

A BILL

entitled

USA-BERMUDA TAX CONVENTION AMENDMENT ACT 2016

WHEREAS it is expedient to amend the USA-Bermuda Tax Convention Act 1986;

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

Citation

1 This Act, which amends the USA-Bermuda Tax Convention Act 1986 (the "principal Act"), may be cited as the USA-Bermuda Tax Convention Amendment Act 2016.

Inserts section 3A

2 The principal Act is amended by inserting after section 3 the following—

"Duties of the Minister

3A (1) The Minister as the competent authority for Bermuda under the Agreement may provide assistance in accordance with the terms of this Act.

(2) For the purposes of this section, no person who—

(a) receives a request; or

(b) obtains information directly or indirectly for the purposes of paragraph (a),

shall disclose the request or the information to another person except in accordance with this Act.

(3) Pursuant to section 26A of the Public Access to Information Act 2010, and notwithstanding any other provision of that Act, this section shall have effect."

Amends section 5

3 Section 5 of the principal Act is amended by inserting after subsection (4) the following—

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“(4A) With respect to an application for a production order, the Minister shall be under no duty to make inquiry in relation to any statements made or any information given in respect of a request for which a production order is sought, or to information obtained by him under a previous request.”.

Amends section 9B

4 Section 9B of the principal Act is amended—

- (a) by numbering the existing provision as subsection (1); and
- (b) by inserting after the existing provision the following—

“(2) Notwithstanding the generality of subsection (1), the Minister shall not bear the costs arising in the case of an application which is made under section 5(7) where the court—

- (a) decides not to hear the application for review; or
- (b) decides to hear the application for review, but the production order is not set aside.”.

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EXPLANATORY MEMORANDUM

This Bill seeks to amend the USA-Bermuda Tax Convention Act 1986 (the “principal Act”).

Clause 1 provides the citation for the Bill.

Clause 2 amends the principal Act by inserting new section 3A (Duties of the Minister). This section provides that the Minister of Finance as the competent authority for Bermuda may provide assistance in accordance with the principal Act. This section also prohibits any person, in receipt of a request, from disclosing the request or any information related to the request to any other person except in accordance with the principal Act. Finally, this section provides that, pursuant to section 26A of the Public Access to Information Act 2010 (which provides that international tax agreements are exempted records under that Act), the prohibition on disclosure under this section of the principal Act shall have effect notwithstanding any other provision of the Public Access to Information Act 2010.

Clause 3 amends section 5 of the principal Act to provide that in respect of an application for a production order, neither the Minister nor an officer of the Ministry of Finance shall be under a duty to make inquiries in relation to any statements made or any information given in respect of a request for which a production order is sought, or in relation to a previous request.

Clause 4 amends section 9B of the principal Act by numbering the existing provision as subsection (1) and including, as subsection (2), a provision which further provides for circumstances relating to costs of the Minister.