



ST HELENA

A BILL

FOR

AN ORDINANCE

to amend the Income Tax Ordinance, 2012, to introduce new rates of tax on self-employment, trade or business income derived from primary production of goods or services in specified industries; to provide for a cut-off date of the investment tax credit; and to further regulate the deduction of cost of trade tools; and for connected and incidental purposes.

Enacted by the Governor of St Helena with the advice and consent of the Legislative Council of St Helena.

Short title, commencement and interpretation

1. (1) This Ordinance may be cited as the Income Tax (Amendment) Ordinance, 2019, and comes into force on 1 April 2019.

(2) In this Ordinance, “the principal Ordinance” means the Income Tax Ordinance, 2012.

Depreciable asset

2. Section 2 of the principal Ordinance is amended by deleting the expression “£100” in the definition of “depreciable asset” and substituting “£1,000”.

Investment tax credit

3. Section 11(4) of the principal Ordinance is amended—

(a) by deleting the word “if” in the words preceding paragraph *(a)*;

(b) by adding the word “if” at the beginning of paragraphs *(a)* and *(b)*;

(c) by adding the word “or” at the end of paragraph *(b)*; and

(d) by adding the following paragraph:

“(c) to any depreciable asset acquired or constructed on or after 1 April 2019;”.

Gift aid

4. The following section is inserted in the principal Ordinance after section 11:

“Gift aid

11A. (1) For purposes of this section—

“donation” means any gratuitous payment made to an organisation which—

- (a) is actually paid;
- (b) is not subject to any condition as to repayment;
- (c) is not conditional on, associated with or part of an arrangement involving, the acquisition of any property by the organisation from the donor or person connected to the donor; and
- (d) has no benefits associated with the gift, or if any benefits are associated with the gift, it is of negligible value;

“eligible donation” means a cumulative donation over £500 made by an individual (whether as a single or separate donations) during the relevant tax year to any single eligible organisation;

“eligible organisation” means any organisation which is exempt from income tax under regulation 3(c) of the Income Tax Regulations, 2012, and is registered with the Commissioner for gift aid under subsection (4).

(2) An eligible organisation is entitled to claim payment from the Commissioner of an amount (to be known as “gift aid) equal to 25% of each eligible donation made to that organisation during the relevant tax year, subject to the limit in subsection (3).

(3) The amount of gift aid claimed by an organisation under subsection (2) in respect of any eligible donation made by an individual during a tax year, must be limited to the lesser of £5,000 or the amount of tax payable by that individual during the relevant year (after taking into account any credit under subsection (5)).

(4) An organisation wishing to claim gift aid under subsection (2), must register with the Commissioner for purposes of this section before the end of the relevant tax year and must submit in respect of any such eligible donation a gift aid declaration by the donor in the form approved by the Commissioner.

(5) Subject to subsections (6) and (7), there must be allowed as a credit against any tax chargeable under section 5(2) on an individual’s income in respect of a tax year, an amount equal to 10% of any eligible donations made by that individual during the relevant tax year, but such tax credit must be limited to the lesser of £2,000 or the amount of the tax so chargeable.

(6) An individual who wishes to claim the credit under subsection (5) must submit a declaration in the form approved by the Commissioner with in his or her tax return for the relevant tax year.

(7) If an individual claims a tax credit under subsection (5) in respect of any donation made during the relevant tax year, that individual may not claim a deduction under section 22(f) in respect of the same donation.

(8) Any payment of gift aid made to an eligible organisation under subsection (2) must be charged on and paid out of the Consolidated Fund.”.

Depreciable assets

5. Section 22 of the principal Ordinance is amended—
- (a) by repealing item (iii) of paragraph (c) and substituting the following:
“(iii) the acquisition of any implement, utensil or article costing less than £1,000 and having a useful life of less than one year,”;
 - (b) by inserting the following paragraph after paragraph (c):
“(cA) any sum expended for the acquisition of any tangible movable property or structural improvement to immovable property which—
 - (i) costs less than £1,000;
 - (ii) has a useful life of more than one year;
 - (iii) is owned by the person and used wholly or partly by that person in deriving taxable income; and
 - (iv) is likely to lose value as a result of normal wear and tear, or obsolescence;”.

Rates of tax

6. Paragraph 1 of Schedule 1 to the principal Ordinance is amended—
- (a) by repealing sub-paragraph (1)(a) and substituting the following:
“(a) in respect of the taxpayer’s chargeable income (to the extent it represents income other than dividends, capital gains or income to which item (e) applies)—
 - (i) in the case of a company - 25%;
 - (ii) in the case of a person other than a company—
 - (aa) 26% on the first £18,000 of such chargeable income; and
 - (bb) 31% on the remainder of such chargeable income;
 - (b) by deleting the word “and” at the end of sub-paragraph (1)(c) and adding the word “and” at the end of sub-paragraph (1)(d);
 - (c) by adding the following item:
“(e) in respect of the taxpayer’s chargeable income attributable to self-employment, trade or business income taxable under Chapter IV and which is derived from the primary production by the taxpayer of goods or services in the course of carrying on—
 - (i) exportation of goods and services;
 - (ii) fishing and fish processing;
 - (iii) cultivation of honey;
 - (iv) growing and roasting of local coffee;
 - (v) farming and butchering of meat;
 - (vi) farming of vegetables, legumes, nuts or fruit or the processing of locally grown produce;
 - (vii) distilling or brewing of liquor, wine or beer;
 - (viii) production of traditional craftwork, or jewellery using predominantly locally sourced inputs (recycled, grown, or mined in St Helena);
 - (ix) production of upholstery or clothing,in the case of—
 - (aa) a company, 15%; or
 - (bb) a person other than a company—
 - (A) 21% on the first £18,000 of such chargeable income; and
 - (B) 26% on the remainder of such chargeable income;

(d) by adding the following sub-paragraph:

“(3) If a taxpayer derives taxable income from sources to which both the rates in items (a) and (e) of sub-paragraph (1), respectively, apply—

- (a) any allowable deductions under Part 3 of Chapter IV which are attributable to both sources of income must, in calculating the chargeable income from these respective sources, be apportioned in the same ratio as the respective sources of income bear to the total taxable income from both sources;
- (b) the amount of the allowances to be deducted from the taxable income under section 7(2)(a) must be deducted first from the taxable income to which the rates in sub-paragraph (1)(a) apply;
- (c) where the total chargeable income from both sources exceeds £18,000, the amount of £18,000 in sub-paragraph (1)(a)(ii)(aa) must be reduced by an amount equal to the income to which sub-paragraph (1)(e) applies.”.

EXPLANATORY NOTE

(This note is not part of the Ordinance)

This Ordinance introduces a new reduced income tax rate on self-employment, trade or business income derived from the primary production of goods or services for local use or export. This includes income from exportation of goods and services, fishing and fish processing, cultivation of honey, growing and roasting of local coffee, farming and butchering of meat, farming of vegetables, legumes, nuts or fruit, distilling or brewing of liquor, wine or beer and production of traditional craftwork, jewellery, upholstery or clothing,

The Ordinance also phases out the current investment tax credit under the Income Tax Ordinance as new provision will be made for customs duty relief on the importation of capital business assets.

The Ordinance also introduces new provision for gift aid to which organisations would be entitled based on donations made by individuals. Individuals will also be able to claim a tax credit on a portion of the deduction.

The Ordinance also amends the deduction which is currently allowed for assets used in trade. Currently only assets costing less than £100 are eligible for an immediate deduction whereas assets over that amount qualify for the annual depreciation deduction. This amount is being increased to include assets costing up to £1,000 in the immediate deduction.