

# **BUSINESS LICENCE (AMENDMENT) BILL, 2020**

## **Arrangement of Sections**

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# BUSINESS LICENCE (AMENDMENT) BILL, 2020

## A BILL FOR AN ACT TO AMEND THE BUSINESS LICENCE ACT

### Enacted by the Parliament of The Bahamas

#### 1. Short title and commencement.

- (1) This Act, which amends the Business Licence Act, 2020 (*No. 25 of 2010*), may be cited as the Business Licence (Amendment) Act, 2020.
- (2) This Act shall come into force on the 1<sup>st</sup> day of July, 2020.

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

Subsection (1) of section 2 of the principal Act is amended —

- (a) by the insertion in the appropriate alphabetical order of the following new definition —

“**non-resident**” means a person who does not, and is not deemed to, carry on a business in or from within The Bahamas;”;
- (b) by the deletion of the definition of “financial services entity” and the substitution of the following —

“**financial services entity**” means —

  - (a) a business that is subject to the payment of a licensing or other fee and is regulated in accordance with —
    - (i) the Banks and Trust Companies Regulation Act (*Ch. 316*);
    - (ii) the Securities Industry Act, 2011 (*No. 10 of 2011*);
    - (iii) the Financial and Corporate Services Providers Act (*Ch. 369*); or
    - (iv) the Investment Funds Act, 2019 (*No. 2 of 2019*); or

- (b) a registered insurer under —
  - (i) the Insurance Act (*Ch. 347*); or
  - (ii) the External Insurance Act (*Ch. 348*);”;
- (c) in the definition of “turnover”, by the deletion of subparagraph (c) and the substitution thereof as follows —
  - “(c) in relation to an agent, an amount received for or on behalf of a principal in an agency relationship except, where the principal is a non-resident;”;
- (d) by the insertion immediately after subsection (2) of the following new subsection —
  - “(3) With respect to paragraph (c) of the definition of “turnover” in subsection (1) —
    - (a) an amount received for or on behalf of a principal in an agency relationship —
      - (i) forms a part of the turnover of the principal, except where the principal is a non-resident; and
      - (ii) does not include fees or commission on sales or any similar amount designed to remunerate the agent for its role or involvement in the sale or transaction; and
    - (b) an agency relationship does not exist where —
      - (i) the agent has a proprietary interest in the goods or services being provided;
      - (ii) the agent has control over the pricing of the goods or services;
      - (iii) the parties do not describe their relationship as that of principal and agent; and
      - (iv) the revenues generated by the agent exceeds or is calculated on a basis other than a predetermined agency fee or commission on sales or similar amount.”.

### **3. Amendment of section 8 of the principal Act.**

Section 8 of the principal Act is amended by the insertion immediately after subsection (2B) of the following new subsection —

- “(2C) For the avoidance of doubt, where a person carries on —
- (a) more than one business activity; or
  - (b) business from more than one location,

that operates as or forms a part of the same legal entity, the business activities shall be treated as one business for the purpose of establishing turnover.”.

#### **4. Amendment of section 9B of the principal Act.**

Section 9B of the principal Act is amended by the insertion immediately after subsection (6), of the following new subsection —

- “(7) Any person on whom a notice has been served under this section that fails to comply with such notice, or who makes any disposition of money or property or any arrangement that contradicts the purpose of the notice —
- (a) is personally liable for the amount that he should have paid or property that he should have delivered in compliance with the notice, and such amount or property may be recovered by the Secretary as if it were tax due under this Act;
  - (b) commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.”.

#### **5. Amendment of section 11 of the principal Act.**

Subsection (1) of section 11 of the principal Act is amended by the deletion of the words “twenty-one” and the substitution therefor of the word “thirty”.

### **OBJECTS AND REASONS**

Clause 2 of the Bill seeks to amend section 2 of the Business Licence Act, 2020 (*No. 25 of 2010*) (“the principal Act”), to introduce a new definition for the term “non-resident” and to amend and clarify the definition of turnover in relation to amounts received in a principal and agency relationship. The Clause also seeks to amend the definition of “financial services entity”.

Clause 3 of the Bill seeks to amend section 8 of the principal Act to insert a new subsection (2C) which provides that in the case of turnover of multiple business activity existing under a single legal entity, the tax will be calculated based on the total turnover of all the businesses. Clause 4 of the Bill seeks to amend section 9B of the principal Act to insert a new subsection (7) which provides for an offence for non-compliance with a notice issued under section 9B.

Clause 5 of the Bill seeks to amend section 11 of the principal Act to increase the time period for objections from twenty-one days to thirty days, thereby making the time period consistent with other tax laws.