

# AS TABLED IN THE HOUSE OF ASSEMBLY

## A BILL

entitled

### USA-BERMUDA TAX CONVENTION AMENDMENT ACT 2015

WHEREAS it is expedient to amend the USA-Bermuda Tax Convention Act 1986;

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:

#### Citation

1 This Act, which amends the USA-Bermuda Tax Convention Act 1986 (the "principal Act"), may be cited as the USA-Bermuda Tax Convention Amendment Act 2015.

#### Amends section 2

2 Section 2(1) of the principal Act is amended by inserting the following definitions in the appropriate alphabetical order—

“arrangement” with respect to the exchange of information—

- (a) means any arrangement made between the Government of Bermuda and the Government of the United States of America to seek to improve tax compliance; and
- (b) without prejudice to the generality of paragraph (a) includes—
  - (i) the agreement reached between the Government of Bermuda and the Government of the United States of America to seek to improve international tax compliance and to implement FATCA, signed on 19 December 2013; and
  - (ii) any other arrangement for the automatic exchange of information;

“FATCA” means the provisions of the Foreign Account Tax Compliance Act in the enactment of the United States of America called the Hiring Incentives to Restore Employment Act which are commonly referred to as FATCA, and includes any provisions amending or replacing those provisions.”.

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Inserts section 4A

3 The principal Act is amended by inserting after section 4 the following—

“Automatic exchange of information

4A (1) Pursuant to an arrangement for the automatic exchange of information, a person is hereby required to comply with the terms and conditions of that arrangement and that person shall comply with the terms and conditions thereof.

(2) Sections 4, 5, 9A and 10 do not apply in relation to the automatic exchange of information.”.

Amends section 7

4 Section 7 of the principal Act is amended—

(a) by replacing “or” with a comma and by inserting after the words “under section 6”, the words “or obtains any information under the provisions in an arrangement for the automatic exchange of information”;

(b) by repealing paragraph (b) and substituting the following—

“(b) he may—

(i) in the case of information obtained under a production order, provide it to the requesting party; or

(ii) in the case of the automatic exchange of information, provide it to the automatic exchange of information party; and”.

Amends section 9

5 Section 9 of the principal Act is amended—

(a) in subsection (1), by inserting the following after paragraph (a)—

“(aa) fails, without reasonable excuse, to comply with section 4A(1);”;

(b) in subsection (2); by inserting after the word “information” where it first appears the words “pursuant to an arrangement,”;

(c) in subsection (3); by inserting after the word “delivered” the words “pursuant to section 4A(1) or”.

## USA-BERMUDA TAX CONVENTION AMENDMENT BILL 2015

### EXPLANATORY MEMORANDUM

This Bill seeks to amend the USA-Bermuda Tax Convention Act 1986 (the “Act”) to enhance Bermuda’s régime for the exchange of information and, in particular, with respect to arrangements for the automatic exchange of information.

Clause 1 provides the title of the Bill.

Clause 2 amends section 2 of the Act to insert definitions for the interpretation of the Act.

Clause 3 inserts a new section 4A in the Act to specifically refer to the automatic exchange of information as an arrangement under the Act, and to impose a statutory duty to comply with such arrangements.

Clause 4 amends section 7 of the Act to apply that section in relation to the automatic exchange of information.

Clause 5 amends section 9 of the Act to extend the penalty in that section with respect to non-compliance with section 4A(1).