

**Joint Statement from Bahamas Financial Services Board, Association of International Banks
and Trust Companies, Ministry of Finance, Office of the Attorney General**

Business License Bill, 2023 and IBCs

AIBT, BFSB and the Ministry of Finance held an industry consultation on the new provisions in the Business License Bill, 2023 (the “Bill”) as it pertains to IBCs who are doing business in or from within The Bahamas and the financial services industry. We are providing this written statement for the benefit of those who were not able to attend the consultation.

The Business License Act (the “Act”) is only applicable to a person who carries on a business in or from within The Bahamas¹. Business “includes a profession, calling, vocation, occupation, trade, manufacture or undertaking of any kind, an adventure or concern in the nature of trade, for the purpose of creating a turnover”². This standard has not changed in the proposed legislation, it is the same standard as in prior years.

It is also noteworthy that there is a specific exemption in the Bill for an investment fund regulated under the Investment Funds Act, 2019 (No. 2 of 2019) and the carrying out of activities as a pure equity holding entity³. In other words, if you are not doing business in or from within The Bahamas, if you are an investment fund or a pure equity holding company, you do not require a business license and the Bill doesn’t not apply to you at all.

If you are financial services entity or an IBC and doing business in or from within The Bahamas, you are subject to business license tax, albeit at a reduced rate compared to other businesses.

Financial Services Entities

If you are a financial services entity⁴ doing business in or from within The Bahamas, you are subject to the following business license taxes:

¹ Business License Bill, 2023 section 9(1)

² Business License Bill, 2023 section 2

³ Business License Bill, 2023 section 10(4)(c) and (d)

⁴ “**financial services entity**” means —

1. (a) a business that is subject to the payment of a licensing or other fee and is regulated in accordance with —
 1. (i) the Banks and Trust Companies Regulation Act, 2020 (*No. 22 of 2020*);
 2. (ii) the Securities Industry Act, 2011 (*No. 10 of 2011*);
 3. (iii) the Financial and Corporate Services Providers Act, 2020 (*No. 27 of 2020*); or
 4. (iv) the Investment Funds Act, 2019 (*No. 2 of 2019*);
 5. (v) the Digital Assets and Registered Exchanges Act, 2020 (*No. 28 of 2020*);
2. (b) an insurer regulated under —
 1. (i) the Insurance Act (*Ch. 347*);
 2. (ii) the External Insurance Act (*Ch. 348*);

⁵ 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 (<i>Ch. 350</i>)	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 (<i>Ch. 347</i>).
Persons required to be registered or licensed under the Carbon Credit Trading Act, 2022 (<i>No. 36 of 2022</i>), the Digital Assets and Registered Exchanges Act, 2020 (<i>No. 28 of 2020</i>), the Investment Funds Act, 2019 (<i>No. 2 of 2019</i>) or the Securities Industry Act, 2011 (<i>No. 10 of 2011</i>)	2.25% of turnover from operations in the domestic market 0.25% of turnover up to a maximum of \$100,000 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

Where a financial service entity carries on more than one category of financial service or other activities that are not financial services, tax shall be calculated at the highest of the rates of tax applicable to the business.

“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.

International Business Companies⁶

If you are an IBC doing business in or from within The Bahamas you are subject to the following business license taxes:

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- 3. (c) a co-operative credit union under the Bahamas Co-operative Credit Unions Act, 2015 (*No. 9 of 2015*);
 - 4. (d) a registrant under the Carbon Credit Trading Act, 2022 (*No. 36 of 2022*);

⁵ Business License Bill, 2023 Second Schedule, Part II

⁶ Business License Bill, 2023 Second Schedule, Part IV

- (a) on revenue that is attributable to operations within The Bahamas⁷, tax at the applicable rate under Parts I to III of the 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.

If you are an IBC doing business in or from within The Bahamas in the following businesses, you are subject to the following business license taxes:

Proprietary Trading - a tax of the greater of \$15,000 or 0.25% of revenues derived from proprietary trading up to a maximum of \$100,000. On all revenues derived from activities other than proprietary trading, a tax at the applicable rate under Parts I to III of the Schedule based on the nature of the business and the amount of the revenue.

Family Office - shall pay a tax of the greater of \$10,000 and 0.25% of turnover up to a maximum of \$100,000.

Reasoning for Changes

A tax regime for financial services entities and IBCs was required because of the enactment of the Removal of Preferential Exemptions Act, 2018 and the Commercial Entities (Substance Requirements) Act 2018.

The Removal of Preferential Exemptions Act, 2018 came into force on 31 December 2018. The Act was enacted, along with other pieces of legislation, in response to the Organization for Economic Co-Operation and Development’s Base Erosion Profit Shifting (BEPS) Project. The Act seeks to address the harmful tax practice known as “ring-fencing”. Ring-fencing refers to the situation where a taxing jurisdiction maintains a preferential tax regime that is unavailable to certain groups of taxpayer, often domestic taxpayers or taxpayers that operate in the domestic economy.

The Commercial Entities (Substance Requirements) Act, 2018 (“CESRA”), was entered into force in the Bahamas with effect from 1 January 2019 for the implementation of our

⁷ 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

commitments under BEPS Action 5. CESRA requires commercial entities engaged in certain relevant activities to have economic substance in the Bahamas. Every international financial centre is being urged to implement substance requirements by the EU and the OECD. The objective is to prevent international businesses from benefiting from different tax laws between countries by artificially transferring profits to jurisdictions that impose little or no income tax.