

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, 2019” is a Money Bill.

PEARNEL P. CHARLES, CD, MP, JP

Speaker.

A BILL

ENTITLED

AN ACT to Amend the Income Tax Act to provide for an increase in the personal income tax threshold; to provide for an initial allowance on capital expenditure in respect of the purchase for renovation of industrial buildings; to give permanent effect to matters previously effected provisionally; and 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, 2019, 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
to section 13
of principal
Act.

2. Section 13 of the principal Act is amended by inserting next after subsection (1) the following—

“(1 A) Notwithstanding the provisions of subsection (1), in respect of the year of assessment 2016, with the exception of capital allowances and losses to which subsection (1)(e) and (h) relate, expenses and disbursements shall only be deducted in respect of the six-month period in which they were actually incurred.”.

Amendment
to section 30
of principal
Act.

3. Section 30(1)(a) of the principal Act is amended by—

(a) deleting sub-paragraph (xi) and substituting therefor the following—

“(xi) between the 1st January, 2016 and the 30th June, 2016—
For the first \$296,400.00 Nil
For every dollar of income exceeding \$296,400.00 25 cents;

(xii) between the 1st July, 2016 and the 31st December, 2016—
For the first \$500,136.00 Nil
For every dollar of income exceeding \$500,136.00 but not exceeding \$6,000,000.00 25 cents
For every dollar of income exceeding \$6,000,000.00 30 cents;

(xiii) between the 1st January, 2017 and the 31st March, 2017—
For the first \$250,068.00 Nil
For every dollar of income exceeding \$250,068.00 but not exceeding \$1,500,000.00 25 cents
For every dollar of income exceeding \$1,500,000.00 30 cents;

- (xiv) between the 1st April 2017 and the 31st December, 2017,
 For the first \$1,125,072.00 ... Nil
 For every dollar of income exceeding \$1,125,072.00 but not exceeding \$4,500,000.00 ... 25 cents
 For every dollar of income exceeding \$4,500,000.00 ... 30 cents;
- (xv) for any year of assessment commencing on the 1st January, 2018—
 For the first \$1,500,096.00 ... Nil
 For every dollar of income exceeding \$1,500,096.00 but not exceeding \$6,000,000.00 ... 25 cents
 For every dollar of income exceeding \$6,000,000.00 ... 30 cents;”;

(b) inserting next after subsection (1)(aa), the following—

“(ab) for the purposes of subsection (1)(a), for the avoidance of doubt—

- (i) the income taxed at the rate of nil for the years of assessment 2016, 2017 and 2018 shall not exceed \$796,536.00, \$1,375,140.00 and \$1,500,096.00 respectively;
- (ii) in relation to sub-paragraph (xii), the income taxed at the rate of 30 cents for every dollar shall not apply to the first \$1,000,000.00 of income earned in each month arising between the 1st July, 2016, and the 31st December, 2016; and
- (iii) in relation to sub-paragraphs (xiii), (xiv) and (xv), the income taxed at the rate of 30 cents for every dollar shall not apply to the first \$500,000.00 of income earned in

each month during any period referred to in sub-paragraphs (xiii), (xiv) and (xv) in a year of assessment commencing on the 1st January 2017.”.

Amendment
to section 67
of principal
Act.

4. Section 67 (7)(a) of the principal Act is amended by deleting the words “\$507,312.00 for each year of assessment after 31st December, 2012,” and substituting therefor the words “; \$507,312.00 in respect of the years of assessment 2013 and 2014; \$557,232.00 in respect of the year of assessment 2015; in respect of the year of assessment 2016, \$296,400.00 for the period 1st January, 2016 to 30th June, 2016 and \$500,136.00 for the period 1st July, 2016 to 31st December, 2016; in respect of the year of assessment 2017, \$250,068.00 for the period 1st January, 2017 to 31st March, 2017 and \$1,125,072.00 for the period 1st April to 31st December, 2017; and \$1,500,096.00 for each year of assessment after the 31st December, 2017.”.

Amendment
to section 68
of principal
Act.

