A BILL

entitled

TAX CREDITS AMENDMENT ACT 2026

TABLE OF CONTENTS

WHEREAS it is expedient to amend the Tax Credits Act 2025 so as to provide for the better administration of Bermuda's tax credits regime and to better facilitate the filing of tax credit claims.

Be it enacted by The King'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 Tax Credits Act 2025 (the "principal Act") may be cited as the Tax Credits Amendment Act 2026.

Amends section 16

2 Section 16 of the principal Act is amended—

(a) in subsection (4) (a)—

(i) by repealing subparagraph (i) and substituting the following—

"(i) the result obtained by dividing the standard weekly working hours of the eligible employee established by the agreement for the fiscal year by 30, which shall not exceed 1; and".

(ii) by repealing subparagraph (ii) and substituting the following new subparagraph—

"(ii) the result obtained by dividing the number of weeks (including a portion of a week) in which the eligible employee was employed by one or more Qualifying Bermuda Group Entity members of the Qualifying Bermuda Group during the fiscal year by the number of weeks (including a portion of a week) during the fiscal year;".

(b) in subsection (4)(b)—

(i) by repealing subparagraph (i) and substituting the following new subparagraph—

"(i) the result obtained (which shall not exceed 1) by dividing the weekly average of the number of hours of service provided by the eligible employee,(which shall be determined by dividing the number of hours of service provided by the eligible employee to Qualifying Bermuda Group Entity members of the Qualifying Bermuda Group during the fiscal year by the number of weeks (including a portion of a week) in which the individual was an eligible employee of one or more Qualifying Bermuda Group Entity members of the Qualifying Bermuda Group during the fiscal year) by 30; and ".

(ii) by repealing subparagraph (ii) and substituting the following new subparagraph—

"(ii) the result obtained by dividing the number of weeks (including a portion of a week) in which the eligible employee was employed by one or more Qualifying Bermuda Group Entity members of the Qualifying Bermuda Group during the fiscal year by the number of weeks (including a portion of a week) during the fiscal year.".

(c) in subsection (5)—

(i) by deleting in paragraph (a) the comma following the words "equivalent factor for the eligible employee for the fiscal year" and substituting a semicolon, and by deleting the words following the inserted semicolon;

(ii) by deleting in paragraph (b) the comma following the words "equivalent factor for the eligible employee for the fiscal year" and substituting a semicolon, and by deleting the words following the inserted semicolon;

(iii) by inserting after paragraph (b) the following new paragraph (c)—

"(c) where subsection (4)(a) or (b) is being applied separately to more than one portion of a fiscal year (determined without regard to section 33(1)), whether by virtue of the application of paragraphs (a) or (b) or section 33, the aggregate of the number of weeks in which the eligible employee was employed by one or more Qualifying Bermuda Group Entity members of the Qualifying Bermuda Group during the fiscal year, as determined in subsection (4)(a)(ii) and (b)(ii) shall not exceed the total number of weeks during the fiscal year.".

Amends section 17

3 Section 17(2)(c)(ii) of the principal Act is amended by deleting after the word "in" the following words and figures "subsection (1) (a)(i)" and substituting the following words and figures "subsection (1)(a)(ii)".

Amends section 18

4 Section 18(2) of the principal Act is amended by repealing paragraph (c) and substituting the following new paragraph (c)—

"(c) where a Qualifying Bermuda Group Entity becomes or ceases to be a member of the Qualifying Bermuda Group due to the transfer of a direct or indirect ownership interest in the Qualifying Bermuda Group Entity, the amount determined in accordance with subsection (1)(b) for the fiscal year immediately succeeding the transfer date—

(i) for the Qualifying Bermuda Group which disposed of the Qualifying Bermuda Group Entity shall be reduced by the number of full-time eligible employees of the Qualifying Bermuda Group Entity as determined for the fiscal year of the Qualifying Bermuda Group immediately preceding the transfer date, subject to subparagraph (1)(b)(i); and

(ii) for the Qualifying Bermuda Group which acquired the Qualifying Bermuda Group Entity shall be increased by the number of full-time eligible employees of the Qualifying Bermuda Group Entity as determined for the fiscal year of the Qualifying Bermuda Group immediately preceding the transfer date, subject to subparagraph (1)(b)(i).".

