

AUTOMATIC EXCHANGE OF FINANCIAL ACCOUNT INFORMATION (AMENDMENT) BILL, 2024

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AUTOMATIC EXCHANGE OF FINANCIAL ACCOUNT INFORMATION (AMENDMENT) BILL, 2024

A BILL FOR AN ACT TO AMEND THE AUTOMATIC EXCHANGE OF FINANCIAL ACCOUNT INFORMATION ACT

Enacted by the Parliament of The Bahamas

1. Short title.

This Act, which amends the Automatic Exchange of Financial Account Information Act, 2016 (*No. 37 of 2016*), may be cited as the Automatic Exchange of Financial Account Information (Amendment) Bill, 2024.

2. Amendment of section 2 of the principal Act.

Section 2 of the principal Act is amended in subsection (1), by the deletion of the term and accompanying definition of “**Entity**” and the substitution of the following —

“**Entity**” means a legal person or a legal arrangement, such as a corporation, partnership, trust, or foundation;”.

3. Amendment of the headnote to section 15 of the principal Act.

The headnote of section 15 of the principal Act, is amended by the insertion, immediately after the words “Anti-avoidance”, the words “or anti-circumvention”.

4. Amendment of section 15 of the principal Act.

Section 15 of the principal Act is amended by the deletion thereof and the substitution of the following —

“**15. Anti-avoidance or anti-circumvention.**

- (1) Where a person enters into an arrangement or engages in a practice, the main purpose or one of the main purposes, of which can reasonably be considered to be to avoid an obligation imposed under this Act or the regulations made under this Act, the person is subject to the obligation as if the person had not entered into the arrangement or engaged in the practice.
- (2) For the purposes of this section, “**person**” includes an intermediary or account holder.

5. Insertion of a new section 15C into the principal Act.

The principal Act is amended by the insertion, immediately after section 15B, of the new section 15C as follows —

“15C. Sanctioning of a legal arrangement.

- (1) Where a Reporting Financial Institution that would be subject to the penalty provisions is a legal arrangement or is a branch located in The Bahamas, the penalty may be imposed on any person responsible for managing the affairs of the Reporting Financial Institution in The Bahamas.
- (2) For the purposes of this section, “**any person responsible**” shall include, in the case of a trust, the trustee and in the case of a partnership, each of the partners.”.

OBJECTS AND REASONS

The Automatic Exchange of Financial Account Information (Amendment) Bill, 2024, seeks to make the following amendments to the Automatic Exchange of Financial Account Information Act, 2017 (*No. 18 of 2017*) (“the principal Act”) —

- (a) the headnote to section 15;
- (b) the deletion and substitution of section 15; and
- (c) the insertion, immediately after section 15B, of the new section 15C.

Clause 1 of the Bill makes provision for both the short title.

Clause 2 of the Bill makes provision for the amendment of section 2(1), by the deletion of the term and accompanying definition of “Entity” and the substitution of a new term and definition therefor.

Clause 3 of the Bill makes provision for the amendment of the headnote to section 15 of the principal Act.

Clause 4 of the Bill makes provision for the amendment of section 15 of the principal Act, for the purpose of covering all persons that can potentially engage in circumvention of the Common Reporting Standard. Under the Common Reporting Standard, the requirement is to have rules that apply to Reporting Financial Institutions, account holders and intermediaries and prevent them from adopting practices intended to circumvent the due diligence and reporting procedures. A jurisdiction must also have the power to address the circumvention. Through unwinding or ignoring the circumvention, to ensure that the reporting and exchange is required to happen in a manner that would be required in the absence of the circumvention.

Clause 5 of the Bill makes provision for the insertion, immediately after section 15B, of the new section 15C(1) and 15C(2). Section 15C(1) of the Bill provides that where a Reporting Financial Institution, that would be subject to the penalty provisions, is a legal arrangement or is a branch located in The Bahamas, the penalty may be imposed on any person responsible for managing the affairs of the Reporting Financial Institution in The Bahamas. Section 15C(2) of the Bill, makes provision for the insertion of the terms “any person responsible” and “legal arrangement” and their corresponding definitions, into the principal Act.