

No. 41 of 2012.
Christopher

Income Tax (Amendment)
(No. 2) Act, 2012.

S a i n t
and Nevis.



I assent,

CUTHBERT M SEBASTIAN
Governor-General.

11th December, 2012.

SAINT CHRISTOPHER AND NEVIS

AN ACT to amend the Income Tax Act, Cap. 20.22

[*Published 11th December 2012, Extra-Ordinary Gazette No. 57 of 2012.*]

BE IT ENACTED by the Queen's Most Excellent Majesty by and with the advice and consent of the National Assembly of Saint Christopher and Nevis, and by the authority of the same as follows:

1. Short title and commencement.

This Act may be cited as the Income Tax (Amendment) (No. 2) Act, 2012 and shall come into force on a date to be fixed by the Minister by a Notice published in the *Gazette*.

2. Interpretation.

In this Act, unless the context otherwise requires "Act" means the Income Tax Act, Cap. 20.22.

3. Amendment of section 13.

Section 13 of the Act is amended as follows:

- (a) By replacing subsection (1), inserting the following new subsections and renumbering accordingly

“ 13. **Taxation of Non-Life Insurance Business and Shipping.**

(1) Where a person who is engaged in or carrying on a life insurance business is also at the same time engaged in or carrying on a non-life insurance business, the non-life insurance business shall, for the purposes of this Act, be deemed to be a separate business carried on by a separate person.

(2) Notwithstanding the provisions of section 9 of this Act, the assessable income of a person, including that of a non-resident person, who is engaged in the business of non-life insurance or other non-life insurance related insurance activities, shall include

- (a) gross premiums;

- (b) a reserve representing the unexpired risk at the beginning of the tax year once the Comptroller is satisfied that the reserve represents a reasonable calculation of the unexpired risk at the end of the tax year;
- (c) any investment income earned from premiums that arose in Saint Christopher and Nevis

(3) Notwithstanding the provisions of section 9 of this Act, assessable income shall not include the following:

- (a) premiums returned to the insured and premiums paid on re-insurance;
- (b) amounts paid out to policy holders for losses incurred;
- (c) a reserve representing the unexpired risk at the end of the tax year once the Comptroller is satisfied that the reserve represents a reasonable calculation of the unexpired risk at the end of that tax year; and

(4) For the purposes of this section, the amount of investment income to be taxed means the greater of the following

- (a) the actual investment income as per the annual returns filed in accordance with the Insurance Act; or
- (b) the relevant proportion of the non-life insurance premiums received in the Federation measured against the total worldwide non-life insurance premiums received by the company and more particularly expressed in the following formula:

$$\begin{array}{r}
 \dots\dots\dots \text{Total non-life insurance} \quad \text{Worldwide Gross} \\
 \dots\dots\dots \text{premiums received} \quad \text{investment income} \\
 \dots\dots\dots \text{in the Federation} \quad \times \quad \text{of company} \quad = \\
 \text{investment} \dots\dots\dots \frac{\text{Total non-life insurance}}{\text{premiums of company}} \quad \text{income} \\
 \dots\dots \text{ed idwl row}
 \end{array}$$

For the purposes of this section and section 13 A of the Act, the expenses related to a specific form of insurance investment shall only be deductible from the business revenues of that particular form of investment.”.

(b) By inserting immediately after section 13, a new section 13A as follows:

“ **13A. Taxation of Life Insurance Companies.**

(1) Where a person who is engaged in or carrying on a life insurance business, as well as any other business activity that is not part of the life insurance business, the other business activity shall

- (a) be deemed to be a separate business carried on by a separate

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person for the purposes of this Act; and

- (b) have separate and distinguishable records for that business maintained by the person responsible for that business.

(2) A person who is engaged in on or carrying on the business of a life insurance company shall ensure that an income tax is paid in respect of the investment income of that life insurance business which shall be equivalent to the greater of the following:

- (a) the actual investment income as per the annual returns filed in accordance with the Insurance Act; or
- (b) the same proportion of the total and worldwide gross investment income of the non-life insurance company as the non-life insurance premiums revenue in the Federation is to the total and worldwide non-life insurance premium revenue of the non-life insurance company.

(3) Where for any reason, the person is unable to keep separate records as required by subsection (2), then the Comptroller shall have the right to make a determination as to what is the separate income, deduction or allowance attributable to each respective business.

(4) Notwithstanding the fact that a person has ceased to issue new contracts of life insurance, that person shall still be regarded for the purposes of this section, as carrying on life insurance business once that person continues to collect premiums on existing contracts of insurance.

(5) Notwithstanding any other provision in this Act, no deduction or tax credit shall be given or allowed against the gross investment income accruing in St. Kitts and Nevis.

(6) For the purposes of this section,

- (a) any expenses incurred for the purpose of deriving non-life insurance related revenues shall not be deductible against any other business;
- (b) exemptions referred to in other parts of the Act, shall not be applicable to this section;
- (c) the following expressions shall have the following meanings:

“gross premium” means

- (i) the aggregate of all premiums collected by or on behalf of an association of underwriters from insured persons and includes premiums paid by an insurer to a reinsurer; or
- (ii) premiums received by an association of underwriters for reinsurance business;

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“investment income” means the income accruing to a person from the investment of premium moneys paid to the person in respect of non-life insurance, ordinary life insurance and includes non-cancellable group life insurance, industrial life insurance and general annuity life or any other income effectively connected with its activities in the Federation.”.

CURTIS A. MARTIN

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Speaker

Passed by the National Assembly this 4th day of October, 2012.

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JOSÉ LLOYD
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*Clerk of the
National Assembly*