

*Income Tax (Amendment) Act***SAINT LUCIA****No.12 of 2018****ARRANGEMENT OF SECTIONS***Section*

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Income Tax (Amendment) Act

I ASSENT

[L.S.]

NEVILLE CENAC,
Governor-General.

December 11, 2018.

SAINT LUCIA

No. 12 of 2018

AN ACT to amend the Income Tax Act, Cap. 15.02.

[12th December, 2018]

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

*Income Tax (Amendment) Act***Short title**

1. This Act may be cited as the Income Tax (Amendment) Act, 2018.

Interpretation

2. In this Act, “principal Act” means the Income Tax Act, Cap. 15.02.

Amendment of section 2

3. Section 2 of the principal Act is amended —

(a) by deleting the definition of “permanent establishment” and by substituting the following —

““permanent establishment” —

(a) means —

(i) a fixed place of business through which the business of an enterprise is wholly or partly carried on,

(ii) a building site or construction or installation project only if it lasts more than twelve months;

(b) includes —

(i) a place of management,

(ii) a branch,

(iii) an office,

(iv) a factory,

(v) a workshop, and

(vi) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources;

(c) does not include —

(i) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise,

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- (ii) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery,
- (iii) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise,
- (iv) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
- (v) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, another activity,
- (vi) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs (i) to (v),

if the activity or, in the case of subparagraph (vi), the overall activity of the fixed place of business, is of a preparatory or auxiliary character;”;

- (b) by deleting subsection (4).

Amendment of section 8**4. Section 8 of the principal Act is amended —**

- (a) under subsection (1)(a), by inserting immediately after the words “subject to subsection (2)” the words “and subsection (3)”;
- (b) by inserting immediately after subsection (2), the following new subsection (3) —

“(3) Where a company is a resident, the assessable income of that company shall not include income accrued from a source outside Saint Lucia in accordance with section 10A.”.

*Income Tax (Amendment) Act***Amendment of section 10**

5. Section 10 of the principal Act is amended —

- (a) under subsection (1) —
 - (i) in paragraph (e), by deleting the words “in Saint Lucia” and by substituting the words “whether in or outside Saint Lucia”,
 - (ii) in paragraph (f), by deleting the full stop and substituting a semi-colon,
 - (iii) by inserting immediately after paragraph (f) the following new paragraph —
 - “(g) income from carrying on a business in Saint Lucia.”.
- (b) by inserting immediately after subsection (2), the following subsection (3) —
 - “(3) Income that is not deemed to have accrued from a source out of Saint Lucia in accordance with section 10A shall be deemed to have accrued from a source in Saint Lucia.”.

Insertion of new section 10A

6. The principal Act is amended by inserting immediately after section 10 the following new section 10A —

“Income deemed to have accrued from a source outside Saint Lucia

10A. Income accrued to a person is deemed to have accrued from a source outside of Saint Lucia in respect of —

- (a) profits derived from —
 - (i) a permanent establishment outside Saint Lucia,
 - (ii) immovable property situated outside Saint Lucia;
- (b) interest that is not specified under section 10(1)(c);
- (c) income derived from investments in securities, such as, mutual funds, stocks and interest bearing instruments, issued by a person outside Saint Lucia;

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- (d) management charges paid by a non-resident from a source outside Saint Lucia where the costs are not attributable to a permanent establishment in Saint Lucia;
- (e) royalty payments received from a non-resident permanent establishment to a resident permanent establishment;
- (f) a source of income which is deemed to accrue from a source outside Saint Lucia pursuant to an international agreement made under section 60.”.

Amendment of section 32

7. Section 32 of the principal Act is amended by deleting subsection (2) and by substituting the following —

“(2) Subsection (1) shall not be construed so as to bring within the meaning of assessable income liable to assessment under Part 10 —

- (a) any income which is exempt under Part 4; or
- (b) any amounts accrued to a non-resident, other than from the carrying on of a business or the exercise of employment, which are liable to withholding tax under section 76;
- (c) in the case of a company, income that is deemed to have accrued from a source outside Saint Lucia in accordance with section 10A.”.

Amendment of section 33

8. Section 33 of the principal Act is amended, under subsection (4), by inserting immediately after the words “Where a person” the words “other than a company”.

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Amendment of section 76

9. Section 76 of the principal Act is amended by deleting subsection (4) and by substituting the following —

“(4) This section and paragraph 1 of Schedule 3 shall not be construed so as to bring within the charge to withholding tax —

- (a) payments of income that are exempt from tax under Part 4;
- (b) payments made towards an expense incurred to generate income from a source outside Saint Lucia.”.

Amendment of section 84

10. Section 84(1) of the principal Act is amended —

- (a) in paragraph (b), by deleting immediately after the words “thereon;” the word “and”;
 - (b) in paragraph (c), by deleting the full stop after the words “thereon;” and by substituting a semicolon; and
 - (c) by inserting immediately after paragraph (c), the following new paragraph (d) —
- “(d) disclose income that is deemed to have accrued from a source outside Saint Lucia.”.

Passed in the House of Assembly this 20th day of November, 2018.

ANDY G. DANIEL,
Speaker of the House of Assembly

Passed in the Senate this 22nd day of November, 2018.

JEANNINE GIRAUDY-MCINTYRE,
President of the Senate.