BERMUDA

CORPORATE INCOME TAX (TAX REFUND RESERVE FUND) REGULATIONS 2025

BR 70 / 2025

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The Minister of Finance, in exercise of the power conferred by section 50A of the Corporate Income Tax Act 2023 makes the following Regulations:

Citation

1 These Regulations may be cited as the Corporate Income Tax (Tax Refund Reserve Fund) Regulations 2025.

Interpretation

2 (1) In these Regulations—

"actual fund balance" means, for the purposes of regulation 9, the fair value of financial assets held by the Fund after taking into account any adjustments

for the allocation of income, gains, losses or expenses pursuant to regulation 6;

"Administrative Regulations" means the Corporate Income Tax (Administrative) Regulations 2025;

"Agency" means the Corporate Income Tax Agency established under section 3 of the Agency Act;

"Agency Act" means the Corporate Income Tax Agency Act 2024;

"cash equivalents" has the meaning given in paragraph (2) of this regulation;

"CIT Act" means the Corporate Income Tax Act 2023;

"distributable tax credit benefits" has the same meaning as in the Tax Credits Act;

"Fund" means the specified fund known as the tax refund reserve fund established pursuant to section 50A of the CIT Act;

"Minister" means the Minister of Finance;

"Qualifying Bermuda Group NBCE" has the same meaning as in the Tax Credits Act;

"required fund balance" shall have the meaning given to that term in regulation 9(2);

"tax" has the meaning given to that term in section 46B of the CIT Act;

"tax credit" shall have the meaning given to that term in the Tax Credits Act.

"Tax Credits Act" means the Tax Credits Act 2025;

"tax due" shall have the meaning given in section 46B of the CIT Act;

"tax payments" means the payments made in accordance with the meaning of the term "tax due" as set out in section 46B(1)(a)(i) and (ii) of the CIT Act;

"total accrued tax credit benefit" shall have the meaning given to that term in the Tax Credits Act;

(2) For the purposes of investments under these Regulations, "cash equivalents" means—

(a) any investment in marketable debt obligations issued or guaranteed by the government of the United States of America maturing within one year after the relevant date of calculation and not convertible or exchangeable to any other security;

(b) commercial paper not convertible or exchangeable into any other security—

(i) which is denominated in U.S dollars;

(ii) for which a recognised trading market exists;

(iii) which matures within 90 days after the relevant date of calculation; and

(iv) which has a credit rating of either

(A) A-1 or higher by Standard & Poor's Rating Services; or

(B) F1 or higher by Fitch Ratings Ltd; or

(C) P-1 or higher by Moody's Investor Services Limited; and

(c) any investment in money market funds which—

(i) have a credit rating of—

(A) A-1 or higher by Standard & Poor's Rating Services;

(B) F1 or higher by Fitch Ratings Ltd; or

(C) P-1 or higher by Moody's Investor Services Limited; and

(ii) have substantially all their assets in securities of the types described in paragraphs (a) or (b) above; and

(iii) can be turned into cash on not more than ten days' notice.

[Regulation 2 paragraph (1) definitions "Tax Credits Act" and "total accrued tax credit benefit" inserted, and definitions "tax credit" and "tax" deleted and replaced by BR 119 / 2025 reg. 2 effective 12 December 2025; Reg. 2 paragraph 1 inserted by BR 88 / 2026 reg. 2 effective 14 August 2026; Regulation 2 definitions "distributable tax credit benefits" and "Qualifying Bermuda Group NBCE" inserted, and "tax payments" revoked and replaced by BR 88 / 2026 reg. 2 effective 14 August 2026]

General

3 (1) The Fund is a specified fund separate from the Consolidated Fund and all other Government accounts.

(2) The Fund shall be maintained in one or more bank accounts in Bermuda at a bank that has been appointed to hold Government monies pursuant to the Public Treasury (Administration and Payments) Act 1969, and statements from such bank or banks shall be furnished to the Agency and the Accountant General.

(3) Notwithstanding paragraph (2), in connection with the operation of the Fund pursuant to these Regulations, it shall be permissible to operate one or more clearing or reconciliation bank accounts (in differing currencies) to facilitate payments to third parties, provided that such accounts shall also be treated as forming part of the Fund.

(4) The Accountant General shall—

(a) ensure that proper books or other records are maintained in respect of the Fund; and

(b) cause proper entries to be made in such books or records in respect of every payment made into and out of the Fund.

(5) The Agency shall assist the Accountant General as needed in order that the Accountant General may discharge the obligations pursuant to paragraph (4) and, in

particular, the Agency shall supply to the Accountant General a report, no less than monthly (but commencing no later than 15 October 2025), detailing the Agency's calculation of the required fund balance pursuant to regulation 9(2).

