

A BILL

entitled

PAYROLL TAX AMENDMENT ACT 2019

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WHEREAS it is expedient to amend the Payroll Tax Act 1995 and the Payroll Tax Rates Act 1995;

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

*Preliminary*

Citation

1 This Act may be cited as the Payroll Tax Amendment Act 2019.

*Amends the Payroll Tax Act 1995*

Inserts section 9D

2 After section 9C of the Payroll Tax Act 1995, insert—

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“Special provision for Bermudian musicians and entertainers

9D (1) Notwithstanding the provisions of this Act or the Rates Act, a Bermudian musician or other entertainer shall not be liable to payroll tax at the employee's standard rate in relation to his remuneration as a musician or entertainer, but shall instead be charged at the rate prescribed in the Rates Act for the purposes of this section.

(2) “Bermudian” means a person who has Bermudian status.

(3) This section shall cease to have effect on 31 March 2022.”

*Amends the Payroll Tax Rates Act 1995*

Inserts section 4C

3 After section 4B of the Payroll Tax Rates Act 1995 (“the Rates Act”), insert—

“Bermudian musicians and other entertainers

4C 0% is prescribed as the rate for the purposes of section 9D.”

Amends section 5

4 In section 5 of the Rates Act (rates for certain classes of employer)—

(a) after Class A in the Table insert—

“ Class AA

(a) Employer operating a qualifying retail store 7.0% ”;

(b) after paragraph (k) in Class C in the Table, insert—

“ (l) the employer of a Bermudian musician or other entertainer, for tax periods up to 31 March 2022. 0.0% ”.

Inserts section 5A

5 After section 5 of the Rates Act, insert—

“Qualifying retail store

5A (1) For the purposes of Class AA(a) in section 5, an employer operates a “qualifying retail store” if—

(a) the employer's annual payroll relating to that store, or group of stores, exceeds \$500,000; and

(b) the Commissioner determines, on application made in writing by the employer including such evidence as the Commissioner may require, that at least 50% of sales for a tax period at that store, or group of stores, consists of the following products: clothing, shoes, jewellery and perfume.

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(2) The Commissioner may issue guidance notes indicating the basis on which determinations under this section are to be made.”

### *Final provisions*

#### Commencement

6 This Act comes into operation on 1 April 2019.

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### EXPLANATORY MEMORANDUM

This Bill seeks to amend the Payroll Tax Act 1995 and the Payroll Tax Rates Act 1995 (“the Rates Act”).

Clause 1 is self-explanatory.

Clause 2 inserts new section 9D into the Payroll Tax Act 1995. This provides that a Bermudian musician or other entertainer shall not be liable to payroll tax at the employee’s standard rate in relation to his remuneration as musician or entertainer, but shall instead be charged at the rate prescribed in the Rates Act. This section will cease to have effect on 31 March 2022.

Clause 3 inserts new section 4C into the Rates Act to prescribe that 0% is the rate prescribed for Bermudian musicians or other entertainers for the purposes of section 9D, inserted by clause 2.

Clause 4 amends section 5 of the Rates Act (rates for certain classes of employer). New Class AA is introduced which prescribes a rate of 7% for an employer operating a qualifying retail store. New paragraph (l) is added to Class C to prescribe a rate of 0% for the employer of a Bermudian musician or other entertainer, for tax periods up to 31 March 2022.

Clause 5 inserts new section 5A into the Rates Act which sets out what is meant by an employer operating a “qualifying retail store” for the purposes of new Class AA in section 5, inserted by clause 4. Subsection (1) provides that the employer’s payroll relating to the store, or group of stores, must exceed \$500,000, and it will be for the Commissioner to determine, on application made in writing by the employer, that at least 50% of sales for a tax period consists of the following products: clothing, shoes, jewellery and perfume. Subsection (2) empowers the Commissioner to issue guidance notes indicating the basis on which determinations under this section are to be made.

Clause 6 provides for commencement.