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BUSINESS LICENCE ACT, 2023

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BUSINESS LICENCE ACT, 2023

REPRINTED UNDER THE AUTHORITY OF THE LAW REFORM AND REVISION ACT, 2023

In exercise of the powers conferred by section 28 of the Law Reform and Revision Act, 2023 *(No. 5 of 2023)*, I hereby authorise the Government Printer to print the Business Licence Act (*No. 13 of 2023*), with all additions, omissions, substitutions and amendments effected by the —

1. Business Licence (Amendment) Act, 2024 (*No. 15 of 2024*);
2. Miscellaneous Written Law (Rectification)(No. 3) Order, 2024 (*S.I. 106 /2024*).

Made this 23rd day of December, 2024

Signed
LEO RYAN PINDER
ATTORNEY-GENERAL

BUSINESS LICENCE ACT, 2023

(Reprinted as at 1st July, 2024)

PART I - PRELIMINARY

1. Short title.

(1) This Act may be cited as the Business Licence Act, 2023.

(2) This Act shall come into force on the 1st day of July, 2023.

2. Interpretation.

(1) In this Act, unless the context otherwise requires —

"authorised person" means a person authorised in writing by the Secretary to act for and on behalf of the Secretary under this Act;

"Bahamian" means —

(a) a citizen of The Bahamas or a permanent resident with right to work in The Bahamas;

(b) a company —

(i) in which one hundred *per centum* of the shares are beneficially owned by Bahamians; and

(ii) which is not in any manner directly or indirectly controlled by any foreign person;

(c) a firm in which one hundred *per centum* of the partners and members are Bahamians;

(d) a trust in which each trustee and every person having a beneficial interest in the trust is a Bahamian;

"beneficially owned by a Bahamian" means, in relation to a company, that its shares are one hundred percent legally and beneficially owned by a Bahamian and no person is in any way under any obligation to or otherwise may exercise any right attaching to the share at the instance of or for the benefit of any person who is not a Bahamian;

"beneficial owner" means any person who is beneficially interested in any property, including a beneficiary under a trust, and "beneficially owned" shall be construed accordingly;

"business" includes —

(a) a trade, profession, vocation, venture or undertaking;

(b) the provision of personal services, or technical and managerial skills, and any adventure or concern in the nature of trade that does not include employment;

(c) the provision by a club, association or organisation, for a subscription or other consideration, of the facilities or advantages available to its members;

(d) the admission, for consideration of persons to any premises, save and except for activities specified in section 10(4)(a) and (b);

(e) the exploitation of tangible or intangible property for the purpose of obtaining income on a continuing basis from such property;

"business licence" or **"licence"** means a licence issued under section 22;

"carries on" in relation to a sales business means to sell, offer or expose for sale, either by wholesale or by retail, or for consumption on or off the premises, any goods or articles of merchandise including food and liquors;

"cessation" refers to the permanent closure of a business;[1]

"commercial rental establishment" has the meaning assigned to it under the Value Added Tax Regulations, 2014 *(S.I. No. 87 of 2014)*;

"company" includes —

(a) a company incorporated or registered under the Companies Act *(Ch. 308)*; or

(b) an international business company incorporated under the International Business Companies Act *(Ch. 309)*;

"family office" means a business that —

(a) is ultimately beneficially owned by one or more persons related by consanguinity or other family relationship, or if not so owned, is operated solely for the benefit of such persons; and

(b) generates turnover only from managing assets for such persons mentioned in subparagraph (a) and their descendants whether directly or indirectly through intermediate legal entities and trusts;

"fair market value" has the meaning assigned thereto in the Value Added Tax Regulations, 2014 *(S.I. No. 87 of 2014)*;

"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, 2020 *(No. 22 of 2020)*;

(ii) the Securities Industry Act, 2011 *(No. 10 of 2011)*[2];

(iii) the Financial and Corporate Services Providers Act, 2020 *(No. 27 of 2020)*;

(iv) the Investment Funds Act, 2019 *(No. 2 of 2019)*;

(v) the Digital Assets and Registered Exchanges Act, 2020 *(No. 28 of 2020)*;[3]

(b) an insurer regulated under —

(i) the Insurance Act *(Ch. 347)*;

(ii) the External Insurance Act *(Ch. 348)*;

(c) a co-operative credit union under The[4] Bahamas Co-operative Credit Unions Act, 2015 *(No. 9 of 2015)*[5];

(d) a registrant under the Carbon Credit Trading Act, 2022 *(No. 36 of 2022)*;

"firm" means —

(a) an unincorporated body of —

(i) two or more individuals; or

(ii) one or more individuals and one or more corporations, or

(iii) two or more companies,

who have entered into partnership with one another with a view to carrying on business for profit;

(b) an unincorporated association;

"foreign person" means —

(a) an individual who is not —

(i) a citizen of The Bahamas; or

(ii) a permanent resident with a right to work in The Bahamas;

(b) a company incorporated in The Bahamas where any of its shares or other capital is legally or beneficially owned by a person who is not a Bahamian or where it is in any manner, whether directly or indirectly, controlled by a person who is not a Bahamian;

(c) a company incorporated at any place outside The Bahamas;

(d) a firm in which any of the partners or members is not a Bahamian or where it is in any manner, whether directly or indirectly, controlled by any person who is not a Bahamian;

(e) a trust in which any of the trustees or any person having a beneficial interest in the trust is not a Bahamian;

"franchise" means a form of business organisation in which a firm which already has a successful product or service, the grantor of the franchise, enters into a continuing contractual relationship with other businesses operating under the grantor's trade name and usually with the grantor's guidance in exchange for a fee;

"Government Business Enterprise" has the meaning assigned to it in section 76 of the Public Finance Management Act, 2021 *(No. 8 of 2021)*;

"gratuity" means a payment for the provision of a service that is explicitly intended for the servers or employees delivering the service;

"hotel" means any premises within The Bahamas licensed as a hotel under the Hotels Act *(Ch. 288)* or any other law;

"inactivation" refers to a pause in the operation of a business;

"licensee" means a holder of a licence issued under this Act;

"licensed premises" means any building, dwelling house, outhouse or outbuilding room, office, booth, tent, vessel, ship or other structure, garden, park or other place, specified in the licence of a licensee as the place where he may carry on his business;

"liquor" means every description of alcoholic spirits, wines, ale, beer, porter, stout, cider, perry and other malt liquor, and any fermented or distilled liquor;

"Minister" means the Minister responsible for Business Licences;

"non-resident" means a person who does not, and is not deemed to, carry on a business in or from within The Bahamas;

"occasional licence" means a licence issued under section 14;

"parent company" means a single company that has actual control or controlling interest in another company;

"practices or carries on" in relation to a services business means rendering services in relation to a particular profession, calling, vocation or occupation, including the holding out of oneself as qualified or willing to render services, peculiar to that profession, calling, vocation or occupation;

"proprietary trading" means trading by an entity of one or more of the following solely for the entity's own account or for the account of any affiliate of the entity and not for the account of unrelated third parties —

(a) securities as defined in section 2 of the Securities Industry Act, 2011 *(No. 10 of 2011)*[6];

(b) a commodity;

(c) a digital asset as defined in section 2 of the Digital Assets and Registered Exchanges Act, 2020 *(No. 28 of 2020)*; or

(d) a carbon trading product as defined in section 2 of the Carbon Credit Trading Act, 2022 *(No. 36 of 2022)*;

"person" includes —

(a) a company or other incorporated body;

(b) a public body;

(c) a trust;

(d) a firm or other unincorporated body of persons;

"pure equity holding entity" means a commercial entity that only holds equity participations in other entities and only earns dividends and capital gains;

"regulated business" means a business the carrying on of which is subject to a licence or approval being granted pursuant to an application made under any other law;

"related person" has the meaning assigned in regulation 7 of the Value Added Tax Regulations, 2014 *(S.I. No. 87 of 2014)*[7];

"repealed Act" means the Business Licence Act, 2010 *(No. 25 of 2010)*;

"restricted goods" means the goods listed in the *First Schedule*;

"return" means the financial results of a business which includes a statement of turnover or audited financial statements issued by a licensee under the Bahamas Institute of Chartered Accountants, 2015 *(No. 13 of 2015)*[8];

"sales business" means a business selling, offering or exposing for sale, either by wholesale or by retail, or for consumption on or off the premises, any goods or articles of merchandise including food and liquors;

"Secretary" means the Financial Secretary;

"services business" means a business rendering services in relation to a profession, calling, vocation or occupation including holding out oneself as qualified or willing to render services peculiar to that profession, calling, vocation or occupation;

"show-cards" means cards containing or exhibiting articles dealt with by a business or samples or representations of such articles;

"subsidiary" means a company in which another company (a parent company) has actual control or controlling interest;

"tax" means a tax payable to carry on a business in or from within The Bahamas;

"Tax Appeal Commission" has the meaning ascribed thereto in section 2 of the Tax Appeal Commission Act, 2020 *(No. 3 of 2020)*;

"taxable person" means a person who carries on a business in or from within The Bahamas and is licensed or required to apply for a licence under sections 12, 13 or 14 and includes any person whose liability to pay tax under this Act is in question whether or not, an amount is found to be payable;

"temporary business" means a business undertaking in respect of the execution of a specific contract for a specified period not exceeding three years;

"temporary licence" means a licence issued under section 13;

"trading name" means the name or style under which any business is carried on, whether in partnership or otherwise;

"travelling salesman" means an individual who —

(a) does not reside in The Bahamas; and

(b) solicits or receives orders for anything capable of being sold, bartered, traded in or exchanged for account of any person, firm or corporate body outside The Bahamas;

"vacation home rental" has the meaning assigned to it in section 2 of the Value Added Tax Act, 2014 (*No. 32 of 2014*)[9];

"value" has the meaning assigned thereto in the Value Added Tax Act, 2014 (*No. 32 of 2014*)[10];

"year of assessment" or **"year"** means the period of twelve months commencing on the 1st day of January in each year.

(2) The Minister may by order amend the *First Schedule*.

(3) In this Act —

(a) persons are deemed not to be dealing at arm's length with each other when they are related persons;

(b) a taxable person and a personal trust are deemed not to deal with each other at arm's length if the taxable person, or any person not dealing at arm's length with the taxable person, is beneficially interested in the trust;

(c) in any other case, it is a question of fact whether persons not related to each other are, at a particular time, dealing with each other at arm's length.

PART II – ADMINISTRATION OF ACT

3. Secretary.

The Secretary shall have responsibility for the administration of this Act.

4. Delegation of functions and powers of Secretary.

The functions and powers of the Secretary are exercisable and may be performed by —

(a) the Controller of Inland Revenue;

(b) officers of the Department of Inland Revenue;

(c) an authorised person.

5. Register of licences.

(1) The Secretary shall maintain an up-to-date register of licensees and shall —

(a) on an annual basis, publish a list of the business names of all licensees on an official website of the Government or a public body;

(b) make available to a person upon payment of the prescribed fee, an extract or copy from the registry in relation to a licensee containing —

(i) the category of the business;

(ii) the location of the business;

(iii) the contact information of the business.

(2) An extract or copy of an entry from the register of licensees certified by the Secretary to be a true extract or copy shall, in all legal proceedings, civil or criminal, be received in evidence as proof of issue of a licence in accordance with section 63.

6. Sharing of information.

(1) Notwithstanding section 64, the Secretary may disclose or authorise disclosure of, documents or information under this Act —

(a) to any person, where such disclosure is necessary for the purposes of —

(i) the administration and enforcement of this Act;

(ii) assisting a public body in the administration and enforcement of any other fiscal laws;

(b) to a person authorized by any law in force in The Bahamas to receive such information;

(c) where such documents or information do not identify a specific person, to a person in the service of the Government in a revenue or statistical department in respect of which such disclosure is necessary for the performance of such person's official duties.

(2) The Secretary may disclose, or authorise disclosure of, documents or information concerning the affairs of a person in relation to business licence where —

(a) the person consents in writing that such disclosure may be made to another specified person; or

(b) a person claims to be the taxable person or the authorized representative of such taxable person and the Secretary has obtained reasonable assurance of the authenticity of the claim.

(3) The Secretary may, where he determines it to be necessary or convenient for the exercise of the Secretary's powers under subsection (2) —

(a) enter into a memorandum of understanding with any public body, or the competent authority of the government of another country, setting out the terms and conditions to which any disclosure by the Secretary of documents or information is subject; and

(b) disclose documents or information obtained by the Secretary in the exercise and performance of the Secretary's duties and powers under this Act only in accordance with the memorandum of understanding referred to in paragraph (a).