5. Section 68 of the principal Act is amended—

- (a) in the marginal note, by deleting the words “twenty-two thousand four hundred and sixty-four” and substituting therefor the words “seven hundred and ninety-six thousand five hundred and thirty-six”; and
- (b) by inserting immediately after the words “years of assessment 2010, 2011 and 2012” the words “; \$507,312.00 in respect of the years of assessment 2013 and 2014; \$557,232.00 in respect of the year of assessment 2015; in respect of the year of assessment 2016, \$296,400.00 for the period 1st January, 2016 to 30th June, 2016 and \$500,136.00 for the period 1st July, 2016 to 31st December, 2016; in respect of the year of assessment 2017, \$250,068.00 for the period 1st January, 2017 to 31st March, 2017 and \$1,125,072.00 for the period 1st April to 31st December, 2017; and \$1,500,096.00 for each year of assessment after the 31st December, 2017”.

Amendment
to First
Schedule to
the principal
Act.

6. The First Schedule to the principal Act is amended—

- (a) in Part I, by inserting in paragraph 2, the words “, purchase for renovation” immediately after the words “renovation, purchase”;

(b) in Part II by—

(i) deleting paragraph 1 and substituting therefor the following—

“ 1.—(1) Where an owner incurs capital expenditure on the construction, alteration, renovation, or purchase for renovation, of a building or structure which is to be an industrial building or structure occupied for the purposes of a trade carried on by that owner, there shall be made to that owner who incurred such expenditure for the year of assessment in that owner’s basis period for which such expenditure was incurred, an allowance (in this Part referred to as “an initial allowance”) equal to 20 *per centum*, thereof.

(2) An initial allowance in respect of a purchase for renovation under sub-paragraph (1) shall only be made to the owner, where the building or structure, upon the purchase for renovation, is brought into use as an industrial building or structure, during the first four years of assessment.

(3) An initial allowance made to an owner under sub-paragraph (2) shall be recovered, where—

- (a) at the end of the fourth year of assessment, the building or structure is not in use as an industrial building or structure for the purposes of a trade carried on by the owner;
- (b) the renovation referred to in sub-paragraph (2) is not completed within the first four years; or

- (c) the capital expenditure incurred in relation to the renovation referred to in sub-paragraph (2) is less than 80 *per centum* of the purchase cost of the building or structure.

(4) Notwithstanding anything in this paragraph, the initial allowance shall be recovered in respect of any expenditure if, when the building or structure comes to be used, it is not an industrial building or structure.”;

(ii) deleting from paragraph 3—

- (A) the words “or renovation” in sub-paragraph (1) and substituting therefor the words “, renovation or purchase for renovation”, and
- (B) the words “or renovation” in sub-paragraph (4) and substituting therefor the words “, renovation or purchase for renovation”;

(iii) deleting from paragraph 4(1), the words “or renovation” and substituting therefor the words “, renovation or purchase for renovation”.

Validation
and
indemnity.

7.—(1) Notwithstanding the *Provisional Collection of Tax Act*, the Income Tax Act, and anything to the contrary in any other enactment, the variation, imposition and collection of personal income tax during the period commencing on the 1st day of July, 2016, and ending on the date of the coming into operation of this Act, by the Government and persons acting on behalf of the Government, in good faith, during the period commencing on the 1st day of July, 2016, and ending on the date of the coming into operation of this Act, is declared to have been validly, properly and lawfully made and done to all intents and purposes and with effect as if authorized pursuant to the Income Tax Act.

(2) For the avoidance of doubt, any unpaid portion of personal income tax validated by this section is lawfully payable to the Commissioner General.

(3) Every person liable to be legally proceeded against on the ground that any of the acts referred to in subsection (1) was unauthorized, unlawfully done, or otherwise illegal or improper, for any such reason, is freed, acquitted, discharged and indemnified as well against The Queen's Most Excellent Majesty, Her Heirs and Successors as well as against all persons, whatsoever, from such liability.

Passed in the House of Representatives this 18th day of June, 2019.

PEARNEL CHARLES, CD, MP, JP

Speaker.