Amends section 20

5 Section 20 of the principal Act is amended—

(a) in subsection (1) by inserting after the words “the expense-based benefit factor shall” a comma and the following words “subject to subsection (3)”; and

(b) by inserting after subsection (2) the following new subsection (3)—

“(3) Where section 33(1) applies to a Qualifying Bermuda Group, such that the provisions of this Act are being applied with respect to a portion of a fiscal year, then for the purposes of applying subsection (1) to the portion each of the dollar limits specified in subsection (1) shall be equal to the product of—

(a) the dollar limit specified in subsection (1); and

(b) the result obtained by dividing the number of weeks (including a portion of a week) included in the portion of the fiscal year by 52.”.

Amends section 22

6 Section 22 of the principal Act is amended—

(a) by repealing subsection (3) and substituting the following new subsection (3)—

“(3) For the purposes of subsection (2), where—

(a) section 33(1) applies to a Qualifying Bermuda Group Entity, such that—

(i) the provisions of this Act are being applied with respect to a portion of a fiscal year (which shall be referred to, for the purposes of this section, as the successor portion);

(ii) the successor portion is immediately preceded by another portion of a fiscal year (which shall be referred to, for the purposes of this section, as the predecessor portion) arising pursuant to the application of section 33(1); and

(iii) the period comprising the predecessor portion ends prior to the end of the fiscal year which includes the predecessor portion,

the allocation of the total opening tax credit carryforward amount of the Qualifying Bermuda Group Entity for the successor portion shall be equal to the benefit period allocations determined in accordance with section 27(3) at the end of the predecessor portion, as specified in subsection (5);

(b) paragraph (a) does not apply, the allocation of the total opening tax credit carryforward amount for the fiscal year shall be determined by advancing, in each case by one benefit period, the benefit period allocations determined in accordance with section 27(3) at the end of the immediately preceding fiscal year, as specified in subsection (4).”.

(b) in subsection (4) by deleting after the word “of” in the chapeau the words and figures “subsections (2) and (3)” and substituting the following words and figures “subsection (3)(b)”;

(c) by inserting after subsection (4) the following new subsections (5) and (6)—

“(5) For the purposes of subsection (3)(a)—

(a) the total closing tax credit carryforward amount allocated to the second preceding benefit period pursuant to the application of section 27(3)(a) for the immediately preceding fiscal year shall become the total opening tax credit carryforward amount allocated to the second preceding benefit period for the purposes of applying section 23(3)(b) for the fiscal year;

(b) the total closing tax credit carryforward amount allocated to the first preceding benefit period pursuant to the application of section 27(3)(b) for the immediately preceding fiscal year shall become the total opening tax credit carryforward amount allocated to the first preceding benefit period for the purposes of applying section 23(3)(c) for the fiscal year; and

(c) the total closing tax credit carryforward amount allocated to the immediately preceding fiscal year pursuant to the application of section 27(3)(c) for the immediately preceding fiscal year shall become the total opening tax credit carryforward amount allocated to the fiscal year for the purposes of applying section 23(3)(d) for the fiscal year.

(6) For the purposes of paragraph (3)(a), where the Qualifying Bermuda Group Entity is a member of different Qualifying Bermuda Groups for each of the predecessor portion and the successor portion—

(a) the fiscal year referred to in subparagraph 3(a)(i) shall be the fiscal year of the Qualifying Bermuda Group of which the Qualifying Bermuda Group Entity is a member during the successor portion; and

(b) the fiscal year referred to in subparagraphs 3(a)(ii) and (iii) shall be the fiscal year of the Qualifying Bermuda Group of which the Qualifying Bermuda Group Entity is a member during the predecessor portion.”.

Amends section 23

7 Section 23 (3) of the principal Act is amended—

(a) by repealing paragraph (b) and substituting the following new paragraph (b)—

"(b) the second preceding benefit period in an amount equal to the aggregate of the amounts allocated to the second preceding benefit period for each Qualifying Bermuda Group Entity member of the Qualifying Bermuda Group in accordance with—

(i) section 22(4)(b); or

(ii) section 22(5)(a),

as the case may be, for the fiscal year;".