(4) A person receiving documents or information under subsection (2) must keep such documents or information secret and confidential, except to the minimum extent necessary to achieve the purpose for which the disclosure is made.

7. Power to require information and inspect.

(1) The Secretary may, for purposes of the administration and enforcement of this Act, by notice in writing require any person to —

(a) furnish such information, documents and other records as the Secretary specifies in the notice concerning himself or any other person the Secretary considers —

(i) is an unlicensed taxable person; or

(ii) may otherwise be liable to tax;

(b) attend at such time and place as the Secretary specifies in the notice to be examined on oath before the Secretary concerning the tax affairs of himself or any other person;

(c) for the purposes of paragraph (b), produce any record or computer in his custody or control that the Secretary may require him to produce; and

(d) provide the Secretary with access to the premises where a business activity is carried on by him, or books of account are kept in respect of such business activity, in order to —

(i) examine the records or books of account, or any other documents, that relate to the taxable activity;

(ii) inspect any raw materials, trading stock, or other assets;

(iii) inspect the processes used by him, including the methods adopted in recording supplies.

(2) A person carrying on a business activity, or the employee or agent of such person, who has been given notice under subsection (1)(d) requiring access to premises must —

(a) give the Secretary such reasonable assistance in connection with the examination or inspection; and

(b) answer, orally or in writing, any questions relating to the examination or inspection.

(3) A notice pursuant to subsection (1)(c) is adequate and sufficient where the record or computer to be produced is described in the notice with reasonable certainty.

(4) The Secretary may, where during an examination or inspection it appears that there has not been a correct disclosure of liability to tax filed in a return or otherwise —

(a) take possession of books of account, or other documents or computer records, for further examination; and

(b) retain or make copies of, or take extracts from, the books, documents, or computer records for any of the purposes of this Act.

(5) Without prejudice to the generality of the Secretary's powers under subsection (1), the Secretary may by notice in writing, require a financial institution to —

(a) furnish the Secretary with details of any facility or other assets that may be held by or on behalf of a taxable or related person including copies of any banking statements or other facility statements, transaction records or statement of assets;

(b) permit the Secretary, to inspect the records of the financial institution in relation to the facility or assets of a taxable or related person; and

(c) cause an officer of the financial institution to attend before the Secretary to give evidence in respect of any facility or other asset that is[11] held by that financial institution by or on behalf of a taxable or related person.

(6) Subsection (5) has effect notwithstanding any other law to the contrary relating to privilege, public interest, bank confidentiality, or bank secrecy.

(7) No person must use information furnished, or records or documents produced, under this section for a purpose other than that for which they were furnished or produced.

(8) For the purposes of this section, **"financial institution"**, **"facility"** and **"facility holder"** have the meanings assigned in section 2 of the Financial Transactions Reporting Act, 2018 *(No. 5 of 2018)*.

8. Electronic communication.

(1) The Secretary shall implement and maintain an information processing system (in this section referred to as "the system"), including provision for any or all of the following operations —

(a) filing of electronic communication with the Secretary;

(b) service or issue of electronic communication with the Secretary;

(c) payment or collection of tax by electronic means.

(2) The filing, service or issuance of documents by the Secretary via the system shall be valid and effective for all purposes under this Act and an electronic communication that is made by means of the system is deemed immediately upon sending to have been received by the person to whom it has been sent unless the contrary is shown.

(3) The filing, service or issue of a document by electronic means other than via the system shall be valid and effective for all purposes under this Act where provided in accordance with the Electronic Communications and Transactions Act *(Ch. 337A)*.

(4) In this section, **"electronic"**, **"electronic communication"**, **"electronic means"** and **"information processing system"** have the meanings assigned to them respectively under section 2 of the Electronic Communications and Transactions Act *(Ch. 337A)*.

PART III – BUSINESS LICENCES

REQUIREMENT FOR BUSINESS LICENCE

9. Licence required to carry on a business.

(1) Subject to subsection (2), no person shall carry on a business in or from within The Bahamas without the grant of a licence duly issued to him in accordance with the requirements of this Act.

(2) For the purposes of this Act, a business licence shall not be required —

(a) for an activity referred to in section 10; and

(b) for the conduct of a business by a person who —

(i) contracts exclusively with the Government or public body; and

(ii) has the prior approval of the Minister.

(3) For the purposes of this section —

"Agency" has the same meaning assigned to it in section 36 of the Public Finance Management Act, 2021 *(No. 8 of 2021)*;

"public body" does not include an Agency, statutory body, local government council or Government Business Enterprise.

10. Certain activities exempt from licence requirement.

(1) Notwithstanding any provision of this Act, a licence shall not be required for the businesses described in this section.

(2) It shall be lawful to sell, expose or offer for sale, liquor within The Bahamas without the grant and issue of a licence as prescribed by this Act where the liquor —

(a) is sold, exposed or offered for sale by virtue of any legal process or any law authorising the sale;

(b) forms part of the estate of a deceased person if the Secretary authorizes the sale or is sold by a licensed auctioneer under conditions approved by the Secretary;

(c) is sold on board any ship calling at The Bahamas and lying outside the limits of any port and is to be consumed on the ship;

(d) is sold to passengers only on board any ship calling at The Bahamas and lying within the limits of any harbour for a period not exceeding twenty-four hours and is to be consumed on the ship.

(3) A licence shall not be required to carry on any other business within The Bahamas where any goods or articles of merchandise are sold by virtue of any legal process or any law authorizing the sale.

(4) For the purposes of this Act, the following shall not be deemed to be a business —

(a) a fair;

(b) the charging for admission to witness or to participate in sporting or charitable events, or for the provision of refreshments to patrons who witness those events;

(c) an investment fund regulated under the Investment Funds Act, 2019 (*No. 2 of 2019*);

(d) the carrying out of activities as a pure equity holding entity.

11. Classes of business licence.

Subject to this Act, the Secretary may issue a business licence in any of the following classes —

(a) an annual business licence;

(b) a temporary licence;

(c) an occasional licence.

12. Annual business licence.

A person who is desirous of carrying on a business which is not a business to which sections 13 or 14 apply[12], shall make application to the Secretary for an annual business licence.

13. Temporary licence.

(1) A foreign person who contracts to carry on a temporary business shall make application as prescribed for a temporary licence prior to the commencement of any such contract and shall pay a tax of 1½% of the value of the contract.

(2) The Secretary shall not grant or issue a temporary licence —

(a) if the applicant has failed to pay all taxes outstanding under any previous licence;

(b) unless the application has received the approval of the Minister of Finance.

(3) A foreign person who carries on a temporary business without the grant of a temporary licence commits an offence and is liable upon conviction to a fine not exceeding 10% of the value of the contract.

(4) A person who is a party to a contract with a foreign person is jointly and severally liable together with the foreign person, to pay an amount of tax payable by the foreign person, where the foreign person fails to pay an assessment for the amount due and payable by him under this section.

14. Occasional licence.

(1) A person who is desirous of —

(a) carrying on a sales business;

(b) acting as a travelling salesman;

(c) staging a business event at any place or premises of public dancing, singing, music or other like public entertainment;

(d) staging a trade show or expo;

(e) vending at a regatta, a farmer's market or other like national or community event,

shall apply to the Secretary on the prescribed form for an occasional licence.

(2) The Secretary may, upon application made in the prescribed form and payment of the prescribed tax, grant an occasional licence to an applicant —

(a) for any period not exceeding seven days;

(b) for a maximum of four times per year; and

(c) upon such terms, conditions and subject to such restrictions, if any, as the Secretary deems fit and proper in the circumstances.

(3) An occasional licence granted by the Secretary for the retail supply of liquor shall state the place and specify the hours during which such liquor may be supplied.

(4) Any place or premises used or kept to carry on the business of public entertainment without the grant of a licence shall be deemed of disorderly character and the person occupying or in charge of such places or premises shall have committed an offence.

15. Provisional licence.

(1) A Bahamian applicant who has submitted an application in respect of a new business specified by the Minister under subsection (3) may apply to the Secretary for a provisional licence to undertake activities related to the operation of the new business.

(2) A provisional licence issued under this section is valid for ninety days.

(3) The Minister shall by order published in the *Gazette*, specify the categories of businesses that are eligible to apply for a provisional licence.

16. Licence required for certain residential rental operations.[13]

(1) A licence under this Act shall be required for the rental of residential property where such property is owned by —

(a) a foreign person; or

(b) a Bahamian company other than a company that —

(i) has no assets other than residential property and monies in bank accounts;

(ii) does not carry on any business other than the rental of residential property; and

(iii) has no physical or virtual operations and employs no staff.

(2) For the purpose of this section —

"**residential property**" means any building, premises, structure, or other place in The Bahamas, or any part thereof, used or intended to be used solely as a place of residence or abode of a natural person together with any appurtenances belonging thereto or enjoyed therewith.

17. Information to support application for licence.

[14](1) Every application for a licence to carry on a [15]business shall be accompanied by —

(a) a declaration in respect of the beneficial ownership of the business in the prescribed form;

(b) a valid trade name reservation;

(c) in the case of a regulated business, the applicable regulatory approvals;

(d) the applicable agency approvals as prescribed in regulations; and

(e) any tax which in accordance with this Act is due at the time of application.

(2)[16] Every application for a business licence shall, in addition to the declaration of beneficial ownership referred to in subsection (1) —

(a) if an existing business, state —

(i) the trading name;

(ii) the date of commencement of the business and any changes of trading name; and

(iii) where it is carried on under two or more trading names, each of those trading names;

(b) if a new business, provide a minimum of three proposed names for the business in order of preference for the Secretary's approval;

(c) if in the name of an individual, include the following particulars —

(i) present given name and surname;

(ii) any former given name and surname;

(iii) nationality;

(iv) usual place of residence;

(v) other business occupation (if any);

(d) if in the name of a corporation, include its corporate name and registered or principal office;

(e) if in the name of a firm, include the particulars referred to in paragraphs (c) and (d) in respect of each individual or corporation which is a partner in the firm.

(3) Every application for a business licence shall be signed by the applicant as follows —

(a) in the case of an individual, by the individual himself;

(b) in the case of a corporation, by a director and the secretary; and

(c) in the case of a firm, either by all the individuals who are partners and a director or the secretary of each corporation which is a partner or by any individual partner or director or the secretary of any corporate partner by power of attorney for and on behalf of all members of the firm.

(4) Notwithstanding subsection (3), an application for a business licence may be signed by the agent of the applicant.

APPROVAL OF TRADING NAME

18. Reservation of trading name.

(1) Every applicant —

(a) for a new business licence;

(b) who is desirous of changing his trading name,

shall apply in writing to the Secretary together with a fee of twenty-five dollars for the approval and reservation of the proposed trading name.

(2) A licensee shall not change the name of a licensed business without the grant of approval of the Secretary.

19. Secretary to approve trading name.

(1) The Secretary shall have the responsibility of approving and issuing the reservation of a trading name for the purposes of this Act.

(2) The Secretary may require any applicant or licensee to furnish to him such particulars as he thinks necessary for the purpose of ascertaining whether or not a trading name, or the change of a trading name, proposed by the applicant should be approved.

(3) The Secretary shall not be obliged to process an application for a business licence, or the change of name of an existing business, where he has not received any particulars required by him in accordance with subsection (2).

(4) An appeal against a decision of the Secretary under this section shall lie to the Tax Appeal Commission whose decision shall be final.

20. Prohibited trading names.

(1) The Secretary shall not approve any trading name that —

(a) contains any word which, in the opinion of the Secretary, is likely to deceive or to cause confusion or is calculated to suggest falsely that the business —

(i) is under the ownership or control of the Government or a public body; or

(ii) is identical with, or so nearly resembles that of, any other firm, individual or corporation;

(b) in the opinion of the Secretary suggests, or is calculated to suggest —

(i) the patronage of His Majesty or any member of the Royal Family; or

(ii) a connection with His Majesty's Government, or of any department, in The Bahamas or elsewhere;

(c) is, in the opinion of the Secretary, indecent, offensive or otherwise objectionable.

(2) Subsection (1) shall not apply to any trading name registered under the Business Licence Act, 2010 *(No. 25 of 2010)* on the date on which this Act comes into force.

