

Taxes (Amendment) Bill 2016

(No: of 2016)

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TAXES (AMENDMENT) BILL 2016

(No: of 2016)

(assented to: 2016)
(commencement: in accordance with section 2)
(published: 2016)

A BILL

for

AN ORDINANCE

To amend the Taxes Ordinance (No. 14 of 1997) to provide for various tax reliefs for businesses in Camp.

BE IT ENACTED by the Legislature of the Falkland Islands —

1. Title

This Ordinance is the Taxes (Amendment) Ordinance 2016.

2. Commencement

This Ordinance is deemed to have come into force on 1 January 2016.

3. Amendment of Taxes Ordinance

This Ordinance amends the Taxes Ordinance (No. 14 of 1997).

4. Section 2 amended — Interpretation

Section 2 is amended by inserting the following definition in its correct alphabetical order —

““Camp” means any area that is more than 10km from the Christ Church Cathedral excluding—

- (i) the Mount Pleasant Complex;
- (ii) the Camber (Port William) site,

but includes any agricultural enterprises located within the 10km radius from the Christ Church Cathedral where livestock farming is the primary activity, and the enterprise has an annual turnover exceeding £10,000 or stock numbers exceeding 2,000 Dry Sheep Equivalent;”;

5. Section 23 amended — the charge to corporation tax and exclusion of income tax

Section 23 is amended by adding the following new subsections after subsection (5) —

“(6) Subject to subsection (7) the provisions of this Ordinance relating to the charge of corporation tax shall not apply to income of the new business activity of a company resident in Camp where that company —

(a) operates a business that is new in Camp; or

(b) operates a business that is new to the Falkland Islands.

(7) Corporation tax is not chargeable to a company on the new business activity under subsection (6) for a period of —

(a) three years from the date of operation by that company of a business that is new in Camp; and

(b) six years from the date of operation by that company of a business that is new in the Falkland Islands.

(8) For purposes of subsection (6) —

(a) a company operates a business that is “new in Camp” if the company —

(i) operates or undertakes any activity which is not currently undertaken in Camp; or

(ii) offers any services which are not currently offered in Camp; and

(b) a company operates a business that is “new in the Falkland Islands” if the company—

(i) operates or undertakes any activity which is not currently undertaken in the Falkland Islands; or

(ii) offers any services which are not currently offered in the Falkland Islands.”.

6. Section 28 amended — Corporation tax rates

Section 28 is amended as follows —

(a) by deleting subsection (3) and replacing it with the following —

“(3) In subsection (1)(a) above the reference to a company’s chargeable income for any period is a reference to the amount of that income less the amount of —

(a) any ring fence income of the company for that period;

(b) any franked investment income of the company for that period; or

(c) any applicable new employment income or investment income for renewable resources due to a company in Camp for that period.”; and

(b) by inserting the following new subsection immediately after subsection (3) —

“(3A) For purposes of subsection (3)(c) a company in Camp is eligible for a tax credit for—

(a) the creation of any new employment in Camp at the amount set out under subsection (3B); or

(b) any investments the company makes in acquiring renewable energy technology or any of its system components in Camp at an annual rate of 150 per cent for up to £20,000 of the total cost of that renewable energy technology or its system components.

(3B) The tax credit referred to under subsection (3A)(a) for any new employment income is £3000 in each year and it applies —

(a) for three years from the date the full-time employment is created provided the employment is for more than 12 months; or

(b) on a pro-rated basis if the full-time employment is for 6 to 12 months.

(3C) The full-time employment must —

(a) be new (being a net additional job created but excluding any change in name of an existing role);

(b) be valid for a period of at least six months;

(c) provide as a minimum for a 40 hours work week;

(d) require that a minimum of 75 per cent working hours be carried out in Camp; and

(e) be carried out by a person resident in Camp; and

(3D) “Renewable energy technology” has the same meaning given under section 106(4).”

7. Section 106 amended — Interpretation for purposes of Chapter II

Section 106(4) is amended as follows —

(a) in the definition of “building” by inserting the words “or farmhouses” immediately after the word “land”;

(b) in the definition of “expenditure” by adding after paragraph (b), the following new paragraph—

“(c) any renewable energy technology including its system components.”; and

(c) inserting the following definitions in their correct alphabetical order —

““farmhouse” means the principal residence of the farm owner, manager or any person in control of the operation of the farm (that is used for residential purposes);

“renewable energy technology” means any technology that generates electricity or heat directly from natural resources or through the use of plant material that can be naturally replenished;”

8. Section 116 amended — Initial allowances and writing-down allowances for capital expenditure

Section 116 is amended as follows —

(a) in subsection (1) by adding the following new paragraphs immediately after paragraph (e)—

“(f) any renewable energy technology (including its system components).”.