(b) by repealing paragraph (c) and substituting the following new paragraph (c)—

"(c) the first preceding benefit period in an amount equal to the aggregate of the amounts allocated to the first preceding benefit period for each Qualifying Bermuda Group Entity member of the Qualifying Bermuda Group in accordance with—

(i) section 22(4)(c); or

(ii) section 22(5)(b),

as the case may be, for the fiscal year;".

(c) by inserting after paragraph (c) the following new paragraph (d)—

"(d) the fiscal year in an amount equal to the aggregate of the amounts allocated to the fiscal year for each Qualifying Bermuda Group Entity member of the Qualifying Bermuda Group in accordance with section 22(5)(c) for the fiscal year.".

Amends section 24

8 Section 24 of the principal Act is amended—

(a) in subsection (5)—

(i) by repealing paragraph (a) and substituting the following new paragraph (a)—

"(a) subject to subsection (7), the CIT charge of the Qualifying Bermuda Group for the fiscal year (as determined without regard to section 33(1)); and;".

(ii) by repealing paragraph (b) and substituting the following new paragraph (b)—

"(b) the sum of —

(i) with respect to each payroll tax period which falls entirely within the fiscal year of the Qualifying Bermuda Group, the aggregate of the payroll tax charges incurred by each Qualifying Bermuda Group Entity member of the Qualifying Bermuda Group; and

(ii) with respect to each payroll tax period which falls partly with and partly without the fiscal year of the Qualifying Bermuda Group, an amount equal to the product of—

(A) the aggregate payroll tax charges incurred by each Qualifying Bermuda Group Entity member of the Qualifying Bermuda Group for the payroll tax period; and

(B) the result obtained by dividing the number of days in the payroll tax period which falls within the fiscal year of the Qualifying Bermuda Group by the total number of days in the payroll tax period.".

(b) by inserting after subsection (6) the following new subsection (7)—

"(7) Where—

(a) section 33(1) applies, such that the provisions of this Act are being applied with respect to a portion of the fiscal year (as determined without regard to section 33(1)); and

(b) the period comprising the portion of the fiscal year ends prior to the end of the fiscal year which includes the portion,

the amount determined pursuant to subsection (5)(a) shall be nil for the purposes of applying this section to the portion. ".

Amends section 25

9 The principal Act is amended in section 25(2)(c) by repealing subparagraph (i) and substituting the following new subparagraph—

"(i) adding the sum of—

(A) the amount determined in accordance with section 24(3) for the fiscal year; and

(B) the portion of the total opening tax credit carryforward of the Qualifying Bermuda Group which was allocated to the fiscal year in accordance with section 23(3)(d); and".

Amends section 26

10 Section 26 of the principal Act is amended by repealing subsection (3) and substituting the following new subsection (3)—

"(3) For the purposes of subsection (1)(b) the distributable substance-based tax credit benefit of a Qualifying Bermuda Group Entity for the fiscal year shall be equal to the sum of—

(a) the product of—

(i) the amount determined in accordance with section 23(3)(a) for the fiscal year; and

(ii) the result obtained by dividing the amounts determined for the fiscal year in accordance with section 22(4)(a) by the amount determined in accordance with section 23(3)(a) for the fiscal year;

(b) the product of—

(i) the lesser of the amounts determined for the fiscal year in accordance with section 25(2)(a)(ii)(A) and section 25(2)(a)(ii)(B); and

(ii) the result obtained by dividing the sum of the amounts determined for the fiscal year in accordance with sections 22(4)(b) and 22(5)(a) by the amount determined in accordance with section 23(3)(b) for the fiscal year;

(c) the product of—

(i) the lesser of the amounts determined for the fiscal year in accordance with section 25(2)(b)(ii)(A) and (B); and

(ii) the result obtained by dividing the sum of the amounts determined for the fiscal year in accordance with section 22(4)(c) and section 22(5)(b) by the amount determined in accordance with section 23(3)(c) for the fiscal year; and

(d) the product of—

(i) the amount determined in accordance with section 25(2)(c)(ii) for the fiscal year; and

(ii) the result obtained by dividing the amount specified in (A) by the amount specified in (B)—

(A) the sum of the accrued substance-based tax credit benefit of the Qualifying Bermuda Group Entity as determined in accordance with section 6(1) and the amount determined in accordance with section 22(5)(c) for the fiscal year;

(B) the sum of the accrued substance-based tax credit benefit of the Qualifying Bermuda Group as determined in accordance with section 24(3) for the fiscal year and the amount determined in accordance with section 23 (3)(d) for the fiscal year.”.