(3) The approval of a trading name by the Secretary under this Act shall not be construed as authorising the use of that name if, apart from such approval, the use of that name is or could be prohibited under any other law.

(4)[17] An appeal against a decision of the Secretary under this section shall lie to the Tax Appeal Commission whose decision shall be final.

20A. Trading name complaint.[18]

(1) Where after the approval of a trading name of a business by the Secretary under this Act, a licensee is of the opinion that the trading name approved is identical

with or so nearly resembles its own trading name as to cause confusion or imply an association with the licensee, the licensee may make a complaint to the Secretary in the prescribed form and pay the prescribed fee.

(2) Upon receiving the complaint, the Secretary shall notify the business with respect to which the complaint was made and shall hear both parties in the manner prescribed.

(3) After hearing the parties, if the Secretary finds the complaint proven, the Secretary shall revoke the approval of the trading name given under section 19.

(4) An appeal against a decision of the Secretary under this section shall lie to the Tax Appeal Commission whose decision shall be final.

DETERMINATION OF APPLICATION FOR LICENCE

21. Determination of application.

(1) The Secretary may only grant a licence where he is satisfied that an applicant has met all the requirements for a licence.

(2) The Secretary shall not grant a licence to a foreign person unless such application has received the approval of the Minister of Finance.

(2A)[19] An international business company whose revenue is solely derived from operations outside The Bahamas may obtain a licence without the approval of the Minister of Finance.

(3) The Secretary shall, not, unless an arrangement has been made to pay the amounts outstanding to the appropriate authorities, grant a licence to the applicant in any case where —

(a) any taxes under the repealed Act, or taxes under this Act, or national insurance contributions under the National Insurance Act *(Ch. 350)*, are outstanding;

(b) all taxes due and payable under the Real Property Tax Act *(Ch. 375)* in respect of property and premises owned by the applicant and used for business purposes have not been paid;

(c) the applicant is a franchise holder and any taxes under the repealed Act, or taxes under this Act, or national insurance contributions under the National Insurance Act *(Ch. 350)*, are outstanding in respect of any business or premises subject to the franchise, whether carried on by another franchise holder or by the grantor of the franchise;

(d) the applicant or any other business in which the applicant has an interest, owes any taxes under the Value Added Tax Act, 2014 *(No. 32 of 2014)*.

(4) An application for a licence in respect of a new business shall be deemed to be an application for renewal of a licence where the new business is a continuation of a business previously carried on.

(5) A business is deemed to be a continuation of a business previously carried on if —

(a) the applicant is a new franchise holder and the original franchise owner carried on the business activity for any prior period;

(b) the new business is under the direction or control of substantially the same persons as the business previously carried on; or

(c) the new business is substantially the same concern or enterprise as the business previously carried on.

22. Issue of licence, copies and replacements.

(1) The Secretary shall, where satisfied that a licence should be granted, issue a licence in the prescribed form.

(2) A licence in respect of a business carried on at more than one premises shall be issued in the prescribed form together with a copy of such licence for each additional premises.

(3) The Secretary may, where satisfied that a licence has been lost, mutilated or destroyed, authorize the issue of a replacement copy of such licence upon payment of such fee as may be prescribed.

23. Conditions of business licence.

(1) Subject to the provisions of this section, the Secretary shall in granting and issuing a licence to carry on a business specify in the licence the terms, conditions and restrictions, if any, to which the licence is subject.

(2) A licence granted and issued under this Act shall state the activities for which the business is licensed.

(3) A licence in respect of a regulated business granted under any other law regulating that business shall be deemed to include a condition that such licence is of no effect if the holder of the licence is not a licensee under this Act.

24. Bond may be required for temporary licence.

(1) The Secretary may, on the grant of a temporary licence pursuant to section 13, require the licensee to provide security in the form of a bond for any additional tax that may become payable by such licensee.

(2) The Secretary may require the provision of a bond under this section in such form and manner as the Secretary may approve where the Secretary is satisfied that the licensee does not or will not permanently reside in The Bahamas.

25. Suspension, amendment or cancellation of licence.

(1) The Secretary may —

(a) at any time for a breach of a condition or misrepresentation made by an applicant for grant or renewal of a licence;

(b) where an applicant has breached an arrangement to pay an amount outstanding for tax under any other law;

(c) where an applicant or licensee has contravened any tax law or law relating to the conduct of their business;

(d) where an applicant or licensee has contravened section 35(4) of the Statistics Act, 2021 *(No. 9 of 2021)*,

suspend, amend or cancel a licence issued under this Act or impose restrictions and conditions on a licence.

(2) The Secretary shall, before suspending, amending, cancelling or imposing conditions or restrictions on a licence, afford the licensee an opportunity to any complaint made against him and to explain why his licence ought not to be revoked, amended, cancelled or restricted.

26. Time for renewal.

(1) An annual business licence shall expire on the 31st day of December.

(2) Notwithstanding the expiration of a licence under subsection (1), a business shall not, for three months after such expiration, be treated as being unlicensed by reason of only of such expiration.

(3) Every licensee who carries on a business in any year shall —

(a) on or before the 31st day of January of the succeeding year file and submit to the Secretary as prescribed an application for renewal of the licence;

(b) on or before the 31st day of March —

(i) file and submit to the Secretary a return showing the turnover of the business for the prior year;

(ii) pay any unpaid tax for the prior year; and

(c) by the 31st day of March or in four equal instalments commencing on or before the 31st day of March, pay the estimated tax for the succeeding year in accordance with section 35.

(4) Subsection (3)(a), (b)(ii) and (c) shall not apply to a licensee who submitted notification of the inactivation or cessation of the business before the commencement of the succeeding year in accordance with section 28.

(5) When an applicant is compliant with section 21(3) and this section, the renewal of a licence will be granted, except where —

(a) in respect of a regulated business, the regulator and the National Insurance Board advises the Secretary that the applicant is not compliant with the law regulating the business;

(b) in respect of a business other than a regulated business, the National Insurance Board advises the Secretary that the business is not compliant with their obligations under the National Insurance Act *(Ch. 350)*.

DUTIES OF LICENSEE

27. Duty of licensee to keep accounts and records.

(1) Subject to subsection (3), every licensee or taxable person must maintain within The Bahamas up to date and reliable accounting records in the English language in relation to —

(a) all sums in money and money's worth received and expended in relation to the business and the matters in respect of which such receipt and expenditure takes place, inclusive of all sales, purchases and other transactions; and

(b) the assets and liabilities of the business.

(2) Accounting records maintained pursuant to this section must be kept for a period of five years after —

(a) the end of the year of assessment to which such records relate, in the case of a licensee; or

(b) the occurrence of the transaction to which such records relate.

(3) A person may apply in writing to the Secretary for permission to dispose of records required to be maintained under this section prior to the expiration of the period referred to in subsection (2) and the Secretary may, if satisfied that the records are not likely to be required for any tax purposes, grant such permission in writing.

(4) For the purposes of subsection (1), accounting records must, as applicable —

(a) correctly document and explain all transactions;

(b) enable a taxable person to make accurate returns;

(c) enable the Secretary to determine with reasonable accuracy at any time the liability of the taxable person to pay tax in respect of the business activities carried on by him;

(d) be maintained using the forms prescribed by this Act and the regulations; and

(e) include as applicable in order to facilitate (a), (b) and (c) —

(i) tax accounts;

(ii) purchase and sales ledgers;

(iii) invoices for acquisitions of goods or services by the person;

(iv) copies of invoices issued for acquisitions of goods or services;

(v) income and expense accounts;

(vi) till rolls, audit rolls and tapes or similar records;

(vii) bank statements;

(viii) customs documentation relating to imports and exports made by the person;

(ix) sales invoices and sales receipts;

(x) records relating to the transfer of goods or services to officers, directors, and employees, whether or not the transfers were made for consideration;

(xi) accounting instruction manuals, systems, programmes and any relevant documentation in use to describe the accounting system; and

(xii) any other records related to the business activities, such as bookings, diaries, correspondence, computer print-outs, audit reports, contracts, or any other accounts or records in any way related to the person's business activities.

(5) A business with a turnover of more than two hundred fifty thousand dollars must keep the records required to be kept under this section by electronic means including, the use of electronic tills or point of sale systems, and computerized accounting systems, as comply with the standards specified by the Secretary.

(6) Any person who —

(a) contravenes or fails to comply with a provision of this section; or

(b) prevents, impedes or interferes in any way with the Secretary in the lawful exercise of a power under this section,

commits an offence and is liable on summary conviction to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

28. Notice of change of particulars or cessation of business.

Every licensee shall complete and submit a form as prescribed in the regulations within fourteen days, or such longer period as the Secretary may allow, of —

(a) any change of particulars or amendment of a licence; or

(b) the inactivation or cessation of a business.

29. Publication of trading names.

(1) Every licensee under this Act shall, use his approved trading name in legible characters in all trade catalogues, trade circulars, show-cards on or in which the trading name appears.

(2) A licensee who contravenes this section commits an offence and such licensee shall be liable on summary conviction to a fine of five hundred dollars for every day, or part of a day, during which the offence continues.

30. Display, inspection and production of licence.

(1) Every licensee shall produce the licence for inspection when requested to do so by the Secretary or any peace officer.

(2) For the purposes of subsection (1), licence includes any copy issued pursuant to section 22.

(3) Every travelling salesman holding an occasional licence issued under this Act shall produce his licence on demand to any —

(a) peace officer;

(b) customs officer;

(c) immigration officer;

(d) person designated by the Secretary;

(e) person with whom he may be doing or intending to do any business.

31. Minors not to be employed in direct sale of restricted goods.

(1) A licensee or other taxable person shall not employ in the direct sale of restricted goods a person under eighteen years of age.

(2) A licensee or other taxable person who contravenes subsection (1) commits an offence.

PART IV - BUSINESS LICENCE TAX

ASSESSMENT OF TAX DUE

32. Turnover.

(1) Subject to subsection (3), **"turnover"**, for the purposes of this Act, means total revenues in money and money's worth accruing to a person from his business activities in or from within The Bahamas during the year of assessment, without any deductions on account of the cost of property sold, the cost of materials used, the cost of services used, labor costs, taxes, royalties paid in cash or in kind or otherwise, interest or discount paid or any other deductions whatsoever.

(2) Without prejudice to the generality of subsection (1), turnover includes —

(a) all cash, credit sales and commissions;

(b) the gross amounts receivable as compensation for personal services;

(c) the gross receipts derived from trade, business, commerce or sales;

(d) the total value proceeding or accruing from the sale of tangible or intangible property or service, or both including all deposits and progress payments received in relation to such sale;

(e) the gross receipts by reason of the investment of the capital of any business engaged in by the taxable person, including rentals, royalties, fees, reimbursed costs or expenses;

(f) in relation to an international business company, all revenues recorded by the international business company in its books and records in The Bahamas, whether or not any portion of such revenues is attributable to activities conducted outside The Bahamas;

(g) the gross premiums payable to an insurer under an insurance contract;

(h) revenue accruing from proprietary trading;

(i) revenue accruing from operations as a family office;

(j) any other emoluments however designated, including all interest, carrying charges, fees or other like income, however denominated, derived by a taxable person from repetitive carrying of accounts, in the regular course and conduct of his business, and extension of credit in connection with the sale of any tangible or intangible property or service.

(3) Turnover does not include —

(a) output tax collected by a business in accordance with the Value Added Tax Act, 2014 *(No. 32 of 2014)*;

(b) the sale of capital assets, including real property unless such sale is in the ordinary course of the business;

(c) in relation to an insurer, commissions derived from reinsurance business, where tax is paid on the total reinsurance premium;

(d) in relation to any agent, an amount received for or on behalf of a principal in an agency relationship except, where the principal is a non-resident;

(e) an amount received on items sold by an auctioneer, where the auctioneer has no title or any interest in the goods sold, except for the auctioneer fee or commission;

(f) subject to rules issued by the Secretary, a gratuity charged as part of the price of services provided in hotels and restaurants where —

(i) the gratuity is calculated on the price of the service exclusive of value added tax; and

(ii) the amounts collected are paid in full to eligible employees in accordance with rules issued by the Secretary;

(g) revenue accruing from transactions between members of a group under section 34 which fall within the exclusions specified in Part B of the *Third Schedule*;

(h) revenue derived from services provided by a business to an entity where —

(i) the ultimate beneficial owner of ninety *per centum* of the shares or equivalent ownership interest in both the business and the entity is the same person; and

(ii) the entity is not a business;

(i) revenue derived from investment in government securities; and

(j) any other exclusion as the Minister may by order allow.