(6) The financial year of the Fund shall be the same as the financial year of the Bermuda Government.

Reporting

4 (1) For the purposes of the Public Treasury (Administration and Payments) Act 1969, the Accountant General shall within six months after the last day of each financial year sign and deliver to the Minister and the Auditor General unaudited accounts showing the financial position of the Fund, which shall include the following statements in respect of the Fund—

(a) a balance sheet;

(b) a statement of income and expenditure; and

(c) any other statement that the accounting principles stated in the accounts call for if the Fund's financial position is to be fairly presented.

(2) The Minister shall cause the accounts referred in paragraph (1), together with the report of the Auditor General thereon to be laid before both Houses of the Legislature.

General operation of Fund

5 (1) Any—

(a) tax payment; and

(b) any other payment required to be made by a Bermuda Constituent Entity Group (or any member thereof) pursuant to the CIT Act or the Administrative Regulations,

shall be made to the Fund, and the Agency shall take all steps necessary to prescribe the Fund as an account for payment of tax pursuant to the Administrative Regulations.

(2) Transfers out of the Fund shall only be made pursuant to these Regulations.

(3) Transfers out of the Fund shall be made by the Minister, provided that the Minister may delegate authority to either the Agency or the Accountant General (or both), pursuant to section 10G of the Public Treasury (Administration and Payments) Act 1969, to make payments out of the Fund, provided that such delegation shall be subject to such restrictions as the Minister may from time to time specify in writing to the Agency and the Accountant General.

(4) Where a delegation of authority is made to the Agency, the Agency shall exercise such delegated authority through such persons as shall be authorised to act on behalf of the Agency in accordance with the Agency Act.

Investments

6 (1) Amounts standing to the credit of the Fund may from time to time be invested at the direction of the Minister pursuant to section 4(2) of the Public Funds Act 1954 as if such amounts were public money (pursuant to the Public Funds Act 1954), provided that the Fund shall only be invested in—

(a) cash equivalents; or

(b) approved securities listed in subparagraphs (i) through (iv) of section 4(5)(b) of the Public Funds Act 1954.

(2) The Minister may by written direction to the Agency order that a redemption of an investment referred to in paragraph (1) be made to facilitate a required payment at any time where a need arises to make a payment out of the Fund pursuant to these Regulations but there is an insufficient cash balance then standing in any of the bank accounts of the Fund.

(3) Subject to paragraph (4), any net income, realised gains or losses in respect of any investments of the Fund shall be allocated to the Fund and shall be subsequently transferred to the Consolidated Fund in accordance with regulation 9.

(4) Any net income and realised gains or losses allocated to the Fund, under paragraph (3) shall, unless otherwise ordered by the Minister, be transferred to and used to support the operating expenses of the Agency in accordance with the Agency's approved budget.

(5) Any fees payable in respect of any investment of the Fund shall be netted from the Fund prior to the operation of paragraph (3) or (4).

[Regulation 6 paragraphs (3) and (4) revoked and substituted by BR 17 / 2026 reg. 3 effective 31 March 2026]

Treatment of amounts paid into Fund that are not tax payments

7 (1) Any amounts paid to the Fund that do not represent tax payments shall not form part of the required fund balance and shall, subject to regulations 6(3) and 9, be transferred to the Consolidated Fund.

(2) Where any uncertainty arises over whether or not an amount is a tax payment, the Agency shall be entitled to certify in writing such amount as either a tax payment or not a tax payment and such certification shall, in the absence of manifest error, be treated as conclusive.

Transfers out of Fund

8 Subject to regulations 6 and 7, withdrawals from the Fund shall only be made—

(a) to the Consolidated Fund in accordance with regulation 9; or

(b) in accordance with regulation 10.

[Regulation 8(b) amended by BR 119 / 2025 reg. 3 effective 12 December 2025; Regulation 8(b) revoked and substituted by BR 88 / 2026 reg. 3 effective 14 August 2026]

Transfers to Consolidated Fund

9 (1) On the 15th day of each month commencing with 15 January 2026, there shall be transferred from the Fund to the Consolidated Fund an amount equal to the excess (if any) at the end of the immediately preceding month of—

(a) the actual fund balance; over

(b) the required fund balance,

provided that where the 15th day of the month falls on a day that is not a business day in Bermuda, the transfer pursuant to this regulation shall occur on the first business day following the 15th.

