

ANTIGUA AND BARBUDA



THE PERSONAL INCOME TAX (AMENDMENT) ACT, 2008

No. 5 of 2008

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I Assent,

[L.S.]

Louise Lake-Tack,
Governor-General.

11th November, 2008

ANTIGUA AND BARBUDA

THE PERSONAL INCOME TAX (AMENDMENT) ACT, 2008

No. 5 of 2008

AN ACT to amend the Personal Income Tax Act, 2005

ENACTED by the Parliament of Antigua and Barbuda as follows:

1. Short title and coming into force

(1) This Act may be cited as the Personal Income Tax (Amendment) Act, 2008.

(2) This Act or any provision of this Act or any provision of the principal Act amended by this Act, comes into force on the day appointed by the Minister by notice published in the Gazette.

2. Interpretation

In this Act, “principal Act” means the Personal Income Tax Act, 2005, (No. 1 of 2005).

3. Amendment to section 2

Section 2 of the principal Act is amended

(a) by repealing the definition “chargeable income” and substituting the following:

““chargeable income” means an individual’s assessable income from all sources less deductions permitted under this Act;”

(b) by adding the following definition in alphabetical order:

““trade” has the same meaning as in section 2 of the Income Tax Act.”

4. Addition of Part IIA

The principal Act is amended by adding the following Part after section 7:

“PART IIA

DEDUCTIONS

7A Proof of deductions

An individual may deduct, for the purposes of ascertaining his or her chargeable income, the expenses and allowances in this Part in respect of which he or she files satisfactory proof with the annual return in respect of the income year to which the deduction relates.

7B. Expense deduction

An individual may, in calculating his or her assessable income for an income year, deduct from his or her assessable income all expenses that are wholly, exclusively and necessarily incurred in the production of the individual’s assessable income.

7C. Personal allowance

Every individual may deduct from his or her or assessable income a personal allowance calculated as follows:

- (a) in respect of the income year 2005 - \$27,000; and
- (b) in respect of the income year 2006 and subsequent years - \$36,000.

7D. Mortgage interest deduction

(1) An individual who is resident in Antigua and Barbuda during an income year may, in calculating his or her chargeable income for that income year, deduct from his or her assessable income an allowance in respect of interest paid by the individual in the income year on money borrowed if

- (a) the money borrowed was borrowed for the purpose of acquiring, constructing, repairing or renovating the individual’s principal residence and was secured by way of a mortgage; and

- (b) the total of the deduction does not exceed the lesser of
 - (i) 25% of the total amount of interest paid in respect of that money borrowed in that income year; and
 - (ii) \$2,000.00.

(2) For the purposes of subsection (1), if a principal residence is owned by two or more individuals, each individual is entitled to an equal share of the deduction, but the Commissioner may, if sufficient evidence of another apportionment is brought before him or her, order that the share of the deduction for each individual be adjusted accordingly.

7E. Pension contribution deduction

An individual who is resident in Antigua and Barbuda during an income year may, in calculating his or her chargeable income for that income year, deduct from his or her assessable income an allowance in respect of contributions made by the individual to a pension fund if

- (a) the fund has been approved by the Commissioner;
- (b) the fund is established in good faith under an irrevocable trust in connection with a trade or undertaking carried on in Antigua and Barbuda by a person resident in Antigua and Barbuda;
- (c) the fund's sole purpose is the provision of benefits, including annuities, for individuals or classes of individuals employed or otherwise specified as beneficiaries under the fund, such as individuals employed in the trade or undertaking either on retirement at a particular age or on becoming incapacitated before that age or for dependants on death of those individuals; and
- (d) the total of the deduction does not exceed the lesser of
 - (i) 20% of the contributions made in the income year; and
 - (ii) \$2,000.00

7F. Child care deduction

(1) An individual who is resident in Antigua and Barbuda during an income year may, in calculating his or her chargeable income for that income year, deduct from his or her assessable income an allowance in respect of the support of the individual's – or the individual's spouse's – child or adopted child, if each child supported is, at any time during the income year, either under the age of 18 years or under the age of 25 years and receiving full-time instruction at an educational establishment.

(2) The limits on the deduction under subsection (1) are:

- (a) if the deduction is in respect of one child, the lesser of
 - (i) \$1,000.00; and
 - (ii) \$1,000.00 minus an amount received by or on behalf of the child as a scholarship grant or other financial assistance in the case of a child aged 18 years or more but less than 25 years; and
- (b) if the deduction is in respect of more than one child, the lesser of
 - (i) \$2,000.00; and
 - (ii) \$2,000.00 minus amounts received by or on behalf of the children as scholarship grants or other financial assistance in the case that all of the children are aged 18 years or more but less than 25 years.