(4) For the purposes of subsection (1), revenue accrues to a person from his business activities when the revenue is earned, due or received, whichever is earliest.

(5) An amount received for or on behalf of a principal in an agency relationship —

(a) forms a part of the turnover of the principal, except where the principal is a non-resident; and

(b) 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.

(6) An agency relationship does not exist where —

(a) the agent has a proprietary interest in the goods or services being provided;

(b) the agent has control over the pricing of the goods or services;

(c) the parties do not describe their relationship as that of principal and agent; and

(d) 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.

33. Computation of turnover in respect of non-arm's length transaction.

(1) Where the Secretary is of the opinion that —

(a) any transaction carried out between related persons was carried out for a consideration substantially different from that obtainable at arm's length or for no consideration; and

(b) the effect of this would be to reduce the amount of tax payable by any person,

the Secretary may, for the purposes of assessing that person's tax liability, treat the transaction as having been carried out for such consideration as would in his opinion have been obtainable at arm's length.

(2) Subsection (1) shall not apply if the person shows to the satisfaction of the Secretary that —

(a) the transaction did not have as its object, or one of its objects, the avoidance of tax; and

(b) the consideration for which the transaction was carried out was of a value not less than the cost incurred in providing the subject-matter of the transaction (including a reasonable sum for overheads).

(3) Without prejudice to subsection (1), where the Secretary has reason to believe that any transaction carried out for a consideration substantially different from that obtainable at arm's length, or for no consideration, was so carried out with the object of reducing the amount of tax payable by any person, or for purposes including that object, he may treat the transaction as having been carried out for consideration as could in his opinion have been obtainable at arm's length.

34. Rates of tax.

(1) A business shall pay a tax according to the appropriate rates as set out in the *Second Schedule*.

(2) A subsidiary shall pay tax at the same rate as applies to its parent company, except where —

(a) the parent company is subject to a lower rate of tax than the subsidiary;

(b) both the subsidiary and the parent company are subject to a higher rate of tax under subsection (3).

(3) Where a licensee or other taxable person is registered as part of a group under section 23(7) of the Value Added Tax Act, 2014 (*No. 32 of 2014*) —

(a) a licensee or other taxable person shall pay tax at a rate based on the combined turnover of all the members of the group and the transactions, described within the categories in Part A of the *Third Schedule*, shall be included in the calculation of turnover of the group;

(b) the members of the group are not required to account for transactions between members of the group which are described within categories in Part B of the *Third Schedule*;

(c) each member of the group is jointly and severally liable where a member of the group contravenes or fails to comply with a provision or requirement of this Act.

(4) Where a tax is outstanding in respect of any year, the tax that a business is liable to pay for that year shall be calculated according to the rate that was in force in the year in which that tax was due.

(5) 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 and the tax payable by the person.

(6) The Minister may by order amend the *Second Schedule* and the *Third Schedule*.

35. Actual tax and estimated tax.

(1) The estimated tax payable in a year shall be calculated by a business based on the turnover of the business in the immediately preceding year.

(2) A licensee may elect to pay the estimated tax in full or in instalments in accordance with subsection (6).

(3) Where the actual tax for the year is less than the estimated tax paid by a licensee, the amount overpaid shall be carried forward and treated as a credit towards tax payable for the succeeding year.

(4) A licensee who wishes to pay the estimated tax for any year in instalments must notify the Secretary in writing at the time of application for the renewal of his licence.

(5) A licensee who in any year does not notify the Secretary by the time of renewal of his licence shall be deemed to have selected to pay the estimated tax in full by the 31st March.

(6) A licensee who is approved by the Secretary to pay in instalments shall pay —

(a) the first instalment by the 31st day of March;

(b) the second instalment by the 30th day of June;

(c) the third instalment by the 30th day of September; and

(d) the fourth instalment by the 31st day of December.

(7) For the purpose of section 26 and[20] this section —

"estimated tax" for any year means tax computed by applying the applicable rate under section 34 to the estimated turnover for that year;

"estimated turnover" for any year means turnover for the prior year;

"unpaid tax" means the amount by which the actual tax exceeds the estimated tax.

36. Fees for late filings and payment.

(1) Every taxable person who fails to make an application for renewal, file a return or make payments by the dates prescribed in section 26(3), shall be liable to pay the fees set out in the *Fourth Schedule*.

(2) Any interest or fee payable under this section is recoverable as if it were tax due and payable under this Act.

(3) The Minister may by order, amend the *Fourth Schedule*.

37. Advance tax rulings.

(1) The Secretary may, on application by a person in the prescribed form, issue an advance tax ruling setting out the Secretary's position regarding the application of the Act to that person with respect to a transaction, venture or other activity proposed or entered into by that person.

(2) An advance tax ruling shall not be provided —

(a) where the applicant has not provided all the information determined by the Secretary to be necessary;

(b) where the Secretary is of the opinion that there are no genuine points of uncertainty as to the person's tax liability;

(c) where the applicant is asking the Secretary to give tax planning advice;

(d) where the request relates to transactions which, in the Secretary's view, are for the purposes of avoiding tax;

(e) in any other circumstances outlined by the Secretary in rules.

(3) Subject to subsection (4), an advance tax ruling by the Secretary —

(a) is binding on the Secretary for the time period determined by the Secretary and stated in the ruling;

(b) may state a time period during which the ruling is binding on the applicant, to include transactions commenced or completed prior to the application being made for the ruling.

(4) Where the Secretary finds that an advance ruling issued by him is based on false, misleading or incorrect information provided by the applicant, the Secretary shall declare that ruling void and of no effect.

38. Exemptions.

(1)[21] No annual licence tax shall be payable under this Act by any person in respect of a business carried on in or from within The Bahamas —

(a) by ecclesiastical, charitable or cultural institutions or organizations registered as non-profit entities within The Bahamas;

(b) by a school registered under the Education Act *(Ch. 46)*;

(c) as the club or commissary of any foreign state operating under a special agreement with the Government;

(d) where the business is carried on solely in the service of the Government by —

(i) a regulatory body established by the Government; or

(ii) a public body, other than a Government Business Enterprise, that is wholly funded[22] by the Government;

(e) where that person practices in the course of his employment wholly in the service of another person whose undertaking or business does not comprise the rendering of services of the nature of such practice;

(f) where that person carries out his vocation as a minister of religion;

(g) pursuant to a licence issued under the Gaming Act, 2014 (*No. 40 of 2014*)[23];

(h) where the business is in its first year of operation;

(i) where the business has a turnover no greater than one hundred thousand dollars;[24]

(j) by a co-operative credit union registered under The Bahamas Co-operative Credit Unions Act (*Ch. 314A*) provided it has satisfied the Secretary that it has paid to the Central Bank the fees prescribed under The Bahamas Co-operative Credit Unions Act.[25] [26]

(2)[27] Paragraph (i) of subsection (1) does not apply to a business that is a family office, a financial services entity, an international business company, or to a business whose revenue is derived from proprietary trading.

39. Rules relating to assessments.

(1) Subject to subsection (3), the Secretary may at any time make, or cause to be made, an assessment of the business activity of a person in order to determine such person's liability to pay tax under this Act where —

(a) a licensee fails to file a return within the time period required under section 26(3);

(b) the Secretary is not satisfied that a return filed by a licensee is accurate or reasonable;

(c) no notice of inactivation or cessation has been given by a business;

(d) no money has been tendered for the renewal of an annual business licence; or

(e) the Secretary, in any other case, has reason to believe that a person is liable to pay taxes under this Act.

(2) An assessment pursuant to subsection (1)(a) or (b), where the default was not due to the neglect, carelessness, fraud or wilful default of the person filing or submitting the return or declaration, must be made —

(a) in the case of an annual business licence, within five years after the date of issue of the licence;

(b) in the case of a temporary licence, within two years of the completion of the project; or

(c) where an audit is ordered by the Secretary within the period referred to in paragraph (a) or (b) —

(i) in the case of an annual business licence, within five years after the completion of the audit;

(ii) in the case of a temporary licence, within two years after completion of the audit.

(3) An admission by a licensee of a misstatement in a return filed by such licensee shall be deemed to establish that the default was due to neglect, carelessness, fraud, wilful default, or wilful misstatement.

(4) The Secretary may at any time make, or cause to be made, an assessment of a person's liability to pay tax where —

(a) a person fails to comply with a notice under section 50, or makes any disposition of money, property or arrangement that contradicts the purpose of such notice;

(b) a receiver fails to comply with section 44;

(c) a representative commits an act under section 45(3);

(d) subject to the provisions of section 43, a company fails to pay the amount of tax payable by the company within the time prescribed and such person was, at the time the company was liable to pay the amount of tax, a director or other similar officer of the company or acted, or purported to act, in such a capacity;

(e) where an amount is paid to, or applied to a liability of, a person as a credit or refund under this Act and the person is not entitled to the credit or refund, or the amount paid or applied exceeds the credit or refund to which the person is entitled.

(5) The Secretary must, where he makes an assessment under this section, serve a notice of assessment on the person assessed specifying the —

(a) amount of tax payable by the person assessed;

(b) time, place, and manner of objecting to the assessment.

(6) An assessment made pursuant to subsection (1) shall be based on the information available to the Secretary and the Secretary's reasonable estimate of the taxes properly due and payable by the licensee or person.

(7) The Secretary may, for the purpose of making an assessment or for the exercise of any other power or duty under this Act, audit the accounts of a business.

(8) The Secretary may, within three years after service of a notice of assessment —

(a) amend an assessment, as the Secretary considers necessary; and

(b) serve a written notice as prescribed of the amended assessment on the person assessed.

(9) For the purposes of this Act —

(a) an assessment includes an amended assessment;

(b) tax charged under this Act includes an amount of tax assessed as due and payable by the Secretary in an assessment under this section.

(10) The original notice or a copy certified by the Secretary, of a notice of assessment is receivable in any proceedings as conclusive evidence that —

(a) the assessment is a true assessment duly made; and

(b) except in appeal proceedings before the Tax Appeal Commission, the amount and all particulars in the notice are correct.

(11) A notice of assessment or other document purported to be made, issued, or executed under this Act shall not be quashed, or deemed to be void or voidable, for want of form or by reason of mistake, defect or omission where —

(a) the assessment or other document is in substance and effect in conformity with this Act; and

(b) the person assessed or intended to be assessed, or affected by the document, is identified in the assessment or document.

40. Secretary may audit accounts.

(1) The Secretary may, for the purposes of making an assessment or the exercise of any other power or duty under this Act, carry out or cause to be carried out, an audit of the accounts of a taxable person or any other person.

(2) The Secretary shall have power at the time of the audit —

(a) to summon any person whom he has reason to believe can give material information regarding any transaction relating to the business or the management of its affairs and require such person to give such information, and answer questions, orally or in writing; and

(b) to require the production of any book, record or document relating to the affairs of the business by any person in possession of such book or document.

(3) Without prejudice to the power to conduct an audit under subsection (1) by any person authorised under this Act to exercise the functions of the Secretary, the Secretary may appoint a firm of public accountants or any public accountant licensed to practice under the Bahamas Institute of Chartered Accountants Act, 2015 *(No. 13 of 2015)*[28] to conduct an audit under subsection (1).

(4) The costs associated with an audit carried out under subsection (3) shall be borne by the business.

41. Notice of objection.

(1) A person aggrieved by any of the following decisions by the Secretary in respect of such person —

(a) an assessment of tax under section 39; or

(b) the imposition of a fixed penalty under section 53;

(c) a notice of assessment made in accordance with section 43;

(d) the seizure of any good or asset in accordance with section 54;

(e) a decision made by the Secretary regarding a claim for a refund under section 61,

may lodge with the Secretary an objection to the decision within thirty calendar days after the date of service of the notice of the decision on such person.

(2) An objection must —

(a) be made by notice in writing in the form and manner prescribed by the Secretary;

(b) specify in detail the grounds on which the objection is made; and

(c) where it is an objection to an assessment of tax or a fixed penalty, be accompanied by payment of the total amount of tax or fixed penalty assessed, or security for such amount in a form acceptable to the Secretary, at the time the objection is lodged.

(3) The Secretary may accept an objection lodged after the time specified in subsection (2) where the Secretary is satisfied that there has been no unreasonable delay on the part of a person in lodging the objection due to —

(a) absence from The Bahamas;

(b) sickness; or

(c) other reasonable cause.