Amends section 27

11 Section 27 of the principal Act is amended by repealing subsection (3) and substituting the following new subsection (3)—

“(3) The total closing tax credit carryforward amount specified in subsection (2) shall be allocated between the preceding benefit periods of the Qualifying Bermuda Group Entity and, for this purpose, the total closing tax credit carryforward amount allocated to the—

(a) second preceding benefit period of the Qualifying Bermuda Group entity shall be equal to the product of—

(i) the total closing tax credit carryforward amount of the Qualifying Bermuda Group allocated to the second preceding benefit period in accordance with section 25(2)(a) for the fiscal year; and

(ii) the result obtained by dividing the sum of the amounts determined for the fiscal year in accordance with sections 22(4)(b) and 22(5)(a) by the amount determined in accordance with section 23(3)(b) for the fiscal year;

(b) first preceding benefit period of the Qualifying Bermuda Group Entity shall be equal to the product of—

(i) the total closing tax credit carryforward amount of the Qualifying Bermuda Group allocated to the first preceding benefit period in accordance with section 25(2)(b) for the fiscal year; and

(ii) the result obtained by dividing the sum of the amounts determined for the fiscal year in accordance with sections 22(4)(c) and 22(5)(b) by the amount determined in accordance with section 23(3)(c) for the fiscal year; and

(c) the fiscal year of the Qualifying Bermuda Group Entity shall be equal to the product of—

(i) the total closing tax credit carryforward amount of the qualifying Bermuda Group allocated to the fiscal year in accordance with section 25(2)(c); and

(ii) the result obtained by dividing the amount specified in (A) by the amount specified in (B)—

(A) the sum of the accrued substance-based tax credit benefit of the Qualifying Bermuda Group Entity as determined in accordance with section 6(1) for the fiscal year and the amount determined in accordance with section 22(5)(c) for the fiscal year;

(B) the sum of the accrued substance-based tax credit benefit of the Qualifying Bermuda Group as determined in accordance with section 24(3) and the amount determined in accordance with section 23(3)(d) for the fiscal year.”.

Repeals and substitutes section 33

12 The principal Act is amended by repealing section 33 and substituting the following new section 33—

“**Corporate restructuring**

33 (1) A Bermuda Entity specified in—

(a) section 5(1)(a); or

(b) section 5(1)(b) with respect to any one specific group,

for only a portion of a fiscal year including (but not limited to) where such circumstances arise due to a transfer of any direct or indirect ownership interest in the Bermuda Entity during the fiscal year, the provisions of this Act shall be applied separately to the portion of the fiscal year in the same manner as if that portion was a fiscal year.

(2) Where a Bermuda Entity becomes, or ceases to be, a member of a group during a fiscal year due exclusively to—

(a) the incorporation, formation, or organisation of a Bermuda Entity during the fiscal year;

(b) the liquidation, dissolution, or termination of a Bermuda Entity during the fiscal year, pursuant to which another group entity succeeds to the assets and liabilities, if any, of the Bermuda Entity; or

(c) the merger, amalgamation, or consolidation of a Bermuda Entity with another member of the group,

then subsection (1)(b) shall not apply to a change in the Bermuda Entity’s membership in the group.

(3) Subsection (1) shall not apply for the purposes of determining—

(a) the fiscal year referred to in section 16(5)(c);

(b) the CIT charge of the Qualifying Bermuda Group for the fiscal year for the purposes of section 24(5)(a);

(c) the fiscal year referred to in section 24(7);

(d) the aggregate eligible charitable expenses incurred for a fiscal year for the purposes of section 28(2)(a).".

Amends section 35

13 Section 35 of the principal Act is amended by deleting the letters "BCE" wherever the letters appear in subsections (1) and (2) and substituting the following word "Entity".