(b) by inserting immediately after subsection (1A), the following new subsection —

“(1B) The disposal value of any renewable energy technology or any of its system components must be determined in accordance with section 113.”

(c) by deleting subsection (6A) and replacing it with the following —

“(6A) In the case of —

(a) machinery in Camp, the writing-down allowance is 60 per cent; and

(b) plant, machinery (other than machinery in Camp) or vehicle (including aircraft), writing-down allowances must be made under section 117.”.

(d) by deleting subsection (9) and replacing it with the following —

“(9) Unless subsection (10) applies —

(a) the writing-down allowance for a building (other than a building in Camp) is 10 per cent of the expenditure incurred in acquiring the building; and

(b) the writing-down allowance for a building in Camp (other than farmhouses) is 25 per cent of the expenditure incurred in acquiring the building.”

OBJECTS AND REASONS

This Bill amends the Taxes Ordinance (No. 14 of 1997).

Clauses 1 and 2 provide for introductory matters and provides for a retrospective commencement of 1 January 2016;

Clause 3 provides for the amendment of the Taxes Ordinance;

Clause 4 provides for the amendment of section 2 by adding a new definition for “Camp”;

Clause 5 amends section 23 as follows —

- by adding the following new subsections after subsection (5):
 - (a) subsection (6) which provides that a company is excluded from paying corporation tax for any income generated by that company from a business that is new in Camp or new in the Falkland Islands;
 - (b) subsection (7) which provides the time frames within which the exemption from paying corporation tax applies, that is 3 years for a company offering a business new to Camp and 6 years for a company offering a new business to the Falkland Islands; and
 - (c) subsection (8) which defines what it means to offer a business new in Camp or in the Falkland Islands;

Clause 6 amends section 28 of the Ordinance as follows —

- by replacing subsection (3) with a new subsection which expands the current subsection to include new employment income and investment income derived from renewable resources to other income already covered there;
- by adding the following new subsections after subsection (3):
 - (a) subsection (3A) which provides for instances where a company resident in Camp is eligible for a tax credit, that is on the creation of any new employment in Camp by that company or on the creation of any investments made from acquiring renewable energy technologies by that company;
 - (b) subsection (3B) sets down the amount of income that the new employment must amount to in order to qualify for the tax relief provided by subsection (3A) and the time limit within which the tax credit is applicable;
 - (c) subsection (3C) lays down the requirements that must be met for employment to qualify as ‘full-time’ employment; and
 - (d) subsection (3D) provides for the meaning of ‘renewable energy technology’ by cross-referencing to section 106(4);

Clause 7 amends section 106(4) of the Ordinance to add some new definitions as a consequence of all the new amendments – these are definitions for farmhouses (which are not included from initial writing down allowances;

Clause 8 amends section 116 of the Ordinance as follows —

(a) under article 3 by adding the following new definitions —

“(c) “Malo Bridge” means the structure known as Malo Bridge that crosses the Malo River on the road from Estancia Farm to Teal Inlet;

(d) “San Carlos Bridge” means the structure known as San Carlos Bridge that crosses the San Carlos River on the road between Greenfield Farm and the North camp track.”.

(b) by deleting article 4 and replacing it with the following —

“4. 18 tonne weight limit on Boxer Bridge

The use of a motor vehicle, trailer or vehicle combination on the length of road across Boxer Bridge is prohibited if its laden weight exceeds 18 tonnes and no exemption may be granted by the Competent Authority in relation to this weight.”;

(c) by adding the following new articles after article 4 —

“5A. 38 tonne weight limit on Malo Bridge

The use of a motor vehicle, trailer or vehicle combination on the length of road across Malo Bridge is prohibited if its laden weight exceeds 38 tonnes and no exemption may be granted by the Competent Authority in relation to this weight.;

5B. 38 tonne weight limit on San Carlos Bridge

The use of a motor vehicle, trailer or vehicle combination on the length of road across San Carlos Bridge is prohibited if its laden weight exceeds 38 tonnes and no exemption may be granted by the Competent Authority in relation to this weight.”; and

(d) by deleting article 5 and replacing it with the following —

“5. 32 tonne weight limit on Chartres Bridge

The use of a motor vehicle, trailer or vehicle combination on the length of road across Chartres Bridge is prohibited if its laden weight exceeds 32 tonnes and no exemption may be granted by the Competent Authority in relation to this weight.”;

OBJECTS AND REASONS

This Bill amends the Highways (Weight Limits) Ordinance (No. 8 of 2004).

Clauses 1 and 2 provide for introductory matters.

Clause 3 amends section 6(3) by inserting a new paragraph which gives the Governor the power to make an Order prescribing a weight limit for any publicly maintainable highway or length of publicly maintainable highway to which no exemption may be made to exceed that prescribed weight limit. This is in addition to the Governor’s power under paragraph (a) to do the same but subject to the Competent Authority being able to grant exceptions for the weight to be exceeded.