(4) An objection that is based solely on an error of calculation in a return filed with the Secretary does not suspend the objector's obligation to pay the amount assessed.

(5) The burden of proof that the assessment complained of is incorrect lies with the person making the objection.

(6) On the receipt of an objection under this section, the Secretary may require the objector to deliver, if he has not already done so, within thirty days or such longer period as the Secretary may permit —

(a) a return for the years of assessment which in the opinion of the Secretary are affected by the notice of objection;

(b) such other particulars as the Secretary may deem necessary with respect to the turnover of the business and to produce all books, documents and other records in his custody or under his control relating to such turnover.

(7) The Secretary may summon any person who he thinks is able to give evidence regarding the assessment to attend before him and may examine such person on oath or otherwise.

(8) Any person who, without lawful excuse —

(a) refuses or neglects to attend or to give evidence in pursuance of a notice served on him under subsection (6), or to produce any books, documents or other records which he is required to produce under the said subsection;

(b) refuses to answer any question touching the matters under consideration in the objection, or who knowingly or wilfully gives any false evidence before the Secretary,

commits an offence and is liable on summary conviction to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

(9) Where the objector refuses or neglects to deliver the return or particulars or to produce any books, documents or other records, as the case may be, required by the Secretary under subsection (6), within the period prescribed by or pursuant to that subsection, the objection lodged by such person shall cease to have effect and the assessment as made shall be final and conclusive for all purposes of this Act as regards such person.

(10) The Secretary must, within ninety calendar days after an objection is lodged, consider the objection and after such consideration serve a notice in writing as prescribed on the objector specifying the Secretary's decision to —

(a) allow the objection, in whole or in part; or

(b) disallow the objection.

(11) An objector may, where ninety calendar days have passed since the objection was lodged and the Secretary has not served a notice in writing on the objector as referred to in subsection (10), appeal against the decision to the Tax Appeal Commission as if the Secretary had made a decision to disallow the objection.

(12) A person who fails to file an objection to an appealable decision under this section has no further right of objection or appeal under this Act.

(13) A notice under subsection (10) of the Secretary's decision is conclusive evidence that the decision has been made and, subject to such further rights of appeal the objector may have, that the decision is correct.

(14) Notwithstanding the provisions of this section or section 5 of the Tax Appeal Commission Act, 2020 (*No. 3 of 2020*), a person shall not, in respect of an issue for which the right of objection or appeal has been waived in writing by the person —

(a) object to the Secretary; or

(b) appeal to the Tax Appeal Commission.

LIABILITY TO PAY TAX

42. Directors of unincorporated bodies.

For the purposes of this Act —

(a) a liability or obligation imposed by or under this Act or the regulations on a firm carrying on a business as such, shall be imposed jointly and severally on each of the persons who are directors of the firm at the time a liability or obligation is imposed;

(c)[29] the existence of a firm, and a business carried on by such firm, is not affected by any change in the members or directors of the firm;

(d) a document served on a firm is treated as served on the firm and the directors of the firm;

(e) a contravention or non-compliance or an offence committed by a firm is treated as having been committed by the directors of the firm;

(f) a director of a firm means —

(i) a partner of a partnership;

(ii) a participant in a joint venture;

(iii) a trustee of a trust; and

(iv) in any other case —

(aa) a person who holds office in the firm as a chairman, president, treasurer, secretary, or any other similar office;

(bb) where there is no director of the firm, a member of a committee responsible for management of the affairs of the firm; or

(cc) where (aa) or (bb) does not apply, a member of the firm.

43. Liability of a director or similar officer of a company to pay tax.

(1) Subject to subsection (2), a person is jointly and severally liable together with a company to pay tax payable by the company under this Act, together with interest and penalties in relation to such tax, where —

(a) the company fails to pay an amount of tax payable by the company within the time prescribed; and

(b) such person was at the time the company was liable to pay the amount of tax a director or other similar officer of the company or acted, or purported to act, in such a capacity.

(2) A person referred to in subsection (1)(b) is not liable, and may not be assessed for tax where the Secretary is satisfied that such person exercised the degree of care, diligence, and skill that a reasonably prudent person would have exercised in order to prevent the failure by the company to pay the amount of tax payable within the prescribed time.

(3) The Secretary must serve on a person liable under subsection (1) a notice of assessment specifying the —

(a) amount of the tax, together with any interest, fine or other penalty, assessed;

(b) time, place, and manner of objecting to the assessment.

(4) A person served with a notice of assessment pursuant to subsection (3) may object to the decision under section 41.

(5) The Secretary may not assess a person for an amount of tax payable by such person under this section where —

(a) more than seven years have passed since the filing of the return relating to the amount concerned; or

(b) in the case where an assessment was made by the Secretary under section 39, more than seven years have passed since the date of the assessment relating to the amount.

(6) A person who pays an amount of tax payable by a company under this section, in whole or in part, is entitled to contribution in respect of the amount so paid from the other persons who are liable to pay the amount under subsection (1).

44. Receivers and duties of receivers.

(1) In this section, a receiver is a person who in relation to an asset within The Bahamas is —

(a) a liquidator of a company;

(b) a judicial receiver or a receiver appointed out of court;

(c) a trustee for a person adjudged bankrupt;

(d) a mortgagee in possession;

(e) a guardian, conservator or any other person conducting business on behalf of a person legally incapacitated; or

(f) a personal representative, an executor or administrator of the estate of a deceased person.

(2) A receiver must notify the Secretary in writing within fourteen calendar days after the person is appointed receiver, or takes possession of an asset of a taxable person, whichever event occurs first.

(3) The Secretary may in writing notify a receiver of the amount which appears to the Secretary to be sufficient to provide for any tax which is or will become payable by the person whose assets are in the possession of the receiver.

(4) A receiver —

(a) must set aside out of the assets or proceeds of sale of an asset —

(i) the amount notified by the Secretary under subsection (3);

(ii) such lesser amount as the Secretary may subsequently agree with the receiver;

(b) is liable, to the extent of the amount set aside, for the tax of the person who owned the asset; and

(c) notwithstanding any provision of this section, may pay any debt that has priority over the tax referred to in this section.

(5) A receiver is personally liable to the extent of any amount required to be set aside under subsection (4) for the tax referred to in subsection (3) where, and to the extent that, the receiver fails to comply with the requirements of this section.

45. Secretary has power to declare representative of a taxable person.

(1) Where the Secretary considers it necessary or desirable to do so for the administration and enforcement of this Act, the Secretary may declare a person referred to in subsection (5), to be a representative of a taxable person in the form and manner prescribed in regulations.

(2) A person who is declared by the Secretary under subsection (1), to be the representative of a taxable person is deemed to be such representative and must perform the duties imposed by this Act on the taxable person, including the duty to apply for and renew a licence and pay taxes under this Act.

(3) A representative is personally liable, in his representative capacity, for the payment of tax payable where the representative during the time the amount remains unpaid —

(a) alienates, charges, or disposes of any money received or accrued in respect of which the tax is payable;

(b) disposes of or parts with any fund or money belonging to the business whose representative he is, and from or out of which such tax could legally have been paid, which —

(i) is in the possession of the representative; or

(ii) comes to the representative after the tax becomes payable.

(4) Notwithstanding any provision of this section, a taxable person must perform any duty imposed under this Act on a taxable person which a representative declared under this section has failed to perform.

(5) In this section, a **"representative"** in relation to a business is —

(a) the financial controller or the designated officer of a company, other than a company in liquidation;

(b) a member of the committee of management of a firm;

(c) a person who is responsible to account for the receipt and payment of money or funds on behalf of a company or a firm, where paragraphs (a) and (b) do not apply;

(d) a person responsible for accounting for —

(i) the receipt and payment of money under the provisions of any law;

(ii) the receipt and payment of public funds;

(iii) the receipt and payment of funds voted by Parliament to a statutory body;

(e) a partner in a partnership;

(f) a trustee of a trust;

(g) a liquidator of a company;

(h) a person controlling the affairs of a resident or non-resident of The Bahamas, including a manager of a business carried on by the resident or non-resident of The Bahamas.

46. Liability of transferee after non-arm's length transfer.

(1) If a taxable person transfers money or other property, either directly or indirectly, by any means including by means of a trust, to or for the benefit of another person —

(a) with whom the transferor, at the time of the transfer, is not dealing at arm's length; or

(b) who is under the age of eighteen years,

the transferee is liable, upon assessment under section 39, for the transferor's tax debt to the extent provided for in subsection (2), unless the transferor establishes that he —

(i) was not a tax debtor at the time of transfer; or

(ii) did not make the transfer in anticipation of becoming liable for another person's existing tax debt.

(2) The limit of the transferee's liability under subsection (1) is the total of —

(a) the lesser of —

(i) the transferor's tax debt at the time of the transfer and any tax debt of the transferor assessed after the time of the transfer in respect of a tax liability that arose before the time of the transfer; and

(ii) the amount, if any, by which the fair market value of the transferred property, including any transferred money, at the time of the transfer exceeds the fair market value at that time of the consideration given by the transferee for the transfer; and

(b) interest payable on that amount, calculated at the same rate that applies to the transferor's tax debt —

(i) from the date of the transfer to the date of payment, or

(ii) if the transferor's debt arose only upon an assessment under section 39 that was made after the date of the transfer, from the date of the assessment to the date of payment.

(3) A payment in accordance with this section —

(a) by the transferee in respect of the transferor's tax debt reduces the transferor's and the transferee's liability for the transferor's tax debt;

(b) by the transferor reduces the transferee's liability only to the extent that it reduces the transferor's tax debt below the amount for which the transferee is liable.

(4) Except to the extent that the transferor's tax debt is reduced by a payment by the transferee, nothing in this section affects the transferor's liability for the tax debt.

47. Death or insolvency of taxable person.

(1) Where after the death of a taxable person, or the sequestration of the estate of that person, a business previously carried on by the deceased is carried on after his death, by or on behalf of his personal representative, executor or administrator, that person shall be treated under this Act, as the taxable person in respect of the business.

(2) Where a taxable person becomes insolvent or on the sequestration of his estate, a business previously carried on by him is continued after his insolvency by or on behalf of a liquidator, receiver, trustee, guardian or conservator, that person shall be treated under this Act, as the taxable person in respect of the business.

48. Mortgagee in possession, trustee.

(1) A mortgagee in possession of land or other property —

(a) previously mortgaged by a mortgagor who is a taxable person; and

(b) receiving rents and profits from the land or other property; or

(c) who carries on any other business in relation to the land or other property,

is the taxable person carrying on the business —

(i) from the date the mortgagee took possession of the land or other property;

(ii) until such time as the mortgagee ceases to be in possession of the land or other property.

(2) A person who is a trustee in more than one capacity, is, under this Act, a separate person in relation to each capacity.

ENFORCEMENT AND RECOVERY OF TAX

49. Secretary has lien on assets.

(1) The Secretary has, from the date on which tax becomes due and payable under this Act until the date the tax is paid, a lien on the assets in the possession or

control of the Department of Inland Revenue, the Customs Department or any other public body —

(a) of the person liable to pay the tax;

(b) of any related person where the Secretary reasonably believes that the person liable to pay the tax —

(i) beneficially owns or enjoys the asset; and

(ii) transferred legal ownership of the asset to the related person in order to avoid payment of the tax.

(2) A lien referred to in subsection (1) shall rank in priority to every other security interest in the asset subject to the lien.

50. Recovery of tax from agent.

(1) The Secretary may, by notice in writing, designate a person to act as the agent of a taxable person where the taxable person fails to pay tax by the due date and the person designated to act as agent —

(a) owes or may owe money to the taxable person;

(b) holds or may subsequently hold money for or on account of the taxable person;

(c) has authority from some other person to pay money to the taxable person; or

(d) has possession of the property of the taxable person.

(2) A person designated as the agent of a taxable person in accordance with subsection (1) shall be required to pay the money or deliver the property specified in the notice to the Secretary —

(a) in the case of money or property due or held, within the time stated in the notice;

(b) in the case of money or property to become due or held, within two calendar days of the date on which —

(i) the money becomes due; or

(ii) the money or property is held in any of the circumstances referred to in subsection (1).

(3) The time stated in the notice under subsection (1) shall not exceed fifteen calendar days from the date of service of the notice, so, however, that the Secretary may, in his discretion, permit an agent to pay the money specified in the notice in instalments.

(4) The Secretary must serve a copy of the notice referred to in subsection (1) on the person liable to pay tax.