Amends section 37

14 Section 37 of the principal Act is amended by repealing the definition of "overstatement" and substituting the following new definition—

" "overstatement" means the circumstances where the amount of the distributable tax credit benefit shown on a form filed in accordance with section 36 (or the regulations made under the Act) for the fiscal year, together with any adjustments shown on a qualified amended form for the fiscal year, is more than the amount of the distributable tax credit benefit that the Filing Qualifying Bermuda Group Entity ought to have reported on such form.".

Repeals and substitutes section 39

15 The principal Act is amended by repealing section 39 and substituting the following—

"**Interest to be chargeable**

39 Where a Qualifying Bermuda Group NBCE has claimed a distributable tax credit benefit and such distributable tax credit benefit—

(a) has been refunded pursuant to section 4(b); and

(b) is subsequently determined to have been overstated,

interest shall be chargeable in respect of the overstatement at the rates and in the manner as the Minister may prescribe by regulations. ".

Consequential amendment to the Public Treasury (Administration and Payments) Act 1969

16 Section 12A (2A) of the Public Treasury (Administration and Payments) Act 1969 is amended by repealing paragraph (b) and substituting the following new paragraph (b)—

"(b) the payment of tax credit benefits pursuant to the Tax Credits Act 2025 shall in the first instance, be made from the tax refund reserve fund established pursuant to section 50A of the

Corporate Income Tax Act 2023 (but subject to any regulations made under the Corporate Income tax Act 2023 or the Tax Credits Act 2025, and if there are insufficient sums standing to the credit of the tax refund reserve fund, the payment of the tax credit benefits shall be made from the Consolidated Fund.”.

TAX CREDITS AMENDMENT BILL 2026

EXPLANATORY MEMORANDUM

This Bill seeks to amend the Tax Credits Act 2025 to provide for the better administration of Bermuda's tax credits regime and to better facilitate the filing of tax credit claims. The Government finds that there is a need to ensure that administration of the tax credits regime will operate within well defined rules, criteria and transparency. Therefore, the purposes of these amendments are to provide the following: (a) more accurate calculation of the number of eligible employees in regards to the calculation of tax credit benefits awarded under the substance based tax; (b)to provide greater clarity in the calculation of expense based tax credits benefits;(c) to reduce administrative complexity where there are changes in a corporate group to ensure such changes do not impact the calculation of a group's tax credit benefits.

Clause 1 provides for the citation of the Bill.

Clause 2 amends section 16 to provide for a more accurate calculation of the number of eligible employees, which in turn affects the calculation of the level of tax credit benefits awarded under the substance-based tax.

Clause 3 amends section 17 to update a cross reference.

Clause 4 amends section 18 to provide for adjustments to the calculation of the number of eligible employees due to corporate transactions when an employer company joins or leaves a group.

Clause 5 amends section 20 to provide for greater clarity in the calculation of expense based tax credit benefits in "stub" periods that are less than twelve months.

Clause 6 repeals and inserts new subsections in section 22 to correct instances where a fiscal year was broken up into periods (for example, due to a corporate transaction) which could lead to inaccuracies in calculation of how tax credit benefits were apportioned over multiple fiscal years.

Clause 7 amends section 23 to take account of changes made to section 22 under clause 6.

Clause 8 amends section 24 to address potential inaccuracies that could arise when a "stub period" used in calculating tax credit benefits did not coincide with the same period used in calculating a corporate income tax charge.

Clause 9 amends section 25 to take account of the changes made to section 22 under clause 6.

Clause 10 amends section 26 to take account of the changes made to section 22 under clause 6.

Clause 11 amends section 27 to take account of the changes made to section 22 under clause 6.

Clause 12 repeals and substitutes section 33 to reduce administrative complexity where there are changes in a corporate group and the changes do not impact the calculation of a group's tax credit.

Clause 13 amends section 35 to provide that the accrual of tax credit benefits against designated tax refund reserve fund shall occur for all tax credit recipients (and not just recipients who are within the charge to corporate income tax).

Clause 14 amends section 37 to correct references to the tax credit claim form.

Clause 15 repeals and substitutes section 39 to clarify how interest on amounts that are paid out due to overstatement is calculated.

Clause 16 provides for a consequential amendment to the Public Treasury (Administration and Payments) Act 1969 to reflect the impact of the amendment to section 35 under clause 12.