

AS TABLED IN THE HOUSE OF ASSEMBLY

A BILL

entitled

USA-BERMUDA TAX CONVENTION AMENDMENT (NO. 2) ACT 2017

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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 (No. 2) Act 2017.

Amends section 2

2 Section 2 of the principal Act is amended—

(a) in subsection (1)—

(i) in the definition of "arrangement", in paragraph (b), by deleting the word "and" at the end of subparagraph (i) and by inserting after that subparagraph the following—

"(ia) any agreement reached between the Government of Bermuda and the Government of the United States of America to seek to improve international tax compliance and to implement provisions with respect to compliance with the OECD Model Legislation relating to Country-by-Country Reports; and";

(b) by inserting in the appropriate alphabetical order the following—

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“OECD” means the Organisation for Economic Co-operation and Development;

“OECD Model Legislation relating to Country-by-Country Reports” means the Model Legislation Related to Country-by-Country Reporting (as may be amended from time to time) contained in Annex IV to Chapter V of the OECD Report of 2015;

“OECD Report of 2015” means the report on Action 13: Transfer Pricing Documentation and Country-by-Country Reporting - 2015 Final Report published by the OECD on 5 October 2015; ”.

Amends section 4A

3 Section 4A of the principal Act is amended by inserting after subsection (1) the following—

“(1A) For greater clarity for the purposes of subsection (1), a person with respect to whom the provisions of an arrangement relating to automatic exchange of information apply, shall comply with such provisions.”.

Amends section 9

4 Section 9 of the principal Act is amended in subsection (1)(aa) and subsection (3), by inserting after the words “section 4A(1)”, the words “or (1A)”.

Inserts section 13A

5 The principal Act is amended by inserting after section 13 the following—

“Guidance

13A (1) The Minister may issue guidance for complying with the arrangement that is set forth in section 2(1)(b)(ia).

(2) Any guidance issued under this section is not a statutory instrument and the Statutory Instruments Act 1977 shall not apply to it.”.

Commencement

6 (1) This Act shall come into operation on such day as the Minister may by Notice in the Gazette appoint.

(2) The Minister may appoint different days for the coming into operation of different provisions of this Act.

USA-BERMUDA TAX CONVENTION AMENDMENT (NO 2) BILL 2017

EXPLANATORY MEMORANDUM

This Bill seeks to amend the USA-Bermuda Tax Convention Act 1986 (the “Act”) in order to confirm certain matters relating to Bermuda’s tax information exchange regime.

Clause 1 provides the short title for the Bill.

Clause 2 amends section 2 of the Act in relation to Country-by-Country (“CbC”) Reporting.

Clause 3 amends section 4A of the Act to clarify that provision.

Clause 4 amends section 9 of the Act to apply certain provisions in relation to CbC Reporting.

Clause 5 inserts a new section 13A in the Act to empower the Minister to issue guidance for complying with CbC Reporting requirements.

Clause 6 provides for commencement.