(5) An agent under this section who makes a payment or delivers property to the Secretary pursuant to subsection (2) is treated as having acted under the authority of the person liable to pay the tax, and of all other persons concerned, and such payment or property is treated in the hands of the Secretary as it were due under this Act.

(6) Notwithstanding any other law to the contrary, this section has effect and a person required to be an agent under subsection (1) incurs no liability in complying with the provisions of subsection (2).

51. Recovery of bond.

Where the holder of a temporary licence fails to pay tax, the Secretary may satisfy the tax by recovering the amount from the bond.

52. Temporary closure of business.

(1) Without prejudice to any other penalty which may be imposed for contravention of, or non-compliance with, any provision of this Act, the Secretary may apply to the Supreme Court for an order to close one or more business premises of a person who has repeatedly —

(a) failed to apply for, or renew, a licence;

(b) failed to file any return;

(c) failed to pay tax when due under any provision of this Act; or

(d) contravened any other provision of this Act.

(2) The Secretary may, where the court grants an order for temporary closure pursuant to subsection (1), use such reasonable methods or secure such police assistance as may be necessary to execute the order in respect of the business premises specified in the order including the use of locks, fencing, boarding, or other appropriate methods.

(3) For the purposes of subsection (1), a repeated contravention or non-compliance is one that is committed by a person within one year of a previous contravention or non-compliance.[30]

(4) The Secretary, shall prior to making an application under subsection (1), issue to the licensee, a warning letter in accordance with section 53 stating that —

(a) a specified contravention or non-compliance referred to in of subsection (1)(a) - (c) of this section has been committed more than once within the preceding year; and

(b) a repetition of the specified contravention or non-compliance[31] may result in closure of one or more of such person's business premises under this section.

53. Fixed penalty and warning letters.

(1) The Minister may in regulations prescribe fixed penalties which may be imposed by the Secretary for contraventions of this Act.

(2) The Secretary may, in accordance with the regulations, automatically apply a fixed penalty under subsection (1) upon commission of a prescribed contravention by a person and thereupon such penalty shall become immediately due and payable by the person.

(3) Regulations made by the Minister pursuant to subsection (1) —

(a) shall prescribe the maximum amount of the fixed penalty that is to be applied by the Secretary for a prescribed contravention;

(b) may not prescribe for a single contravention a fixed penalty exceeding one hundred fifty thousand dollars.

(4) A person aggrieved by the decision of the Secretary to apply a fixed penalty under this section may object or appeal the decision under sections 41 and 66 respectively.

(5) The Secretary may, where a person is in contravention of, or is not compliant with a provision of this Act, the regulations or the Rules, issue a warning letter to such person specifying the act or omission giving rise to the contravention or non-compliance and the remedy requested by the Secretary.

(6) A warning letter under subsection (5) must be kept by the Secretary on the file of the taxable person, or other person, liable for the contravention or non-compliance.

(7) The Secretary may not make an application to a court under section 52 to close the business premises of a person unless the Secretary has issued to such person a warning letter in accordance with subsection (4) of that section.

(8) The Secretary may, where he decides a fixed penalty imposed under this section was imposed in error, remit all or part of such penalty and such remission may be conditional or unconditional.

54. Seizure of goods.

(1) Subject to subsection (2), the Secretary may seize goods or assets where the Secretary has reasonable grounds to believe that —

(a) the goods comprise an input or inventory of a business; or

(b) the assets are owned by the business; and

(c) tax payable by the business has not been or will not be paid.

(2) The Secretary shall ensure that the value of the goods or assets seized under this section is proportionate to the tax that is or will become due and payable by the business to which the seizure relates.

(3) A good or asset seized pursuant to subsection (1) may in the discretion of the Secretary —

(a) be sold by public auction; or

(b) be put into the service of the Government.

(4) Goods or assets seized pursuant to subsection (1) must be stored in a place approved by the Secretary for the storage of such goods or assets.

(5) Subject to subsection (6), the Secretary must in respect of goods or assets seized under this section, serve on the owner or the person with custody or control immediately before seizure, a notice in writing within fourteen days after the seizure[32] —

(a) identifying the goods or assets;

(b) stating that the goods or assets have been seized under authority of this section and the reason for the seizure; and

(c) stating the terms for recovery of the goods or assets.

(6) A notice under subsection (5) must be served where —

(a) a person claiming the goods or assets have provided the Secretary with sufficient information to enable service of the notice on him; or

(b) after making reasonable inquiries, the Secretary has sufficient information to identify the person on whom the notice should be served.

(7) The Secretary must, where service of a notice pursuant to subsection (6) is not possible, post a notice of seizure in a conspicuous place in or on the premises from which the goods or assets were seized.

(8) The Secretary shall, where furnished with evidence showing that the goods or assets seized does not belong to the business to which the seizure relates, forthwith return the good or asset to the actual owner.

(9) Subject to subsection (10), the Secretary may authorise delivery of goods or assets seized under subsection (1) to the person on whom a notice of seizure has been served where such person —

(a) pays the tax reported by the person or assessed by the Secretary to be due and payable or that will become due and payable in respect of the business; or

(b) gives security, acceptable to the Secretary, for the payment of tax that is or will become due and payable by the business.

(10) The Secretary may detain goods or assets seized under this section —

(a) in the case of perishable goods, for such period as the Secretary considers reasonable having regard to the condition of the goods;

(b) in any other case, until the later of ten working days after —

(i) the seizure of the goods or assets; or

(ii) the due date for payment of the tax.

(11) The Secretary may —

(a) sell the goods or assets, after expiry of the detention period referred to in subsection (10), in accordance with subsection (3) and apply the proceeds of sale in order of priority towards the —

(i) costs related to seizure, the tax payable by the business owning the goods; and

(ii) restoration of the remainder of the proceeds, if any, to the person liable to pay tax;

(b) where the proceeds of sale are not sufficient to pay the Secretary's costs and the tax payable in full, proceed in accordance with this Act for the balance of tax owed.

(12) The Secretary shall, where the proceeds of sale of any goods or assets exceeds the costs relating to the seizure and the outstanding tax, deposit the remainder of the proceeds of the sale in an interest bearing account.

(13) A person who is aggrieved by the decision of the Secretary to seize, detain or sell goods under this section may object or appeal the decision under sections 41 and 66 respectively.

(14) Any person who prevents, impedes or interfere in any way with the Secretary in the exercise of the Secretary's powers under this section commits an offence and is liable on summary conviction to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

55. Evasion of tax by use of scheme.

Where the Secretary has reasonable grounds to believe that a scheme has been entered into or carried out and —

(a) a person in the scheme has obtained a tax benefit in connection with the scheme in a manner that constitutes an abuse of this Act; and

(b) having regard to the substance of the scheme, it is reasonable to conclude that the person, or one of the persons, who entered into or carried out the scheme did so for the purpose of enabling the person referred to in paragraph (a) to obtain the tax benefit,

the Secretary may determine the liability of the person who has obtained the tax benefit —

(i) as if the scheme had not been entered into or carried out; or

(ii) in such manner as the Secretary, having regard to the circumstances of the case, considers appropriate for the prevention or reduction of the tax benefit.

56. Tax may be recovered.

All taxes payable under this Act may be sued for, recovered, and payment enforced by or on behalf of the Secretary.

PART V – OFFENCES AND PENALTIES

57. Offences.

(1) Any person who —

(a) in a return, declaration, information, application or particulars furnished under this Act, makes a statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular;

(b) in relation to any business, knowingly keeps or preserves, or causes to be kept or preserved, any book, record or account, which is false in any material particular, or makes or causes to be made in any book, record, account or return any entry which is false in any material particular; or

(c) is concerned in, or in the taking of steps with a view to, the fraudulent evasion by him or any other person of any tax payable under this Act,

commits an offence and shall be liable on summary conviction to a fine not exceeding one hundred thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and term of imprisonment.

(2) Any person who —

(a) in any year without lawful excuse carries on a business in respect of which there is no licence issued under this Act in force;

(b) obstructs the Secretary in the exercise of his functions under this Act;

(c) contravenes section 9(1), or 26(3);

(d) fails to maintain accounts and records as required by section 27;

(e) fails without reasonable excuse to furnish any particulars or information within the time specified by the Secretary or by regulations made under this Act;

(f) changes the trading name of and carries on an existing business without the prior approval in writing of the Secretary,

commits an offence and shall be liable on summary conviction for that offence —

(i) to a fine of fifty thousand dollars;

(ii) in addition to any fine, to a sum of one hundred dollars for each day the offence continues subsequent to the date to which the conviction relates.

(3) Any person who discloses or attempts to disclose information relating to the affairs of any person in contravention of section 64 commits an offence and shall be liable on summary conviction to a fine not exceeding ten thousand dollars.

(4) Any person who —

(a) permits his licence to be used by another; or

(b) makes use of, trades, or acts in any way with, under, or by colour of a licence granted to another, or of a licence which has been revoked,

commits an offence and shall be liable on summary conviction for each offence —

(i) to a fine of ten thousand dollars; and

(ii) to have his licence cancelled.

(5) An offence shall not be committed under subsection (4) in relation to anyone *bona fide* employed by the holder of the licence who is lawfully making use of, trading and acting with and under that licence for the exclusive benefit of the holder.

(6) Where in any proceedings under subsection (4) it is shown that a person who was not the holder of a licence made use of a licence of another it shall be presumed until the contrary is shown that such was done with the knowledge and consent of the holder of the licence.

(7) Any person who, either by himself or his servant, in contravention of section 30 fails to display or produce for inspection his licence commits an offence and shall be liable on summary conviction to a fine not exceeding fifty thousand dollars.

(8) Any person who acts as a travelling salesman without a licence, or after his licence has been revoked, or who contravenes or fails to comply with any terms and conditions to which his licence was subject commits an offence and shall be liable on summary conviction to a fine not exceeding ten thousand dollars.

(9) A person who being the holder of an occasional licence under section 6, contravenes or fails to comply with any terms and conditions or restrictions to which his licence is subject, commits an offence and shall be liable on summary conviction to —

(a) a fine of one thousand dollars; and

(b) if applicable, revocation of his licence.

(10) A licensee who, in contravention of section 31, employs a person under eighteen years of age in the direct sale of restricted goods commits an offence and shall be liable on summary conviction to a fine not exceeding ten thousand dollars.

(11) Any person, being a holder of a licence for premises providing for the sale of liquor, who —

(a) either personally or by a servant or other person on his behalf, holding a licence for the wholesale of liquor, suffers any other person to whom he has sold or disposed of any intoxicating liquors to drink any such liquors on the licensed premises;

(b) either by himself or his servant —

(i) harbours or entertains while on duty any peace officer, or treats or sells to him any liquor, or detains or suffers him to remain or abide on his premises, or bribes or attempts to bribe him;

(ii) refuses or fails to admit to his premises on demand any peace officer when in the execution of his duty, or obstructs, hinders or misleads any such peace officer when in the execution of his duty;

(iii) harbours or conceals any seaman at the time contracted to serve on board any vessel belonging to or having arrived at any port in The Bahamas, or entices or encourages any such seaman to leave or desert from his vessel, or is knowingly instrumental in any such activity;

(iv) sells for consumption on the premises any liquor to any person who is under eighteen years of age, or to any drunken person, or suffers any drunken person to remain on the premises;

(v) sells or otherwise disposes of liquor in any premises other than those in respect of which his licence is issued except as provided by this Act;

(vi) breaches any condition of his licence in respect of the hours during which he is licensed to carry on his business,

commits an offence and shall be liable on summary conviction to a fine not exceeding ten thousand dollars.

(12) A licensee who fails to furnish to the Secretary any changes in particulars or amendment, or inform of the inactivation or cessation of a business, within the time and manner specified in section 28 commits an offence and shall be liable on summary conviction to a fine of five hundred dollars for every day, or part of a day, during which the offence continues and the Magistrate shall order that the required changes in particulars or amendment of the licence, or information of inactivation or cessation, be furnished to the Secretary within such time as may be specified in the order.

(13) Any person who makes a false or misleading statement in a declaration or other statement relating to the beneficial ownership or control of a business, whether directly or indirectly, which obscures the beneficial ownership or control of the business by a foreign person commits an offence and shall be liable on summary conviction to —

(a) a fine not exceeding one hundred thousand dollars or a term of imprisonment of two years or to both such fine and term of imprisonment; and

(b) forfeiture of the business inventory.

