immediately after paragraph (5A) of the following new paragraph—
  - “(6) Where the business is part of a group of companies with turnover greater than \$400 million, provided that the group includes a hotel licensed under the Hotels Act (*Ch. 288*) and the hotel accounts for at least 50.1% of the turnover of the group, the following rates shall apply—
    - (a) with effect from July 1 2017                      1%
    - (b) with effect from January 1 2018                      0.75%”; and
- (c) in paragraph 7, by the insertion immediately after the words “Exchange Control Regulations Act,”, of the words “other than a company incorporated or continued under the International Business Companies Act (*Ch. 309*)”.

**12. Amendment to Fourth Schedule of the principal Act.**

The Fourth Schedule to the principal Act is amended by the insertion immediately after paragraph (c), of the following new paragraph—

- “(d) Interest rate per annum on payments made                      5% of  
thirty days or more after the due date                      the tax  
   liability”.

### OBJECTS AND REASONS

Clause 2 of the Bill seeks to provide for a new subsection (3A) to clarify that section 3 does not apply to notification of inactivation or cessation of business before the commencement of the succeeding year.

Clause 3 of the Bill seeks to replace the Secretary for Revenue with the Financial Secretary.

Clause 4 of the Bill seeks to amend section 4(6) of the principal Act to provide for the arrangement to pay value added taxes before being granted a licence.

Clause 5 of the Bill seeks to repeal and replace section 7(1) to further empower the Secretary to suspend, revoke, amend or cancel a business license where the licensee has breached an arrangement to pay an amount for outstanding taxes payable under any other law, thereby strengthening the assessment and audit functions of the Secretary under the Act.

Clause 6 of the Bill seeks to amend section 8 of the Act to provide for tax to be charged at a rate based on a combined turnover of all members of a group registered in accordance with section 23(7) of the Value Added Tax Act. Currently, the business licence tax for businesses which are part of a group for VAT purposes is assessed at the applicable rate for the individual business based on turnover and the type of business.

Clause 7 of the Bill seeks to amend section 10 of the Act to give the Secretary generalised power for the purpose of making an assessment.

Clause 8 of the Bill seeks to amend section 24 of the Act to include decisions of the Secretary made pursuant to section 7 in the list of decisions that may be appealed to the Review Board.

Clause 9 of the Bill seeks to correct cross referencing error within the Act.

Clause 10 of the Bill seeks to amend section 36 of the Act to ensure that it is clear that companies registered under the International Business Companies Act (*Ch. 309*) and are non-resident, are exempt from the payment of business licence taxes as is currently provided in section 187 of the International Business Companies Act (*Ch. 309*).

Clause 11 of the Bill seeks to amend the First Schedule of the principal Act to reduce the rate of business licence tax for businesses with a turnover greater than \$5 million to 1.25% and to provide a lower rate of business licence tax for hotels with turnover greater than \$400 million.

Clause 12 of the Bill seeks to amend the Fourth Schedule of the Act to introduce a fee of 5% of the tax liability for the late payment of thirty days or more after the due date, made under section 3A of the Act.