(2) With respect to any given month, the required fund balance shall be 75% of the amount determined by reference to the following values at the end of the month—

(a) taking the required fund balance (if any) at the end of the immediately preceding month;

(b) adding all tax payments paid into the Fund during the month;

(c) adding (or, in the case of subparagraph (ii)(B) below, subtracting) the total accrued tax credit benefit reported on each form claiming a tax credit received by the Agency provided that—

(i) the Agency has received the form prior to the end of the month for which a determination of the required fund balance is being made;

(ii) to the extent this subparagraph (c) was previously applied to a form received by the Agency, and subsequent to such application the total accrued tax credit benefit reported on the form was increased or decreased due to the filing of an amended or corrected form or an assessment, in each case pursuant to the Tax Credits Act 2025 and any regulations made thereunder, this subparagraph (c) shall be applied to any resulting-

(A) increase; or

(B) decrease,

to the total accrued tax credit benefit reported on the form which has arisen since the immediately preceding application of this paragraph; and

(d) subtracting (or, in the case of subparagraph (iii)(B) below, adding) the sum of the tax and the interest in respect of underpayments (or non-payments) of instalments pursuant to the Administrative Regulations which are reported on returns received by the Agency provided that—

(i) the Agency has reviewed the return in relation to the fiscal year applicable to such tax and interest prior to the end of the month for which a determination of the required fund balance is being made and has concluded the tax shown on such return (together with

interest in respect of underpayments (or non-payments) of instalments pursuant to the Administrative Regulations) has been calculated correctly and is not reasonably likely to be subject to adjustment or correction;

(ii) any overpayment reported on the return which was not applied in accordance with regulation 21(1), (2)(a), or (2)(b) of the Administrative Regulations was fully refunded during the month; and

(iii) to the extent this subparagraph (d) was previously applied to a return received by the Agency, and subsequent to such application the tax or the interest in respect of underpayments (or non-payments) of instalments reported on the return was increased or decreased due to the filing of an amended or corrected return or an assessment, in each case pursuant to the Administrative Regulations, subparagraph (d) shall be applied to any resulting—

(A) increase; or

(B) decrease,

to the tax or the interest in respect of underpayments (or non-payments) of instalments reported on the return which has arisen since the immediately preceding application of this paragraph;

(e) subtracting any refund amounts described in subparagraph (d)(ii) which are paid during the month; and

(f) subtracting any distributable tax credit benefits of a Qualifying Bermuda Group NBCEs, which are paid during the month.

(3) For the purposes of illustration only and by way of example, the first transfer pursuant to paragraph (1) shall occur on 15 January 2026 by reference to Actual Fund Values and Required Fund Values determined as of 31 December 2025.

(4) Where, pursuant to the operation of paragraph (2), the actual fund balance is less than the required fund balance, then the amount of the transfer pursuant to paragraph (1) shall be nil for such month.

(5) Notwithstanding the foregoing, amounts which are not tax payments which are paid or allocated to the Fund during the immediately preceding month shall be transferred to the Consolidated Fund at the same time every month as any transfer pursuant to paragraph (1) is or would be made, regardless of the required fund balance or actual fund balance at such time.

(6) There shall be no obligation to make transfers into the Fund from the Consolidated Fund.

(7) Notwithstanding any other provision of these Regulations, the Minister may by written direction to the Agency and the Accountant General, suspend transfers pursuant to paragraph (1) for one or more months.

[Regulation 9(2) amended by BR 119 / 2025 reg. 4 effective 12 December 2025; Regulation 9(2) subparagraph (f) deleted by BR 119 / 2025 reg. 4(b) effective 12 December 2025; Regulation 9(2) subparagraph (f) amended by BR 88 / 2026 reg. 4 effective 14 August 2026]

Payments from Fund

10 (1) Where an overpayment refund is requested or required pursuant to the Administrative Regulations (including any overpayment interest thereon as defined in regulation 22 of the Administrative Regulations), then such refund shall be paid out of the Fund, subject to the Fund having a positive balance sufficient to pay such refund.

(2) The payment of a distributable tax credit benefit to a Qualifying Bermuda Group NBCE shall be paid out of the Fund, subject to the Fund having a positive balance sufficient to pay the tax credit benefit.

(3) The Minister may delegate to the Agency or the Accountant General the ability to make payments pursuant to this regulation in accordance with regulation 5(3).

(4) Any payments made pursuant to this regulation shall be taken into account for the purposes of calculating the required fund balance for the month in which such payments are made.

(5) Where a refund of such tax is required and such payment is not paid out of the Fund, it shall be paid from the Consolidated Fund.

[Regulation 10 amended by BR 119 / 2025 reg. 5 effective 12 December 2025; Regulation 10(2) deleted by BR 119 / 2025 reg. 5(b) effective 12 December 2025; Regulation 10 heading and paragraph (1) amended, and paragraph (2) inserted by BR 88 / 2026 reg. 5 effective 14 August 2026]

Commencement

11 These Regulations shall come into effect on 1 August 2025.

Made this 30th day of July 2025

Premier and Minister of Finance

[Operative Date: 01 August 2025]

[Amended by:

BR 119 / 2025

BR 17 / 2026

BR 88 / 2026]