58. General penalty.

A person who contravenes or fails to comply with any provision of this Act commits an offence and shall be liable on summary conviction, where no other penalty is provided for such offence, to a fine of ten thousand dollars or to imprisonment for a term of two years or to both such fine and term of imprisonment.

59. Offences by corporations and firms.

(1) Where a corporation is convicted of an offence under this Act, every director, secretary, and officer of the corporation who is knowingly a party to the default shall be guilty of a like offence as the corporation and liable to a like penalty.

(2) Where a licensee, being a firm, is convicted of an offence under this Act, every partner in the firm, individual or corporate, shall be guilty of the offence and liable to a like penalty as the firm.

60. Procedure and powers in respect of offences relating to the sale of liquor and public entertainment.

(1) All proceedings for offences under this Act relating to the sale of liquor, and for the recovery of any fine or forfeiture of money, shall be before a magistrate and the magistrate shall dispose of the matter summarily.

(2) All proceedings under subsection (1) may be prosecuted in the name of the Commissioner of Police.

(3) In all proceedings against any person for selling liquor without a licence under this Act, the onus of proving that he is licensed to sell liquor shall lie on the defendant.

(4) In proving the sale or consumption of liquor for the purpose of any proceeding in relation to an offence or fine under this Act —

(a) it shall not be necessary to show that any money actually passed or that any liquor was actually consumed if the magistrate hearing the case is satisfied that a transaction in the nature of a sale actually took place; and

(b) proof of consumption or intended consumption of liquor on licensed premises by some person other than the occupier of, or a servant in, such premises shall be evidence that such liquor was sold by or on behalf of the licensee to the person consuming, or being about to consume, or carrying away such liquor.

(5) It shall be sufficient in the absence of contrary evidence, in order to warrant the conviction of any person for bartering, selling, trading in, exposing or offering for sale, any liquor in any place or premises without a licence, to prove that —

(a) some person other than the occupier of or servant in such place or premises had at the time charged been found drinking in or having had liquor supplied to him in such place or premises; and

(b) such place or premises is or are by repute kept for the purpose of selling liquor contrary to the provisions of this Act, or, that such place or premises at the time charged contained drinking utensils and fittings usually found in premises licensed for the sale of liquor.

(6) All liquor and the vessels in which they are contained that are forfeited under this Act shall be sold by order of the convicting magistrate in such manner and form as he shall direct and the net proceeds arising from such sales shall be paid into the Consolidated Fund.

(7) The occupier and every other person who sells liquor, unless it appears to the magistrate that the liquor was not deposited on the premises for the purpose of being sold in such premises, commits an offence and shall be liable to a fine not exceeding five thousand dollars.

(8) All liquor found on any search or entry of premises not licensed for the sale of liquor, together with all vessels used for holding or measuring such liquor, or used in connection with the sale of such liquor, shall upon any conviction for an offence under this section be forfeited.

(9) The Commissioner of Police or any peace officer authorised by him may enter and remain on any premises licensed under this Act for so long as is necessary for the purpose of —

(a) ascertaining that the terms and conditions of the licence are being complied with;

(b) ensuring that order and decorum are being maintained; and

(c) generally, preventing or detecting the violation of any licence issued in relation to the premises.

PART VI – MISCELLANEOUS

61. Refunds.

(1) A person may be eligible for a refund of tax where —

(a) the actual tax payable by a licensee for a year of assessment is less than the estimated tax paid for such year;

(b) the value of the contract in respect of which a temporary licence was issued was reduced; or

(c) the amount of tax paid by a person otherwise exceeds the amount chargeable to tax under this Act.

(2) A person who is eligible for a refund under subsection (1) shall apply in writing in the prescribed manner for a refund ("a claim") and such claim shall be made within three years after the date the tax was overpaid.

(3) Where a licensee has failed to file an application for renewal of his licence or a return for any year of assessment as required under this Act, the Secretary may withhold payment of any amount refundable under this section until the licensee files the return as required.

(4) The Secretary must serve on a claimant for refund, a notice in writing of the Secretary's decision in respect of the claim —

(a) within thirty calendar days of the Secretary receiving the claim; or

(b) where the Secretary orders an audit of the claim, within ten calendar days of completion of the audit.

(5) Where the Secretary is satisfied that a claim is legitimately made he shall —

(a) apply the amount of the refund claimed in reduction of —

(i) any tax, interest, late fee or penalty payable by the claimant under this Act; and

(ii) any other tax, interest, late fee or penalty payable by the claimant to the Government or public body; and

(b) after applying the refund in accordance with paragraph (a), refund any excess remaining to the claimant.

(6) A claimant under this section who is aggrieved by the Secretary's decision under this section may object to the decision under section 41 or appeal the decision under section 66.

(7) A claimant may elect to have the refund amount stand in credit to be applied to any future amount of tax, interest, late fee or penalty he may accrue under this Act.

62. Service of documents.

(1) Where this Act requires a document to be served on or lodged with the Secretary, such document may be —

(a) served by electronic means in accordance with section 8;

(b) personally served on the Secretary or on any person duly authorised by the Secretary to accept service;

(c) left at the Secretary's office; or

(d) forwarded to the Secretary's office by post.

(2) Where this Act requires a document to be served on any person other than the Secretary, such document may be served —

(a) by electronic means in accordance with section 8;

(b) by delivering it to the person on whom it is to be served;

(c) by leaving it at the usual or last known place of abode of that person;

(d) by sending it by post addressed to the person on whom it is to be served —

(i) to the usual or last known place of abode, office or place or business of such person;

(ii) to any post office box rented in the name of such person or employer of such person or known to the Secretary to be used as an address for correspondence by such person; or

(iii) in care of the Post Office (for general delivery) —

(aa) in the case where such person is known to the Secretary to have a place of abode in New Providence; or

(bb) in the case where such person is known to the Secretary to have a place of abode in a[33] Family Island at a district post office or subpost office in that Out Island;

(e) in the case of a body corporate —

(i) by delivering it to an officer, employee, agent or other representative of the body corporate at its registered office or other place of business;

(ii) by sending it by post addressed to the secretary of that body corporate at any post office box rented in the name of that body corporate or known to the Secretary to be used as an address for correspondence by that body corporate, or at any post office box rented in the name of that body corporate's[34] registered office.

63. Proof of issue of licence.

In any proceeding in a court, the fact that —

(a) a licence has been issued to a person may be established by the production of an extract, certified by the Secretary from the register of licensees, of the entry recording the issue of the licence and of proof that such person and the person named in the entry are one and the same;

(b) there was not in force at a specified time a licence in respect of the carrying on of a business whether by a particular person or not may be established by the production of a statement to that effect signed by the Secretary.

64. Confidentiality.

(1) Subject to subsection (2), no person having official duty under this Act or being employed in the administration of this Act shall disclose any information relating to the affairs of any person coming to his knowledge in the course of the performance of such duty under this Act.

(2) Subsection (1) shall not apply to a disclosure —

(a) lawfully required or permitted by a court of competent jurisdiction in The Bahamas;

(b) for the purpose of assisting in the exercise of any functions conferred by this Act, by any other Act, or by regulations made under this Act or any other Act;

(c) in respect of the affairs of a person with the consent of that person, where such consent has been voluntarily given;

(d) if the information disclosed is or has been available to the public from any other source;

(e) where the information disclosed is in a manner that does not enable the identity of any person to which the information relates to be ascertained;

(f) to a person with a view to the institution of, or for the purpose of —

(i) criminal proceedings;

(ii) disciplinary proceedings, whether within or outside The Bahamas, relating to the exercise by a counsel and attorney, auditor, accountant, valuer or actuary, of his professional duties; or

(iii) disciplinary proceedings relating to the discharge by a public officer of his duties; or

(g) for the purposes of any legal proceedings in connection with —

(i) the winding-up of a person; or

(ii) the appointment or duties of a receiver of a person.

65. Derogation.

Nothing in this Act shall derogate from the provisions of any other law unless otherwise stated.

66. Appeals.

A person who is aggrieved by a decision of the Secretary in respect of such person —

(a) under sections 21 and 13 in relation to an application for a licence;

(b) in relation to an objection under section 41;

(c) to suspend, revoke, amend, cancel a licence issued under section 25;

(d) on an application for a trading name under section 18;[35]

(e) on an application for an advance tax ruling under section 37;

(f) to declare a person as a representative of a taxable person under section 45,

may appeal to the Tax Appeal Commission against that decision in the time and manner specified in sections 9 to 11 of the Tax Appeal Commission Act, 2020 (*No. 3 of 2020*).

67. Taxes paid for licences.

Any tax, fee or fixed penalty charged under this Act or otherwise payable in respect of a business licence, shall be paid to or collected by the Secretary and paid into the Consolidated Fund.

68. Expenses.

All expenses incurred in carrying out the provisions of this Act shall be charged on and paid out of the Consolidated Fund.

69. Rules and guidelines.

(1) The Secretary may issue rules providing for such matters as may be necessary or expedient for giving effect to the intent and purposes of this Act.

(2) Rules shall —

(a) have the force of law; and

(b) be subject to the Act and any regulations made in accordance with section 70.

(3) Where a rule conflicts with the Act or any regulations, the Act or any regulations made by the Minister shall prevail.

(4) The Secretary may publish guidelines for the purposes of clarifying any procedure, process, or matter in respect of the administration and enforcement of this Act.

(5) Guidelines shall not have the force of law and must not conflict with any provision of the Act.

70. Regulations.

The Minister may make regulations for carrying out the purposes and provisions of this Act, and, in particular without prejudice to the generality of the foregoing, may make regulations —

(a) prescribing or varying the rates of tax and fees payable in respect of any application under this Act;

(b) prescribing the manner and forms in which applications for licences may be made and the forms in which licences may be issued;

(c) prescribing the contents of all applications, including the requirements necessary for the approval of the business;

(d) prescribing the form and method of submission, including by electronic means, of orders, notices, returns, applications and other documents to be used under this Act;

(e) prescribing the terms, conditions and restrictions under which licences may be held by a holder of a licence or a particular class of holder of a licence;

(f) prescribing penalties to be paid in respect of a contravention of this Act;

(g) providing rules and standards relating to the general structure of, and the position of any doors, windows or means of communication to and with any sales business for which an applicant desires to sell liquor;

(h) prescribing rules for conduct of audits and assessments.

71. Savings and transition.

(1) All subordinate legislation made under any of the enactments repealed by this Act and in force immediately before the coming into force of this Act, and not expressly repealed by section 72 of this Act, shall, so far as it is not inconsistent with the provisions of this Act, continue in force as if made under this Act.

(2) Subject to subsection (4), every person who at the time this Act comes into force carries on any business pursuant to a licence issued under the repealed Act shall be deemed to be licensed under this Act until the expiry of that licence, unless he has ceased business before such expiry.

(3) All tax or fees which, at the time this Act comes into force, are outstanding under the repealed Act shall continue to be payable at the rate payable under the repealed Act.

(4) Any tax or fee which at the commencement of this Act was assessable or payable under the repealed Act for the year 2023 or any previous year shall —

(a) where such tax or fee has already been assessed, but has not yet been paid under the repealed Act, shall be recovered by the Secretary under this Act;

(b) where such tax or fee was not assessed by the Secretary under the repealed Act, shall be assessed and recovered by the Secretary under this Act.

(5) All assessments and other acts of authority by the Secretary under the repealed Act which had been taken before the commencement of this Act shall be deemed to remain in full force and effect.

(6) All criminal proceedings in respect of any offence committed before the commencement of this Act, may be instituted or continued under the repealed Act.

(7) The exemption of businesses with a turnover of less than $50,000 from the requirement to keep and maintain records shall continue to until the 31st December, 2023 and thereafter all such businesses shall keep and maintain records in accordance with this Act.

72. Repeals.

The following enactments are hereby repealed —

(a) the Business Licence Act, 2010 (*No. 25 of 2010*);

(b) the Business Licence (Application) Regulations, 1980 (*S.I. No. 51 of 1980*);

(c) the Business Licence Regulations, 2010 (*S.I. No. 148 of 2010*).