MEMORANDUM OF OBJECTS AND REASONS

A decision has been taken to—

- (a) amend the Income Tax Act—
 - (i) to give permanent effect to the terms of the *Provisional Collection of Tax (Income Tax) (No. 2) Order, 2016*, dated the 30th day of June, 2016, as modified in the *Provisional Collection of Tax (Income Tax) (No. 2) Order, 2016 (Confirmation with Modification) (Continuance in Force)* Resolution dated the 31st day of January, 2017; and
 - (ii) to encourage the purchase, renovation and retrofit of industrial buildings and structures that have become derelict or have fallen into disuse, through the provision of an initial allowance of 20 *per centum* on capital expenditure, for the purchase for renovation of an industrial building or structure, provided that the industrial building or structure—
 - (A) is brought into use and continues to be in use for the first four years;
 - (B) is being renovated and the renovation is completed in the first four years; or
 - (C) the capital expenditure incurred in relation to the renovation is equal to or greater than 80 *per centum* of the purchase cost of the industrial building or structure; and
- (b) validate and confirm as lawful the imposition and collection of personal income tax under the Income Tax Act pursuant to the *Provisional Collection of Tax (Income Tax) (No. 2) Order, 2016*, dated the 30th day of June, 2016, as modified in the *Provisional Collection of Tax (Income Tax) (No. 2) Order, 2016 (Confirmation with Modification) (Continuance in Force)* Resolution dated the 31st day of January, 2017, in good faith, during the period commencing on the 1st day of July, 2016, and ending on the date of the coming into operation of this Act.

This Bill gives effect to that decision.

NIGEL CLARKE
Minister of Finance and the
Public Service.

A BILL

ENTITLED

AN ACT to Amend the Income Tax Act to provide for an increase in the personal income tax threshold; to provide for an initial allowance on capital expenditure in respect of the purchase for renovation of industrial buildings; to give permanent effect to matters previously effected provisionally; and for connected matters.

As passed in the Honourable House of Representatives.

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SECTION 13 OF THE PRINCIPAL ACT WHICH IT IS
PROPOSED TO AMEND

Ascertainment of Chargeable Income

13.—(1) For the purpose of ascertaining the chargeable income or statutory income, as the case may require, of any person, there shall be deducted all disbursements and expenses wholly and exclusively incurred by such person in acquiring the income—

- (i) where the income arises from emoluments specified in paragraph (c) of subsection (1) of section 5 during the year of assessment; and
- (ii) where the income arises from any other source, during such time as is provided for in section 6,

and such disbursements and expenses may include—

- (a) any sum paid by such person by way of interest upon any money borrowed by him, where the Commissioner is satisfied that the interest was paid on capital employed in acquiring the income:

Provided that—

- (A) the interest is paid to a person resident in this Island; or

... ..

SECTION 30 OF THE PRINCIPAL ACT WHICH IT IS
PROPOSED TO AMEND

30.—(1) Subject to the provisions of this Act, there shall be levied and paid—

- (a) upon the statutory income of every individual, tax at the following rates in respect of income arising—

- (i) between the 1st January, 2005 and the 30th June, 2005—

... ..

- (xi) for each year of assessment commencing after 31st December 2015—

For the first			
\$592,800.00	Nil; and
For every dollar of			
income exceeding			
\$592,800.00	..		25 cents.”.

SECTION 67(7) OF THE PRINCIPAL ACT
WHICH IT IS PROPOSED TO AMEND

67.—(1)

(7)(a) Subject to the provisions contained in Part I of the Second Schedule, every employer shall prepare and deliver on or before the 31st of January in every year to the Commissioner of Inland Revenue a return of the names and residences of all persons employed by him and of the salaries paid by him to such persons whose remuneration in the employment for the year ending the 31st day of December preceding exceeds the sum of \$120,432.00 in respect of the years of assessment 2001, 2002, 2003 and 2004; in respect of the year of assessment 2005, \$60,216.00 for the period 1st January to 30th June, 2005 and \$84,552.00 for the period 1st July to 31st December, 2005; \$193,440 in respect of the years of assessment 2006 and 2007 and in respect of the year of assessment 2008, \$96,720.00 for the period 1st January to 30th June, 2008 and \$100,152.00 for the period 1st July to 31st December, 2008; in respect of the year of assessment 2009, \$110,136.00 for the period 1st January to 30th June, 2009 and \$160,368.00 for the period 1st July, 2009 to 31st December, 2009, \$441,168.00 in respect of the years of assessment 2010, 2011 and 2012, and \$507,312.00 for each year of assessment after 31st December, 2012, and to such other persons as the Commissioner General requires.

