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GUIDANCE NOTE
PPG NO. 009/2020
Income Tax Act Cap. 73

Corporation Tax Filing Requirements for Grandfathered Entities for Income Year 2021

Background

The Government of Barbados amended and repealed a suite of legislation effective January 1, 2019, in order to comply with the Base Erosion and Profit Shifting (BEPS) Action 5 initiative of the Organisation of Economic Cooperation and Development (OECD). Companies registered under International Business Companies Act Cap. 77 (now Repeal by Act 2018-40); International Societies registered under the Societies with Restricted Liability Act Cap. 318B (now Amended by Act 2018-47); entities registered under the Exempt Insurance Act Cap. 308A and the Insurance Act Cap. 310 were given an option to be grandfathered where the most of the benefits and rights so enjoyed were saved until prescribed dates. The grandfathering period expires on 30 June 2021. These developments necessitated some changes in the administration of the tax system.

Please note that this Guidance Note **ONLY** applies to entities that have opted to be grandfathered until 21 June 2021.

Returns of Income

Section 52(1) of the Income Tax Act Cap. 73 of the Laws of Barbados ("Income Tax Act") provides that:

> "Every company and every other person who has carried on a business in an income year, whether or not an assessable income has been derived by that person in that income year, shall deliver to the Commissioner a return of his assessable income for that income year, together with such additional information as is prescribed, all in the prescribed, form on or before
>
> a) In the case of a company whose fiscal period ends at any time during the period
>
> (i) 1st January to 30th September in any year (both dates inclusive), in respect of income year 1990 and every subsequent income year, 15th March,
>
> **(ii)** 1st October to 31st December in any year (both dates inclusive), in respect of income year 1990 and every subsequent income year, the 15th June."

Further Section 85(1) of the Income Tax Act provides that:

> "income year" means in the case of a company or other person carrying on a business, a fiscal period;"
>
> "fiscal period", in relation to a company or other person carrying on a business, means the period for which the accounts of the business have been ordinarily made up and accepted for the purposes of income tax"

Based on the foregoing the Income Year for an entity or a person carrying on a business is determined by the day the fiscal period ends. Therefore, an entity whose fiscal period ends anytime from January 1, 2021 to December 31, 2021 will file a tax return for Income Year 2021.

Grandfathered entities filing requirements for Income Year 2021

An entity incorporated/organised or may be continued or registered at a particular date and seeks registration with the Revenue Commissioner ("Commissioner") indicating the date the Directors have chosen for the fiscal period to end, namely the fiscal year-end when the accounts are made up. The fiscal year end to be adopted by the entity is subject to the approval of the RC. Therefore, the Income Year for a company is determined by the day the fiscal period ends, and where that day falls determines the filing date, March 15 or June 15, the payment dates and the prepayment dates. Thus:

(1) a grandfathered entity whose fiscal period ends anytime from January 1 to 30 June 2021 shall deliver to the Commissioner a return of assessable income for Income Year 2021 on or before 15 March 2022 using the rates for entities grandfathered.

(2) a grandfathered entity whose fiscal period ends any time during the period 1 July 2021 to 30 September 2021 (both dates inclusive) shall deliver to the Commissioner a return of assessable income for Income Year 2021 on or before 15 March 2022 using rates applicable for entities **NOT** grandfathered.

(3) a grandfathered entity whose fiscal period ends during the period 1 October 2021 to 31 December 2021 (both dates inclusive) shall deliver to the Commissioner a return of assessable income for Income Year 2021 on or before 15 June 2022 using rates applicable for entities **NOT** grandfathered.

Rates of tax for grandfathered entities not carrying on insurance business

The rates of tax for entities that have elected to be grandfathered are as follows:

- 2.5% of taxable income not exceeding $10,000,000
- 2.0% of taxable income exceeding $10,000,000 but not exceeding $20,000,000
- 1.5% of taxable income exceeding 20,000,000 but not exceeding $30,000,000
- 1% of taxable income exceeding $30,000,000.

Rates of tax for entities Not grandfathered and not carrying on insurance business

The rates of tax for companies and societies who elected not to be grandfathered are as follows:

- 5.5% of taxable income not exceeding $1,000,000
- 3.0% of taxable income exceeding $1,000,000 but not exceeding $20,000,000

- 2.5% of taxable income exceeding 20,000,000 but not exceeding $30,000,000
- 1% of taxable income exceeding $30,000,000.

For Separate Business carried on by a Separate Person Namely Insurance Businesses
Entities that were classified as qualifying insurance companies and carrying on general and life insurance business before the 17th day of October, 2017 and were entitled to apply for the foreign currency earnings allowance the applicable rates are detailed below**:**

- For general insurance business the rate of tax payable upon its taxable income shall be 2 per cent for Income Years 2019, 2020 and 2021 ending on the 30 June 2021.
- For life insurance business the rate of tax payable upon its taxable income shall be 0.35 per cent for Income Years 2019, 2020 and 2021 ending on the 30 June 2021.
- In all other cases for general and life insurance businesses with effect from Income Year 2019 and every subsequent Income Year the rate of tax payable upon its taxable income shall be
  (1) a Class 1 licensee 0 per cent;
  (2) Class 2 licensee 2 per cent;
  (3) Class 3 licensee 2 per cent.

TAKE NOTE
A grandfathered entity whose fiscal period ends during the period 1 July 2021 to 31 December 2021 (both dates inclusive) <u>will not be elegible for the grandfathered rates.</u>

Payment Periods
Prepayments are made on the 15th day of March, September and December respectively and are calculated based on 50% of the tax payable before deductions for the previous Income Year. The balance is payable on filing.

Penalties and Interest

a) The penalty for failing to file a return by the prescribed date is $500 in addition to 5% of tax assessed.

b) The penalty for failing to pay the tax calculated or assessed is 5% of the amount of tax due or $10 whichever is greater.
c) Interest at the rate of 1% per month is calculated on the amount of tax and penalty unpaid.

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