FIRST SCHEDULE
(section 2)

LIST OF RESTRICTED GOODS

Liquors

Tobacco

Firearms/Ammunition

Miscellaneous Chemicals

Gaming Machines

Trailers exceeding forty feet

Prescription Drugs

SECOND SCHEDULE
(section 34)

BUSINESS LICENCE TAXES
PART I – GENERAL

(1)[36] A tax for businesses for which no special provision has been made under this *Schedule*, on the proportion of turnover as follows —

(a) for a business with turnover greater than $100,000.00 per annum but not exceeding $500,000.00 per annum, a tax of 0.5% of turnover;

(b) for a business with turnover greater than $500,000 per annum but not exceeding $5 million per annum, a tax of 0.75% of turnover;

(c) for a business with turnover greater than $5 million per annum, a tax of 1.25% of turnover.

(2)[37] Where a business is —

(a) agricultural and animal husbandry/mixed farming;

(b) fishing/fish farms;

(c) food/meat/fruit processing,

the rate of tax shall be as follows —

Proportion of turnover	**Annual tax**
Not exceeding $100,000	0.00%
Exceeding $100,000 but not exceeding $500,000	0.50%
Exceeding $500,000	0.75%

(3)[38] Paragraph (2) does not apply to businesses engaged in the export of salt.

(4) Where the business is a gasoline station, the rate of tax shall be as follows —

Total Revenue ($) of	Tax ($)
Up to 500,000	1,000
500,001 to 1,000,000	1,500
1,000,001 to 1,500,000	2,500
1,500,001 to 2,000,000	3,500
2,000,001 to 2,500,000	4,500
2,500,001 to 3,000,000	5,500
3,000,001 to 3,500,000	6,500
3,500,001 to 4,000,000	7,500
4,000,001 to 4,500,000	8,500
4,500,001 to 5,000,000	9,500
5,000,001 to 5,500,000	10,500
5,500,001 to 6,000,000	11,500
6,000,001 to 6,500,000	12,500
6,500,001 to 7,000,000	13,500
7,000,001 to 7,500,000	14,500
7,500,001 to 8,000,000	15,500
8,000,001 to 8,500,000	16,500
8,500,001 to 9,000,000	17,500
9,000,001 to 9,500,000	18,500
9,500,001 to 10,000,000	19,500
10,000,001 to 10,500,000	20,500
10,500,001 to 11,000,000	21500
11,000,001 to 11,500,000	22,500
11,500,001 to 12,000,000	23,500
12,000,001 to 12,500,000	24,000
12,500,001 to 13,000,000	25,500
13,000,001 to 13,500,000	26,500
13,500,001 to 14,000,000	27,500
14,000,001 to 14,500,000	28,500

14,500,001 to 15,000,000	29,500
Over 15,000,000	35,000

(5) For the purposes of paragraph (4) "gasoline station" means a business at which gasoline and diesel oil are sold by retail under the provisions of the Price Control Act *(Ch. 339)*.

(6) Where the business is part of a group of companies with turnover greater than $400 million, provided that the group includes a hotel licensed under the Hotels Act *(Ch. 288)* and the hotel accounts for at least 50.1% of the turnover of the group, a tax of 0.75% shall apply.

(7) A tax of 0.75% shall apply to a hotel licensed under the Hotels Act *(Ch. 288)* where that hotel has ten rooms or more.

(8) In respect of an occasional licence —

(a) a tax of $25 for activities under section 14(1)(a), (b), (d) and (e); and

(b) a tax of $750 for activities under section 14(1)(c).

PART II – FINANCIAL SERVICES ENTITIES TAXES

(1) Where the business is a financial service entity, the following taxes shall apply —

Type of Financial Service Entities	**Annual Tax**
Authorised Dealers	2.25% of total revenues net of interest expenses
Authorised Agents under the Bank and Trust Companies Regulations Act, 2020	the greater of $10,000 and 1.25% of turnover but up to a maximum of $100,000
Other Public Banks and Trust Companies	the greater of $25,000 and 1% of turnover but up to a maximum of $100,000
Non-bank Money Transmission Businesses (MTBs)	the greater of $10,000 and 1.25% of turnover but up to a maximum of $100,000
Insurers under the Insurance Act *(Ch. 347)*[39]	Tax at the rates prescribed under paragraph (3) of Part I of this *Schedule* on revenues other than gross premiums. Tax collected by the Insurance Commission and paid to the Secretary in accordance with the Insurance Act *(Ch. 347)*.
Persons required to be registered or licensed under the Carbon	2.25% of turnover from operations in the domestic market

Credit Trading Act, 2022 (*No. 36 of 2022*), the Digital Assets and Registered Exchanges Act, 2020 (*No. 28 of 2020*), the Investment Funds Act, 2019 (*No. 2 of 2019*) or the Securities Industry Act, 2011 (*No. 10 of 2011*)[40]	the greater of $2,500 and 0.25% of turnover but up to a maximum of $100,000[41] from operations outside of the domestic market
Moneylenders	2.25% of turnover
Other financial services entities	the greater of $2,500 and 1.25% of turnover but up to a maximum of $100,000

(2) Where a financial service entity carries on —

(a) more than one category of financial service;

(b) other activities that are not financial services,

tax shall be calculated at the highest of the rates of tax applicable to the business.

(3) For the purposes of this Part, **"operations in the domestic market"** means —

(a) dealing in financial instruments denominated in Bahamian dollars;

(b) dealing in products listed on the Bahamas International Securities Exchange (BISX);

(c) the provision of products or services to persons deemed resident for exchange control purposes.

PART III

TELECOMMUNICATIONS SERVICES

A telecommunication service subject to a licence under the Communications Act, a tax of 1.25% of turnover.

PART IV

INTERNATIONAL BUSINESS COMPANIES, FAMILY OFFICES AND PROPRIETORY TRADING

(1) Where the turnover of an international business company is derived from business activities performed partly within and partly outside The Bahamas, for the purposes of calculating tax payable, the international business company is required to allocate and apportion the turnover between the locally performed activities and the activities performed outside The Bahamas.

(2) An international business company shall pay tax as follows —

(a) on revenue that is attributable to operations within The Bahamas, tax at the applicable rate under Parts I to III of this *Schedule* based on the nature of the business and the amount of the revenue; and

(b) on revenue that is attributable to operations outside The Bahamas —

(i) a tax of $2,500, where the revenue attributable to activities outside The Bahamas does not exceed one million dollars;

(ii) a tax of 0.25% up to a maximum tax of $100,000, where the revenue attributable to activities outside The Bahamas exceeds one million dollars.

(3) Revenue of an international business company derived from —

(a) the sale or exploitation of tangible or intangible property that is located or registered in The Bahamas;

(b) the export of goods;

(c) the sale or other provision of goods or services to persons —

(i) deemed resident for exchange control purposes; or

(ii) who are within The Bahamas at the time that the goods or services are sold or otherwise provided;

(d) professional services, including legal services, architectural services, consultancy services, engineering services, accountancy services and advisory services,

shall be deemed to be from operations within The Bahamas.

(4) Where the turnover of a business consists partly or wholly of revenues derived from proprietary trading the business shall pay tax as follows —

(a) a tax of the greater of $15,000 or 0.25% of revenues derived from proprietary trading up to a maximum of $100,000;

(b) on all revenues derived from activities other than proprietary trading, a tax at the applicable rate under Parts I to III of this *Schedule* based on the nature of the business and the amount of such revenues.

(5) A family office shall pay a tax of the greater of $10,000 and 0.25% of turnover up to a maximum of $100,000.

(6) This *Schedule* shall not derogate from the requirement of an international business company which, for the purposes of the Commercial Entities (Substance Requirements) Act, 2018 (*No. 32 of 2018*)[42] —

(a) is an included entity; and

(b) carries on relevant activity,

to conduct all its core income generating activities within The Bahamas.

THIRD SCHEDULE

(sections 32 and 34)

CALCULATION OF GROUP TURNOVER

PART A
TURNOVER INCLUSIONS FOR GROUPS

Transactions that fall within the following categories will be included in the turnover of a licensee making a transfer and will consequently be included in the calculation of the turnover of the group —

(a) the transfer of goods or services where there is a value added prior to the further sale or consumption of those goods and services: turnover for the transferor licensee shall be the greater of consideration and 'fair market value';

(b) the transfer of goods or services outside of the group, including transfers for no consideration and such goods and services shall be assessed at "fair market value" for determining the "turnover" of the transferring licensee;

(c) transfer of goods or services to a licensee involved in an exempt activity under the Value Added Tax Act, 2014 (*No. 32 of 2014*)[43]; and the "fair market value" of the transfer shall be used in determining the turnover of the transferring licensee;

(d) a transfer of goods or services, the sale or distribution of which would require a licence or approval by a regulator to be acquired are transferred at "fair market value".

PART B
TURNOVER EXCLUSIONS FOR GROUPS

Transactions that fall within the following categories will be excluded from the turnover of a licensee making a transfer of goods or services and will consequently be excluded from the calculation of the turnover of the group —

(a) procurement by a member for the group done to —

  (i) provide marketing support to the group;

  (ii) facilitate sales activities of the group;

  (iii) provide technical or managerial support to the group;

  (iv) provide general services to the group members;

  (v) realise economies of scale for group members;

(b) the transfer of goods or services where there is no "value added" prior to the sale or consumption of those goods and services by the group member;

(c) a transfer of a fixed asset by the transferring licensee and the transferee is not in the business of the sale, leasing, restoration or rental of such assets.

(3) *Deleted.*[44]

FOURTH SCHEDULE
(section 36)

FEES FOR LATE FILINGS AND LATE PAYMENT OF TAXES

(a)	Fee for late filing of application for licence renewal or a return	$100.00
(b)	Fee for late notification of inactivation or cessation of business	$100.00
(c)	Fee for late payment of tax	10% of the tax liability
(d)	Interest rate per annum on payments made thirty days or more after the due date	5% of the tax liability

Table of Legislation History:

No. 13 of 2023

An Act to require businesses to hold a business licence, to repeal the Business Licence Act, 2010 and for connected matters.

[Assent: 30th June, 2023]

[Commencement: 1st July, 2023]

Legislative Amendment:

15 of 2024 *S.I. 106/2024*

Table of Endnote References.

1 *Amended by S.I. 106/2024*
2 *Replaced by the Securities Industry Act, 2024 (39 of 2024)*
3 *Replaced by the Digital Assets and Registered Exchanges Act, 2024 (40 of 2024)*
4 *Amended by S.I. 106/2024*
5 *Now Ch. 314A.*
6 *Replaced by the Securities Industry Act, 2024 (39 of 2024)*
7 *Now Ch. 370A*
8 *Now Ch. 364*
9 *Now Ch. 370A*
10 *Now Ch. 370A*
11 *Amended by S.I. 106/2024*
12 *Amended by S.I. 106/2024*
13 *Substituted by 15 of 2024 s. 2*
14 *Amended by 15 of 2024 s. 3(b)*
15 *Amended by 15 of 2024 s. 3(a)*
16 *Subsections (2), (3) and (4) inserted by 15 of 2024 s. 3(c)*
17 *Inserted by 15 of 2024 s. 4*
18 *Inserted by 15 of 2024 s. 5*
19 *Inserted by 15 of 2024 s. 6*
20 *Amended by 15 of 2024 s. 7*
21 *Amended by 15 of 2024 s.8(1)(a)*
22 *Amended by 15 of 2024 s.8(1)(b)(i)*
23 *Now Ch. 388*
24 *Substituted by 15 of 2024, S.8(1)(b)(ii)*
25 *This paragraph comes into force on 1st January, 2025 by virtue of section 1(2) of 15 of 2024.*
26 *Substituted by 15 of 2024 s.8(1)(b)(ii)*
27 *Inserted by 15 of 2024 s.8 (1)(c)*
28 *Now Ch. 364*
29 *The absence of a paragraph (b) is an error in law.*
30 *Amended by S.I. 106/2024*
31 *Amended by S.I. 106/2024*
32 *Amended by S.I. 106/2024*
33 *Amended by S.I. 106/2024*
34 *Amended by S.I. 106/2024*
35 *Amended by S.I. 106/2024*
36 *Substituted by 15 of 2024 s. 9 (a)(i)*
37 *Amended by 15 of 2024 s. 9 (a)(i)*
38 *Amended by 15 of 2024 s. 9 (a)(i)*
39 *Amended by S.I. 106/2024*
40 *Replaced by the Securities Industry Act, 2024 (39 of 2024)*
41 *Amended by 15 of 2024 s. 9 (b)*
42 *Replaced by the Commercial Entities (Substance Requirements) Act, 2023 (45 of 2023)*
43 *Now Ch. 370A.*
44 *Deleted by 15 of 2024 s. 10*