- (b) Where the employer is a body of persons, the secretary or the attorney, manager, agent or chief officer resident in the Island of the body shall be deemed to be the employer for the purpose of this provision.
- (c) Such return shall be in the prescribed form.

SECTION 68 OF THE PRINCIPAL ACT
WHICH IT IS PROPOSED TO AMEND

68.—(1) It shall be the duty of every individual residing in the Island whose total income from every source whatsoever for any year of assessment exceeds \$22,464 in respect of the year of assessment 1994, \$35,568 in respect of the year of assessment 1995, \$50,544 in respect of the year of assessment 1996, \$80,496 in respect of the years of assessment 1997 and 1998, \$100,464 in respect of the years of assessment 1999 and 2000, \$120,432.00 in respect of the years of assessment 2001, 2002, 2003 and 2004; in respect of the year of assessment 2005, \$60,216.00 for the period 1st January to 30th June, 2005 and \$84,552.00 for the period 1st July to 31st December, 2005; \$193,440.00 in respect of the years of assessment 2006 and 2007; and in respect of the year of assessment 2008, \$96,720.00 for the period 1st January to 30th June, 2008 and \$100,152.00 for the period 1st July to 31st December, 2008, in respect of the year of assessment 2009, \$110,136.00 for the period 1st January to 30th June, 2009, \$160,368.00 for the

period 1st July to 31st December, 2009 and \$441,168.00 in respect of the years of assessment 2010, 2011 and 2012 to give notice of that fact to the Commissioner of Inland Revenue or to a Collector of Taxes before the 15th day of February in the year next following such year;

Provided that such notice need not be given by any individual as respects any year for which he has delivered a return in accordance with subsection (1) of section 67 or, where an individual is or has been in employment, as respects any year in relation to which his name should be included in a return by his employer pursuant to subsection (7) of section 67 aforesaid.

(2) If any individual, without reasonable excuse, fails to give such a notice as aforesaid, he shall forfeit the sum of treble the tax which he ought to be charged under this Act and a penalty of five thousand dollars.

(3) Any penalty forfeited and any increased tax payable under this section may be added to the assessment.

FIRST SCHEDULE TO THE PRINCIPAL ACT
WHICH IT IS PROPOSED TO AMEND

FIRST SCHEDULE

ALLOWANCES FOR CERTAIN CAPITAL EXPENDITURE

PART I. *Interpretation*

1.—(1) In this Schedule—

2. Except as otherwise provided in this Schedule, references in Parts II and III to expenditure incurred on the construction, alteration, renovation, purchase or improvement of any buildings and structures or machinery and plant do not, include any expenditure incurred on the purchase of rights in or over any land.

PART II. *Buildings*

1.—(1) Where an owner incurs capital expenditure on the construction, alteration or renovation of a building or structure which is to be an industrial building or structure occupied for the purposes of a trade carried on by him, there shall be made to such owner who incurred such expenditure for the year of assessment in his basis period for which such expenditure was incurred, an allowance (in this Part referred to as “an initial allowance”) equal to 20 *per centum*, thereof.

(2) Notwithstanding anything in this paragraph, no initial allowance, shall be made in respect of any expenditure if, when the building or structure comes to be used, it is not an industrial building or structure.

3.—(1) Where any capital expenditure has been incurred on the construction, alteration or renovation of a building or structure and any of the following events occurs, that is to say,

- (a) the building or structure is sold, or
- (b) the building or structure is demolished or destroyed, or without being demolished or destroyed ceases altogether to be used,

an allowance or charge (in this Part referred to as “a balancing allowance” or “a balancing charge”) shall, in the circumstances mentioned in this paragraph be made to or, as the case may be, on the owner immediately before that event occurs, for the year of assessment in his basis period for which that event occurs.

... ..

(4) Notwithstanding anything in the preceding provisions of this paragraph in no case shall the amount on which a balancing charge is made on an owner in respect of any expenditure on the construction, alteration or renovation of a building or structure exceed the amount of the initial allowance, if any, made to him in respect of that expenditure together with the amount of any annual allowances and any other allowances in respect of that expenditure made to him.

... ..

4.—(1) Any expenditure incurred on the construction, alteration or renovation of any building or structure shall be written off to the extent and as at the times hereafter specified in this paragraph and references in this Part to the residue of any such expenditure shall be construed accordingly.