(3) If more than one individual is contributing to the support of a child, each individual is entitled to an equal share of the deduction, but the Commissioner may, if sufficient evidence of another apportionment is brought before him or her, order that the share of the deduction for each individual be adjusted accordingly.

7G. Health insurance premium deduction

An individual who is resident in Antigua and Barbuda during an income year may, in calculating his or her chargeable income for that income year, deduct from his or her assessable income an allowance in respect of premiums paid by the individual to a health insurance scheme equal to the lesser of

- (a) 50% of the premiums paid; and
- (b) \$2,000.00.

7H. Applicable income years

Sections 7B and 7C apply in respect of the income year 2005 and subsequent income years, sections 7D and 7E apply in respect of the income year 2007 and subsequent income years and sections 7F and 7G apply in respect of the income year 2008 and subsequent income years.”

5. Amendment to section 8

Subsection 8(2) of the principal Act is amended by inserting the word “chargeable” before the word “income”.

6. Amendment to section 9

Section 9 of the principal Act is amended

- (a) in paragraph (2)(f) by adding the words “on savings” after the word “interest”;
- (b) in paragraph (2)(g) by repealing the word “chargeable”;
- (c) in paragraph (2)(h), by repealing the figure “60,000” and substituting the figure “24,000”;
- (d) in paragraph (2)(j), by adding at the end the words “other than an individual in a management position”; and
- (e) by repealing subsection (3).

7. Amendment to section 15

Section 15 of the principal Act is amended by adding the following subsection after subsection (1):

“(1a) An employee may request that the amount to be withheld in respect of his or her employment income be increased over the amount of tax as set out in the tax tables, and if so, shall notify the Commissioner in writing, setting out the effective date of the increase. On receipt of the notification, the Commissioner shall treat the increased amount as if it were the amount set out in the tax tables and so inform the employer in writing, who shall then begin to withhold and remit the increased amount.”

8. Amendment to section 17

Section 17 of the principal Act is amended in subsection (1) by adding the word “month” after the word “each.”

9. Amendment to section 21

Section 21 of the principal Act is amended

- (a) in subsection (1), by repealing the word “on” after the word “derives”;
- (b) in subsection (3), by repealing the words “exceeds or” before the words “is less”; and
- (c) in subsection (3), by repealing the words “an assessment” and substituting the words “a notice”.

10. Amendment to section 23

Section 23 of the principal Act is amended in subsection (1) by repealing the word “proceeding” before the word “year” in the last line and substituting the word “preceding”.

11. Amendment to section 26

Section 26 of the principal Act is amended by adding the following subsection at the end:

“(3) No deductions other than the deductions referred to in subsection 20(2) are allowed for the purpose of ascertaining the chargeable income of a non-resident individual.”

12. Amendment to section 27

Section 27 of the principal Act is amended in subsection (2)

- (a) by repealing the words “from more than one employer” before the words “or from self employment” and substituting the words “from employment”; and
- (b) by inserting, after the words “other income”, the words “and is liable to tax under this Act,”

13. Amendment to section 28

Section 28 of the principal Act is amended

- (a) in subsection (3), by repealing the cross-reference to “subsection (1)” and substituting a cross-reference to “subsection (2)”; and
- (b) in subsection (4) by adding the word “may” before the word “submit”.

14. Amendment to section 30

Section 30 of the principal Act is amended by repealing the word “of” before the word “assessment”.

15. Amendment to section 31

Section 31 of the principal Act is amended in subsection (1) by inserting the words “given not later than seven years after the income year to which the inquiry relates” after the word “writing”.

16. Amendment to the Schedule

The Schedule to the principal Act is amended

- (a) by repealing in item (2) the words “year 2006 and subsequent years” and substituting the words “years 2006 and 2007”;
- (b) in item (2), by repealing paragraph (a), and re-lettering paragraphs (b), (c), (d) and (e) as paragraphs (a), (b), (c) and (d), respectively; and

(c) by repealing item (3) and substituting the following:

“(3) In respect of the income year 2008 and subsequent years:

- (a) 10% of the first \$36,000 of chargeable income, that is, from \$1 - \$36,000;
- (b) 12.5% of the next \$24,000 of chargeable income, that is from \$36,001 - \$60,000;
- (c) 15% of the next \$24,000 of chargeable income, that is from \$60,001- \$ 84,000;
- (d) 20% of the next \$60,000 of chargeable income, that is from \$84,001 - \$144,000;
- (e) 25% of the remainder of chargeable income, that is, any amount greater than \$144,000.”.

Passed by the House of Representatives on
this 8th day of July, 2008.

Passed by the Senate on this 21st day of
August, 2008.

D. Gisele Isaac-Arrindell,
Speaker.

Hazlyn M. Francis,
President.

L. Thomas,
Acting Clerk to the House of Representatives.

L. Thomas,
Acting Clerk to the Senate.